

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

On appeal from
THE ADMINISTRATIVE LAW COURT
The Honorable Shirley C. Robinson, Administrative Law Judge

Appellate Case No. 2020-000837
Docket No. 19-ALJ-17-0001-CC

Eighteen Ink, LLC, d/b/a Group Therapy.....Respondent,

v.

South Carolina Department of Revenue.....Respondent,

and

Thomas R. Gottshall, April C. Lucas, and Michael Drennan Intervenors, Appellants.

RECORD ON APPEAL – VOLUME I OF II

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**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Eighteen Ink, LLC, d/b/a Group Therapy,

Petitioner,

vs.

South Carolina Department of Revenue,

Respondent,

and

Thomas R. Gottshall, April C. Lucas,
and Michael Drennan,

Intervenors.

Docket No.: 19-ALJ-17-0001-CC

FINAL ORDER

APPEARANCES: For Petitioner: Bakari T. Sellers, Esquire; John R. Alphin, Esquire
For Respondent: Patrick A. McCabe, Esquire
For Intervenors: Christopher P. Kenney, Esquire

STATEMENT OF THE CASE

This matter is before the South Carolina Administrative Law Court ("ALC" or "Court") pursuant to a Request for a Contested Case Hearing filed on January 2, 2019, by Eighteen Ink, LLC, d/b/a Group Therapy ("Group Therapy" or "Petitioner"). On July 17, 2018, Petitioner filed an application with the South Carolina Department of Revenue ("Department" or "Respondent") to renew the on-premises beer and wine permit and restaurant liquor by the drink license previously issued for its location at 2107 Greene Street, Columbia, South Carolina, 29205. In a final determination issued December 4, 2018, the Department determined that Petitioner met the statutory requirements for renewal but denied Petitioner's application based upon the receipt of timely public protests filed pursuant to S.C. Code Ann. §§ 61-4-525 (Supp. 2005) and 61-6-1825 (Supp. 2005) concerning the suitability of the location.¹ On January 2, 2019, Petitioner filed its hearing request with this Court.

¹ Initial protests were received from James M. Daniel, III, Michael Drennan, Thomas Gottshall, Susalee Lamb, William Lamb, Patricia Wood, William Hrushesky, Karen Belser, Polly Morrison, Nancy White, April Lucas, John Stucker, Vivian Armstead, Olufemi Olulenu, and Beth Richardson ("Protestants").

FILED

April 29, 2020

SC ADMIN. LAW COURT

Upon application and without protest from either party, on February 4, 2019, the Court granted Protestants' Motion for Leave to Intervene as to Michael Drennan, Thomas Gottshall, and April Lucas ("Intervenors"). On September 27, 2019, the Department added Columbia Police Department ("CPD") Chief W.H. Holbrook to the list of Protestants pursuant to a valid protest received by the Department on September 23, 2019. On December 9, 2019, Respondent filed an Amended Prehearing Statement informing the Court that the Department no longer considered the licensed location suitable for renewal due to an administrative citation issued to Petitioner by the South Carolina Law Enforcement Division ("SLED") on September 15, 2019, for permitting a criminal act on the premises in violation of S.C. Code Ann. § 61-4-580(5) (Supp. 2013). On December 19, 2019, the Department also added the University of South Carolina ("USC") to the list of Protestants pursuant to a valid protest received by the Department earlier that day.

Following proper notice to the parties and Protestants, a hearing in this matter was held on February 11 and 12, 2020, at the ALC in Columbia, South Carolina. The issue before the Court is the suitability of the location for the renewal of Petitioner's on-premises beer and wine permit and restaurant liquor by the drink license. After carefully weighing all evidence presented during the hearing, the Court finds the location suitable.

FINDINGS OF FACT

Having observed the witnesses and exhibits presented at the hearing and closely passing upon their credibility, and taking into consideration the burden of persuasion by the parties, the Court makes the following Findings of Fact by a preponderance of the evidence:

1. Petitioner is registered with the South Carolina Secretary of State's Office as Eighteen Ink, LLC, d/b/a Group Therapy. Group Therapy has been in business in its current location since 1978 and was purchased by Eighteen Ink, LLC in June of 2016. The applicants, Steve Taneyhill and Tiffany Lancaster, jointly own the company. On July 17, 2018, the applicants applied for a biennial renewal of the on-premises beer and wine permit and restaurant liquor by the drink license previously issued by the Department for the location at 2107 Greene Street, Columbia, South Carolina, 29205. The location, known as Group Therapy, operates within the municipal limits of the City of Columbia in the hospitality district of Five Points.

2. Steve Taneyhill runs the business as the sole manager. In addition to a cook, Group Therapy employs sixteen professional individuals, as opposed to students, who work as either security, bartenders, or both. Every employee who serves alcohol is trained, educated, certified,

and re-certified through a program called ServSafe Alcohol Program. The ServSafe Program is intended to ensure no patron is over-served and no one underage is served at all.

3. The establishment has a total of eleven security cameras and can hold a maximum capacity of 240 patrons. When at capacity, patrons waiting to enter stand behind a ten to twelve-foot rope used to keep an orderly line on the sidewalk. Group Therapy has live music provided by a band or DJ on Thursday, Friday, and Saturday nights. While these are typically the busiest nights in Five Points, multiple witnesses testified that USC athletic events and other special occasions in Columbia bring significantly more patrons to the area.

4. Taneyhill testified that patrons of Group Therapy range in age and that, while he does not specifically target college-aged customers, many of the patrons from 10:00 p.m. on tend to be younger. Following an earlier ALC decision regarding another Five Points business, Taneyhill stated he raised his drink prices so as not to entice a younger crowd seeking to take advantage of cheaper alcohol prices. Since taking ownership of the bar in June 2016, Taneyhill testified that Group Therapy has been cited once for serving to someone underage.

5. Group Therapy also maintains a special late-night permit that allows the establishment to stay open to serve beer and wine after other businesses close at 2:00 a.m. These special permits are applied for and issued by CPD in its discretion if the applicant's business meets certain criteria. CPD last issued a late-night permit to Group Therapy in July 2019.

6. Taneyhill testified that after a meeting in 2018 with representatives from SLED, USC, CPD, the Mayor's office, and other restaurant owners in Five Points, Group Therapy began using the Intellicheck Age ID® scanner to verify the identification cards of those entering the establishment. The scanner is the same system used by law enforcement to scan identification cards and costs around \$250 per month. Taneyhill stated the scanner is utilized to prevent underage patronage. While Group Therapy currently utilizes only one of these devices, which can create a back-up in the line outside, Taneyhill testified that he is willing to obtain two additional scanners should the Court so order. Additionally, at the request of law enforcement, Group Therapy has intermittently instituted other measures to reduce issues with CPD-identified "problem" patrons including requiring either student or military identification, conducting pat downs of entering patrons to look for weapons, and the removal of a DJ who played music CPD identified as attracting gang members to the establishment.

7. According to Taneyhill and other witnesses, sidewalk and street crowding are pervasive in Five Points. Since taking ownership in June 2016, Taneyhill believes there have been around five fights in the streets abutting Group Therapy. When people are out in the streets, Taneyhill maintained that Group Therapy has no ability to control what goes on and that that responsibility falls to law enforcement. Moreover, it is impossible to identify from which establishment(s) those in the streets are coming and going. To help combat such problems and to maintain order and safety in the area in general, Taneyhill stated he supports an increased CPD presence in Five Points, especially during the busier nights following USC athletic events and other special occasions.

8. Group Therapy initiated the Safe and Sound Pledge in which the owners of Five Points establishments have committed to providing patrons with an employee escort to safely walk them to their vehicles or their alternative rides home. Taneyhill serves as a board member of the Five Points Association and recently took over the annual Five Points Chili Cookoff to raise funds for the Special Olympics.

9. As to the license and permit renewal application, the Department Determination issued on December 4, 2018, found that Group Therapy met the statutory requirements of licensure for an establishment bona fide engaged primarily and substantially in the preparation and serving of meals pursuant to S.C. Code Ann. §§ 61-6-20 (Supp. 2018), 61-6-1610 (Supp. 2018), 61-6-1820 (Supp. 2009), and S.C. Code Ann. Regs. 7-401.3 (Supp. 2018). During the hearing, the Department maintained that Group Therapy continues to meet all statutory requirements related to food service and preparation. However, solely due to public protests filed pursuant to S.C. Code Ann. §§ 61-4-525 and 61-6-1825 concerning the suitability of the location, the Department denied the application for renewal.

10. The initial Protestants, including Intervenors, are residents who live in the neighborhoods surrounding Five Points.² Protestants contend that the location is unsuitable to have its license renewed because Group Therapy and other establishments in Five Points have caused the hospitality district to become a place where large crowds of young people - many of whom Protestants believe to be underage - drink to excess and congregate and loiter on public

² CPD and USC did not protest the application for renewal until September and December 2019, respectively.

sidewalks and streets.³ Protestants allege the same with regards to other establishments in Five Points, and believe that the high concentration of businesses that serve alcohol in Five Points promotes a culture of overconsumption by students that leads to nuisance behavior in and around the area. Such behavior puts the students' own safety at risk, creates a strain on local law enforcement resources, and disturbs the peace and enjoyment of residents in the surrounding neighborhoods. In essence, Protestants assert there is an overall public safety problem in Five Points and argue that Group Therapy specifically contributes to that problem.

11. Protestant Vivian Clark Armstead has lived in the MLK/Waverly neighborhood located two blocks behind Group Therapy for fifteen years and submitted her protest on behalf of herself and the MLK/Waverly Neighborhood Association as its president. As a resident of a community that is so close to the Five Points hospitality district, Armstead has witnessed first-hand some of the problematic behavior associated with Five Points and its patrons.⁴ Also, as president of the neighborhood association, Armstead is informed of problems other residents have encountered. She testified she has seen intoxicated patrons, many of whom are students, entering and leaving Group Therapy, but conceded that students are going to many other establishments as well. Aside from expressing annoyance with the size of the crowd specifically congregated outside of Group Therapy, Armstead had no direct complaints against the establishment itself.

12. Armstead further testified that when USC is in session, her neighborhood experiences increased litter, noise, and parking problems from Thursday nights through Sunday mornings, and the problems are exacerbated on nights following athletic events at USC. She attributes these problems to intoxicated students she sees coming to and from Five Points back to their rental homes in the neighborhood or their vehicles parked in and around the MLK park and surrounding area. In recent years, the rising number of rental homes in the MLK/Waverly neighborhood has resulted in increased foot traffic to and from the Five Points area as well as an

³ Protestants, including Intervenors, also objected to Group Therapy's license and permit renewal on the grounds that the business is not engaged primarily and substantially in the preparation and serving of meals as required by Article VIII-A, § 1 of the South Carolina Constitution and defined in S.C. Code Ann. § 61-6-20 (Supp. 2018). Petitioner filed a Motion in *Limine* to prevent Protestants/Intervenors from introducing any arguments or evidence relating to this issue arguing that the determination of compliance with this requirement falls squarely within the investigative authority delegated to SLED and the enforcement authority statutorily and solely vested in the Department. The Court heard arguments from all parties on this issue and granted Petitioner's Motion to Exclude finding that such a determination is an enforcement issue exclusive to the Department and, pursuant to the holding of the Court of Appeals in *S.C. Dep't of Revenue v. Sandahwood Social Club*, not a private right of action to be prosecuted or enforced by citizens bringing a claim under the Department of Revenue's regulatory scheme. See *Sandahwood*, 399 S.C. 267, 731 S.E.2d 330 (Ct. App. 2012).

⁴ Armstead stated she can see Group Therapy's entrance and rear patio from her front porch.

increase in house parties. Armstead added that she also sees students from nearby Allen University and Benedict College walking through the neighborhood to get to and from Five Points and their respective campuses.

13. During her testimony, Armstead recited the many instances of nuisance and problematic behavior she's observed in Five Points. According to Armstead, she has observed young people falling down, vomiting, and passing out while leaving Five Points and has concerns that in their intoxicated states, students are vulnerable to strangers in the area who may seek to harm them. Within the MLK/Waverly neighborhood, Armstead and her neighbors have set up neighborhood watches to protect and help students who they believe may be in danger. The neighborhood also conducts its own litter clean up after busy nights in Five Points. While she has succeeded in getting some of the parking spaces in her neighborhood reclassified to permit only, Armstead is of the opinion that more permitted parking will alleviate some of the problems. Armstead testified she has repeatedly contacted code enforcement and city officials to address parking issues and other problems she attributes to too many unrelated individuals living together in rental homes in the neighborhood but has not seen any results.

14. Finally, Armstead characterized the students who frequent Five Points as generally polite and expressed a willingness to work with Taneyhill and representatives from USC, Allen, and Benedict to develop a plan to resolve some of the issues. She expressed no opinion as to whether or not Group Therapy should be forced to close and insisted her complaint was not with the owner or the establishment itself, but with the conduct of patrons of Group Therapy and other Five Points establishments.

15. Intervenor Michael Drennan has lived just outside of Five Points in the Shandon neighborhood since 2004 and submitted his protest citing unsuitability and concerns for the health and safety of young people who frequent the Five Points hospitality district. Drennan began noticing the negative impact associated with Five Points around 2007-8. He believes that students are renting homes around him due to Shandon's proximity to Five Points and testified these young tenants create increased problems in the neighborhood such as noise, parties, litter, and property crimes.

16. Drennan has visited Five Points on several occasions and observed students vomiting, crying, interacting with police, and spilling out onto the streets when the sidewalks become overcrowded. On one visit to Group Therapy around midnight in April 2019, Drennan

stated he waited in a long line with around forty others to get in and observed Group Therapy staff pat and frisk entering patrons after conducting visual inspections of their identification cards. Upon leaving that night, Drennan testified he was forced to walk in the street because the sidewalks were overcrowded. Drennan has been a protestant in multiple cases involving the licensure and permitting of other establishments in Five Points. When questioned as to his objectives in this particular matter, Drennan testified that he takes issue with Five Points in general and believes the solution may be a reduction in the number and density of bars concentrated in the area.

17. On September 23, 2019, the CPD filed a timely protest opposing the renewal of Group Therapy's license and permit based on the amount and nature of calls for service to Group Therapy. Chief W.H. Holbrook testified that his department responds to calls from Five Points for issues such as general disorder, public intoxication, assaults, fights, vehicle break-ins, and occasional gunfire. He stated there was a "high" call volume related to alcohol offenses specific to Group Therapy from July 2018 through July 2019 but also pointed out that Group Therapy was only one of a number of establishments responsible for the increased calls that impose a burden on his department.⁵ Chief Holbrook further testified that present-day Five Points is different from what the area was years ago and policing there has had to be adjusted. Additionally, he pointed out that the area is now surrounded by approximately 2,500 rental properties that were not present years ago.

18. Chief Holbrook believes that a business model consisting of serving alcohol to young and underage people who drink to excess creates a vulnerable population in Five Points that officers must then deal with. Although CPD officers will address minor offenses as they encounter them, the department does not put emphasis on minor crimes like underage drinking and typically rely on SLED to issue citations or tickets for such offenses. On a regular Thursday, Friday, or Saturday night, Chief Holbrook testified that between CPD officers and personnel from the supporting agencies of SLED and the South Carolina Department of Probation, Parole and Pardon Services, there are typically twelve to fifteen members of law enforcement present in the Five Points area. On nights following USC athletic events, there can be as many as forty. When the majority of establishments close around 2:00 a.m., the onslaught of patrons flowing onto the streets and sidewalks of Five Points can range from six or seven hundred into the thousands on especially

⁵ CPD records reflect that thirty-eight calls during this yearlong period resulted in a response attributed to Group Therapy.

busy nights. That “dump” of students leads to further disorder that demands law enforcement attention. Chief Holbrook maintained that more police presence from his department in Five Points is simply not feasible as there are other, more serious issues in the city that require police resources. Chief Holbrook also testified that he was unaware that business owners in Five Points pay an extra 1% sales tax slated for the provision of increased services from CPD.

19. In July 2019, CPD approved Group Therapy for a late-night permit authorizing the sale of beer and wine after 2:00 a.m. Chief Holbrook testified that the vetting and approval process for such permits has become much more stringent in the last several years, leading to a decline in the number of permits currently being issued. The number of permits decreased from a high of twenty-three to just four being issued in 2019. As part of the vetting process, CPD obtains records reflecting the calls for service and number of incidents specific to each applicant’s location from July 1st to June 30th of the preceding year and compares the data to that of other establishments. Compared to other establishments in the area, Group Therapy did not have a high call volume or number of incidents. Accordingly, out of twelve applicants from Five Points, Group Therapy received one of four late-night permits issued by CPD based on data collected through June 30, 2019.

20. Chief Holbrook also testified that crime in Five Points has decreased regarding “quality of life” offenses. In addition to the increased scrutiny and vetting process for late-night permitting, Chief Holbrook attributed the decline to successful collaborations with business owners, neighborhood associations, other law enforcement agencies, and USC in the establishment of altered traffic patterns and transportation plans to increase safety.

21. In its protest, CPD indicated that Group Therapy maintains a reputation for peace and good order in the community. Chief Holbrook testified that conclusion is based on the department’s positive relationship with Taneyhill and the establishment’s willingness to take all necessary steps requested by CPD to address and mitigate problems. However, Chief Holbrook also testified he has seen inconsistencies with the application of those steps and believes that Group Therapy could use the Intellicheck Age ID® scanner with greater consistency to prevent problems with underage patrons.

22. In general, Chief Holbrook acknowledged that his end goal was to achieve a balance wherein young adults have an area in which to socialize so long as patrons and businesses both act responsibly. From the perspective of law enforcement, Chief Holbrook believes that

businesses, including Group Therapy, can alleviate much of the problems in Five Points by refusing entry and/or service to those under twenty-one and by not overserving patrons of any age.

23. The Department received an additional protest from USC on December 19, 2019. After an open meeting in which attendees questioned USC's absence as a protestant in this matter, the USC Chief of Police emailed Marc Shook, Dean of Students, asking him to review data supplied by CPD and other criteria to decide whether the University should join the protest. After reviewing the data and conducting his own online research, Shook submitted a protest on behalf of USC citing student safety.

24. USC has developed four criteria to determine whether or not to protest the issuance or renewal of alcohol licenses and permits for establishments in Five Points. First, students who end up hospitalized from alcohol-related illnesses are asked where they had their last drink. Since 2018, four hospitalized students have reported they last consumed alcohol at Group Therapy, a number that Shook described as significantly lower than that of other Five Points establishments. Second, Shook reported that USC had no issue with the ratio of food to alcohol sales reported by Group Therapy. Third, USC monitors advertising and social media posts to determine whether an establishment solicits underage students. With the exception of a drink containing candy, Shook testified Group Therapy does not actively target underage patrons. Finally, Shook analyzed the number of calls to law enforcement attributed to the establishment. While characterizing the number of calls as "limited" in 2018, based on the 2019 call data provided by CPD in its protest, Shook decided USC should join the matter as an additional protestant.

25. Shook testified that USC's undergraduate student population has grown substantially over the past five years and attributed the increased problems in Five Points to the continuously growing underage student population.⁶ Shook reported that these students suffer from higher levels of depression, anxiety, and suicidal ideations which can all lead to binge drinking. Since 2012, Shook testified that survey has shown that first-year students at USC reported more "heavy" and "problematic" drinking compared to freshmen at other SEC schools; "problematic" drinking rates among all USC freshman in 2018 were approximately twice the national average. (See Intervenor's Ex. 5, p. 1).

⁶ Because the University does not have the capacity to house all incoming freshmen students, undergraduate students must secure alternative off-campus housing. The Court notes that CPD and Protestants from surrounding neighborhoods both attributed some of the increase in problems associated with Five Points to the increase in the number of nearby student-occupied rental properties in recent years.

26. Although he has only been in Columbia and at USC for a year and a half, Shook testified that Five Points is not the same place it was ten years ago and believes Group Therapy's license and permit renewal should be denied based on the call data supplied by CPD. When questioned about the impact USC's recent decision to sell beer and wine at athletic events might have on student drinking, Shook testified that there is a much greater age range of patrons at those events and safeguards such as food availability, security, identification scanners, and traffic controls will prevent those athletic events from causing the same problems seen in Five Points.

27. On the night of September 15, 2019, Special Agent ("SA") Kirkland Jordan of SLED's Alcohol Enforcement Unit and two other special agents visited several establishments in Five Points as part of the unit's responsibility to conduct inspections and compliance checks to ensure laws and regulations are obeyed. SA Jordan testified that, aside from the annual St. Patrick's Day celebration, the crowd in Five Points that night was the largest she had ever seen due to a USC home football game earlier in the day.

28. While inspecting a normally locked hallway inside Group Therapy that was accessible to anyone that night due to a broken door, SA Jordan testified that she smelled the odor of marijuana. Unable to locate any other source of the smell, agents concluded the odor was likely coming from an office marked with an "Employees Only" sign and secured with a pin code lock. After trying to open the locked door, SA Dorman knocked and the door was opened from the inside. All three agents entered the office to find four occupants inside, none of whom were employees of Group Therapy. As a result of this encounter, SA Dorman issued a Uniform Traffic Ticket for Simple Possession of Marijuana to one of the occupants inside the office.⁷ Additionally, SA Jordan issued an administrative citation to Group Therapy for permitting a criminal act on the premises in violation of S.C. Code Ann. § 61-4-580(5) (Supp. 2013).

29. Because of this incident, on December 9, 2019, Respondent filed an Amended Prehearing Statement informing the Court that the Department no longer considered the licensed location suitable for renewal due to the administrative citation issued by SLED for permitting a criminal act on the premises in violation of § 61-4-580(5). The relevant portions of § 61-4-580 entitled "Prohibited Acts" state:

⁷ Due to evidentiary issues, burdens of proof upon the parties, and other jurisdictional considerations, the Court declines to adopt any further details of this incident as Findings of Fact in this matter. The ticketed individual enrolled in the Pre-Trial Intervention Program following this incident.

- (A) No holder of a permit authorizing the sale of beer or wine or a servant, agent, or employee of the permittee may knowingly commit any of the following acts upon the licensed premises covered by the holder's permit:

* * *

- (5) permit any act, the commission of which tends to create a public nuisance or which constitutes a crime under the laws of this State;

* * *

- (B) A violation of any provision of this section is a ground for the revocation or suspension of the holder's permit.

30. Although § 61-4-580(B) states that a violation of any provision of the section is grounds for the revocation or suspension of a permit, the Department relies on S.C. Revenue Procedure 13-2 identifying the appropriate penalty for permitting a criminal act on the premises as revocation. (See Respondent's Amended Prehearing Statement, p. 2). Thus, based on this incident, the Department argued that the location is no longer suitable for permit and licensure renewal due to a violation of § 61-4-580(5).

31. During the hearing, however, the Department made clear that any violation and resulting penalty were not before the Court at this juncture and would be determined later in another case before the ALC.⁸ As Respondent is well aware, if the Department sees fit to impose an administrative penalty based on an alleged violation, there are certain preliminary procedures that must be accomplished before contested case review of the Department's final determination before the ALC. Just as the Department bears the burden of proving the facts demonstrating that a licensee actually committed the alleged violation, an aggrieved licensee must fully exhaust all agency remedies before seeking contested case review. Thus, until an actual violation is properly before the ALC in an enforcement proceeding, the Court declines to prematurely address and adjudicate what equates to an enforcement action under the guise of an additional factor pertaining to suitability in a license renewal matter.

32. Accordingly, the Court will only address the suitability arguments presented by Protestants and Intervenors opposing the renewal of Group Therapy's permit and license. Without the stipulation of the parties, any alleged violation shall be initiated by the Department in a separate enforcement action.

⁸ There is no evidence before the Court that an administrative enforcement proceeding relating to this incident has been initiated by the Department.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Court concludes the following as a matter of law:

1. S.C. Code Ann. § 1-23-600 (Supp. 2019) grants jurisdiction to the ALC to hear contested cases under the Administrative Procedures Act. The ALC also has exclusive jurisdiction to adjudicate contested matters involving the regulation of alcoholic beverages under Title 61 of the South Carolina Code. *See* S.C. Code Ann. § 61-2-260 (2009).

2. The weight and credibility assigned to evidence presented at a hearing is within the province of the trier of fact. *S.C. Cable Television Ass'n v. S. Bell Tel. & Tel. Co.*, 308 S.C. 216, 222, 417 S.E.2d 586, 589 (1992). Furthermore, a trial judge who observes a witness is in the best position to judge the witness's demeanor and veracity and to evaluate the credibility of his testimony. *Woodall v. Woodall*, 322 S.C. 7, 10, 471 S.E.2d 154, 157 (1996) (citing *McAlister v. Patterson*, 278 S.C. 481, 299 S.E.2d 322 (1982)). The standard of proof in administrative proceedings is a preponderance of the evidence unless otherwise specified. *Anonymous v. State Bd. of Med. Exam'r*, 329 S.C. 371, 375, 496 S.E.2d 17, 19 (1988) (quoting 2 Am.Jur.2d *Administrative Law* § 363 (1994)).

3. The Department is charged with the responsibility of administering the laws and regulations governing the sale of beer, wine, and alcoholic liquors in South Carolina. *See* S.C. Code Ann. §§ 61-2-20, -80 (2009). Members of the public may submit to the Department written protests against the issuance or renewal of a beer and wine permit and liquor by the drink license if the protestants comply with the requirements of the statute in rendering the protest. *See* S.C. Code Ann. §§ 61-4-525 (Supp. 2005) and 61-6-1825 (Supp. 2005).

4. In order to obtain a beer and wine permit or liquor by the drink license, the proposed location must be proper. *See* S.C. Code Ann. § 61-4-520(5) (Supp. 2005); *See also* *Schudel v. S.C. Alcohol Beverage Control Comm'n*, 276 S.C. 138, 142, 276 S.E.2d 308, 310 (1981).

5. "Proper location" is not statutorily defined, but broad discretion is vested in the trier of fact to determine the fitness or suitability of a particular location for the requested permit. *Fast Stops, Inc. v. Ingram*, 276 S.C. 593, 596, 281 S.E.2d 118, 120 (1981) (citing *Smith v. Pratt*, 258 S.C. 504, 189 S.E.2d 301 (1972)). In determining whether a proposed location is suitable, the court may consider any evidence that shows adverse circumstances of the location. *Kearney v. Allen*, 287 S.C. 324, 326, 338 S.E.2d 335, 337 (1985) (citing *Pratt*, 258 S.C. 504, 189 S.E.2d 301).

Suitability “involves an infinite variety of considerations related to the nature and operation of the proposed business and its impact on the community wherein it is to be situated.” *Id.* (citing *Schudel*, 276 S.C. 138, 276 S.E.2d 308).

6. Without sufficient evidence of an adverse impact on the community, a license application must not be denied if the statutory standards are satisfied. *See* 48 C.J.S. *Intoxicating Liquors* § 196 (2017). The fact that the issuance of a license is protested is not a sufficient reason, by itself, to deny the application. *Id.* Moreover, the denial of a license to an applicant on the ground of unsuitability of location is without evidentiary support when relevant testimony of those opposing the requested license or permit consists entirely of opinions, generalities and conclusions, or is not supported by the facts. *Taylor v. Lewis*, 261 S.C. 168, 171, 198 S.E.2d 801, 802 (1973).

7. In determining the suitability of a location for an alcohol permit or license, consideration should be given to the impact the issuance of the permit or license will have on law enforcement. *Fowler v. Lewis*, 260 S.C. 54, 194 S.E.2d 191 (1973); *Roche v. S.C. Alcoholic Beverage Control Comm’n*, 263 S.C. 451, 211 S.E.2d 243 (1975). Evidence that the granting of a license will place a constraint on law enforcement’s ability to protect the community must be weighed. *Moore v. S.C. Alcohol Beverage Control Comm’n*, 308 S.C. 160, 162, 417 S.E.2d 555, 557 (1992).

8. There is no doubt that the hospitality district of Five Points requires a police presence and, depending on the night of the week and various events resulting in increased crowds, the level of police presence can fluctuate greatly. While Chief Holbrook testified that Group Therapy was just one of a number of establishments in Five Points responsible for increased and burdensome calls to the department, CPD submitted its protest against Petitioner’s renewal due to the high call volume (18 calls) that the department directly associated with Group Therapy from July 1, 2018 through June 30, 2019.

9. However, in July 2019, CPD issued a late-night permit to Group Therapy authorizing extended hours for the service of beer and wine. Chief Holbrook testified as to the stringent vetting and approval process for such coveted permits. Out of twelve applicants, Group Therapy received one of four permits awarded. Interestingly, the vetting process consists of a comparison of the calls for police service and the number of incidents attributed to each applicant’s location during the preceding year, also from July 1, 2018 through June 30, 2019. Compared to

other establishments, Chief Holbrook testified that the department found that Group Therapy did not have a high call volume or number of incidents.

10. Thus, based on the specific call data compiled by the department, CPD chose to issue a wholly discretionary permit authorizing Group Therapy to serve even more alcohol late into the night. Then, relying upon that very same call data just months later to support a claim of unsuitability, CPD chose to protest Group Therapy's authorization to serve alcohol altogether. Such markedly opposing positions are troubling. At best, CPD's inability to determine whether Petitioner's call volume is low, so as to justify a discretionary late-night permit to serve more alcohol, or high, so as to necessitate an absolute denial of alcohol licensure entirely, presents a factual dilemma in this case. As such, the conclusion that service calls attributed to Group Therapy will overburden law enforcement resources is not supported by facts and a denial premised on unsuitability in the context of a strain on law enforcement is without evidentiary support.

11. Of the criteria weighed by USC to determine the school's participation in protesting alcohol licensure matters, only the fourth factor concerning the number of service calls to law enforcement was present in Petitioner's case. Dean Shook testified that USC joined the protest and believes Petitioner's renewal application should be denied based on call data supplied by CPD. As previously discussed, due to factual inconsistencies, evidence pertaining to the volume of service calls offered to establish unsuitability due to law enforcement woes is insufficient to support a ground for denial in this matter.

12. While evidence of the heightened levels of alcohol consumption by USC freshmen in comparison to freshmen attending other SEC schools causes the Court concern, those levels cannot be attributed to Group Therapy to form a basis against suitability in this matter. In fact, Shook characterized the four students hospitalized after consuming their last drink at Group Therapy since 2016 as a "low" number. Moreover, Shook attributed the increased problems in Five Points over the past decade to an overall increase in the underage student population; this increased population suffers from higher levels of depression, anxiety, and suicidal ideations which can all lead to binge drinking, according to Shook. Again, while the Court is not insensitive to the plight of this younger generation, this matter concerns the licensure renewal of one business that has operated in Five Points since 1978. As a single establishment in a hospitality district seeking renewal of an alcohol permit, Group Therapy cannot be held accountable for the behavior or tendencies of a generation. Without question, Group Therapy cannot be responsible for the

significant increase in the underage student enrollment at USC – an enrollment which Shook testified has led to the overall increase in problems in Five Points as a whole.⁹

13. In determining suitability, it is also proper for the court to consider any evidence that demonstrates the adverse effect the location will have on the community. *Palmer v. S.C. Alcohol Beverage Control Comm'n*, 282 S.C. 246, 317 S.E.2d 476 (Ct. App 1984). “A liquor license or permit may also be properly refused on the ground that the location of the establishment would adversely affect the public interest, that the nature of the neighborhood and of the premises is such that the establishment would be detrimental to the welfare ... of the inhabitants, or that the manner of conducting the establishment would not be conducive to the general welfare of the community.” 48 C.J.S. *Intoxicating Liquors* § 168 at 366 (2013). In *Palmer*, the Court of Appeals recognized a location’s proximity to other locations “where young people congregate and loiter” as a point warranting consideration when determining suitability. *Id.* at 250, 317 S.E.2d at 478.

14. The testimony of two residents from neighborhoods adjacent to Five Points established that crowds of young people gather in the area, sometimes to the point where sidewalks become too crowded and patrons spill out onto the streets. Many of these young people are intoxicated, creating a risk to their own safety as well as that of others. Litter, noise, parking problems, public intoxication, obnoxious behavior, and overall disturbances of the peace of nearby residents are not simply grievances important only to those affected residents; they are problems the Court evaluates with serious consideration and concern. These neighborhoods are important historical areas vital to downtown Columbia and residents should have quiet enjoyment of their properties without interference.

15. On the other hand, the Court must also recognize that while Protestant Armstrong and Intervenor Drennan provided compelling testimony as to the nuisance behavior associated with Five Points in general, there is, at best, very limited evidence showing that this particular location is unsuitable for licensure. In fact, the only Protestant who has seen problematic intoxicated individuals travel to and from her neighborhood directly into or out of Group Therapy acknowledged that those individuals were likely also visiting other businesses, as well. Testifying

⁹ Despite the fact that USC freshmen report significantly higher levels of alcohol consumption than others in the SEC and nation, the Court simply notes that as of January 1, 2020, USC allows for and profits from the sale of alcohol at athletic events. To deter underage drinking, Shook testified that USC will be utilizing the same identification scanner technology employed by Group Therapy.

that she had no direct complaints with Group Therapy or its owners, Armstrong is, instead, dissatisfied with Five Points patrons as a whole, including those who visit Group Therapy.

16. While considering the valid protests of those in neighboring communities, the Court must also recognize that Five Points is currently celebrating 100 years as a primary hospitality district that is touted as a Columbia attraction frequented daily by visitors, non-student residents, and, most certainly, college students who attend school at USC, Benedict, and Allen, all located within walking distance of the area. Although there are undoubtedly problems associated with the area, there are also benefits that the Court finds important to weigh in this matter.

17. In attempting to achieve a balance, the Court echoes the end goal espoused by Chief Holbrook wherein young adults have an area in which to socialize so long as patrons and businesses both act responsibly. The Court also places weight on Chief Holbrook's testimony that many of the problems in Five Points can be alleviated by businesses refusing entry and/or service to those under twenty-one.

18. From testimony at the hearing, it is evident that Group Therapy has maintained a reputation for peace and good order in the community which can be attributed directly to Taneyhill's positive relationship with law enforcement and his willingness to take steps designed to address and mitigate problems at their request. At the hearing, Taneyhill also informed the Court of his willingness to meet with concerned neighbors, to implement additional measures to relieve strain on law enforcement, and to operate his establishment according to higher standards.

19. Accordingly, after carefully weighing the evidence and applying the law in this matter, the Court finds the location to be suitable for licensure renewal so long as Petitioner continues to meet all necessary statutory requirements along with the following conditions ordered to ensure that the location is operated responsibly and according to best practices:

- 1) Within ninety days of the date of this Order, Petitioner must secure two additional Intellicheck Age ID® scanners to verify the identification cards of anyone entering the establishment. The utilization of all three scanners should prevent underage patrons from entering the establishment and should also help to alleviate the back-up in the line of patrons waiting to enter the premises.

- 2) Within forty-five days of the date of this Order, Petitioner must designate a manager(s) who will be responsible for the operation of the establishment according to best practices when he is not present. To enhance communication with law enforcement and the public, the acting manager must be easily identifiable by all employees during any particular shift.

CONCLUSION

Based upon the foregoing Findings of Fact and Conclusions of Law, the Court finds that the location at 2107 Greene Street, Columbia, South Carolina, 29205 is suitable for the renewal of Petitioner's on-premises beer and wine permit and restaurant liquor by the drink license.

ORDER

IT IS HEREBY ORDERED that Respondent shall issue to Petitioner the on-premises beer and wine permit and restaurant liquor by the drink license for the location described in the application for renewal.

AND IT IS SO ORDERED.



SHIRLEY C. ROBINSON

South Carolina Administrative Law Judge

April 29, 2020
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Ti'a Smith, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).

A handwritten signature in cursive script, appearing to read "Ti'a Smith", written in dark ink.

Ti'a Smith
Judicial Law Clerk

April 29, 2020
Columbia, South Carolina

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Eighteen Ink, LLC, d/b/a Group Therapy,

Petitioner,

vs.

South Carolina Department of Revenue,

Respondent,

and

Thomas R. Gottshall, April C. Lucas,
and Michael Drennan,

Intervenors.

Docket No.: 19-ALJ-17-0001-CC

ORDER

Eighteen Ink, LLC, d/b/a Group Therapy (Group Therapy) filed a Request for Contested Case Hearing with the South Carolina Administrative Law Court (Court) challenging the South Carolina Department of Revenue's (Department) denial of its application for the renewal of its on-premises beer and wine permit and restaurant liquor by the drink license. A highly contested case hearing was held on February 11 and 12, 2019, at which time Intervenors Thomas R. Gottshall and April C. Lucas (Intervenors) presented extensive evidence regarding the unsuitability of the Five Points location for establishments like Group Therapy. Specifically, Intervenors presented evidence that a high concentration of businesses that serve alcohol in that area has resulted in large crowds of young individuals drinking to excess resulting in nuisance behavior.¹ Intervenors also presented evidence that the behavior results in overburdening law enforcement.

On March 6, 2020 and prior to the issuance of the final order in this matter, Intervenors moved to reopen and supplement the record with evidence that they believed advanced their argument that the Five Points area is not a suitable location for Group Therapy. Specifically, Intervenors sought to reopen the record to elicit testimony of two law enforcement officers who

¹ The specific behaviors alleged by Intervenors will be fully detailed in the Court's final order. Generally, the behaviors included people congregating and loitering on the sidewalks, disturbing the peace and enjoyment of residents in the surrounding area, littering, and creating parking problems during the weekend. Intervenors also contended that the overconsumption of alcohol by those in the area creates safety risks.

FILED

April 23, 2020

SC ADMIN. LAW COURT

were working uniformed alcohol enforcement assignments in Five Points in the early morning of February 29, 2020. In support of their motion, Intervenors included the affidavits of two law enforcement officers who outlined matters related to a fight that is alleged to have occurred inside Group Therapy in the early morning of February 29, 2020. The officers' body camera footage was also provided.

Both officers attested that they were informed of a fight outside of Group Therapy and in the middle of Greene Street. One officer stated that Group Therapy's manager was in the process of breaking up the fight. Both officers then followed a group of individuals who were walking toward Group Therapy, some of whom had pushed their way into the bar. The officers proceeded into the bar and broke up a fight occurring next to the bar inside of Group Therapy.² While the officers were in Group Therapy, someone yelled that shots had been fired from a vehicle so both officers left to investigate. There is no evidence that any shooting that may have occurred was related to Group Therapy although it would have occurred in the Five Points area.

The decision whether to reopen a record for additional evidence is within the trial court's sound discretion and will not be disturbed on appeal absent an abuse of that discretion. *Brenco v. S.C. Dep't of Transp.*, 377 S.C. 124, 127, 669 S.E.2d 167, 169 (2008) (citing *Wright v. Strickland*, 306 S.C. 187, 188, 410 S.E.2d 596, 597 (Ct. App.1991)). While no final order has issued, a judge may relieve a party from a final judgment where the movant establishes that the newly discovered evidence: (1) will probably change the result if a new trial is granted; (2) has been discovered since trial; (3) could not have been previously discovered; (4) is material to the issues; and (5) is not merely cumulative or impeaching. *Jamison v. Ford Motor Co.*, 373 S.C. 248, 272, 644 S.E.2d 755, 767 (2007).

After reviewing the motion and supporting documentation including the affidavits and body camera footage from the law enforcement officers, as well as the law, I find that the motion should be denied. While the evidence that the intervenors seek to introduce is new in that it occurred after the conclusion of the hearing, it is cumulative to that which has already been admitted and will not have any material effect on the outcome of this matter.

² One officer attested that no arrests were made inside the bar because by the time the agents returned to Group Therapy after investigating an alleged shooting, the individuals responsible for the fight had left the bar.

IT IS HEREBY ORDERED that Intervenor's Motion to Reopen the Record is **DENIED**.
AND, IT IS SO ORDERED.



SHIRLEY C. ROBINSON
Administrative Law Judge

April 23, 2020
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Ti'a Smith, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).

A handwritten signature in cursive script, reading "Ti'a Smith", written in black ink.

Ti'a Smith
Judicial Law Clerk

April 23, 2020
Columbia, South Carolina

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Eighteen Ink, LLC, d/b/a Group Therapy,)
)
Petitioner,)
)
vs.)
)
South Carolina Department of Revenue,)
)
Respondent.)
_____)

Docket No.: 19-ALJ-17-0001-CC

ORDER

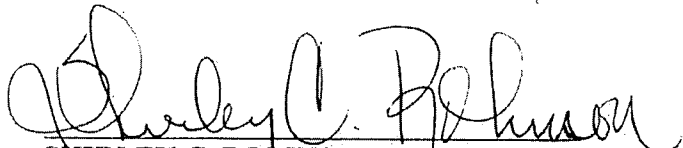
This matter is before the South Carolina Administrative Law Court ("Court") pursuant to Eighteen Ink, LLC, d/b/a Group Therapy's ("Petitioner") Request for Contested Case Hearing. On January 7, 2019, Protestants Thomas R. Gottshall, April C. Lucas, and Michael Drennan ("Protestants") filed a Motion for Leave to Intervene pursuant to SCALC Rule 20 and Rule 24, SCRCF. Neither Petitioner nor the South Carolina Department of Revenue ("Respondent") have filed a response to the motion.

Having carefully considered Protestants arguments, I find Protestants intervention is warranted pursuant to SCALC Rule 20.

THEREFORE, IT IS HEREBY ORDERED that Protestant's Motion for Leave to Intervene is **GRANTED**.

IT IS FURTHER ORDERED that the Contested Case Hearing is scheduled for **April 22, 2019 at 10:00 AM**.

AND IT IS SO ORDERED.


SHIRLEY C. ROBINSON
Administrative Law Judge

February 4th, 2019
Columbia, South Carolina

CERTIFICATE OF SERVICE
I hereby certify that the undersigned has caused to be served in the above entitled action upon the parties to this case by depositing a copy hereof in the United States mail postage paid, or in the emergency mail service addressed to the party/ies, or their attorney/ies.

4
Feb 4, 2019

Judicial Law Clerk

Page 1 of 1

FILED

FEB 04 2019

SC ADMIN. LAW COURT

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT
Docket No. 19-ALJ-17-0001-CC

Eighteen Ink, LLC, d/b/a)
Group Therapy,)
)
Petitioner,)
)
v.)
)
South Carolina Department)
of Revenue,)
)
Respondent,)
)
Thomas R. Gottshall,)
April C. Lucas,)
and Michael Drennan,)
)
Intervenors.)
-----)

HEARING

Tuesday, February 11, 2020
9:15 a.m. - 3:10 p.m.

Wednesday, February 12, 2020
9:12 a.m. - 3:27 p.m.

The hearing before the Honorable Shirley Canty Robinson was taken at the Edgar A. Brown Building, 1205 Pendleton Street, Suite 224, Columbia, South Carolina, on the 11th and 12th day of February, 2020 before Nadine A. Garrett, Court Reporter and Notary Public in and for the State of South Carolina.



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APPEARANCES**Bakari T. Sellers, Esquire****John R. Alphin, Esquire**

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Columbia, South Carolina 29204

Attorney for the Petitioner

Patrick A. McCabe, Esquire

S.C. Department of Revenue

300 A Outlet Pointe Boulevard

Columbia, South Carolina 29211

Attorney for Respondent

Christopher P. Kenney, Esquire

Harpootlian Attorneys at Law

1410 Laurel Street

Columbia, South Carolina 29201

Attorney for Intervenors

Also Present:

Thomas R. Gottshall

April C. Lucas

Michael Drennan

Chief William Holbrook

Dean Marc Shook

Rob Perry, P.E.

Agent Kirkland Jordan

Steve Taneyhill

Torrickory Outing

Tammy Young

James M. Daniel, III

Susalee Lamb

Karen Belser

Polly Morrison

John Stucker

Steven Francis

Vivian Clark Armstead

Members of the Public

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EXHIBITS

(Respondent's Exhibit Numbers 1 through 7 were marked prior to the hearing and introduced as follows:)

Petitioner's Exhibit Number 1	103
(ServSafe Alcohol Certificates)	
Respondent's Exhibit Number 1.	6,109
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Respondent's Exhibit Number 2.	6
(Photo)	
Respondent's Exhibit Number 3.	6
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Respondent's Exhibit Number 4.	6,110
(Photo)	
Respondent's Exhibit Number 5.	6,111
(Photo)	
Respondent's Exhibit Number 6.	6,182,183
(Alcohol Case Cover Sheet, Investigative Reports, and Photos)	
Respondent's Exhibit Number 7.	6,190,202
(DVD - Body Camera Footage)	



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Intervenors' Exhibit Number 1	117,405
(Photograph of Drink Specials)	
Intervenors' Exhibit Number 2	162
(Steve's Sunday Report 2)	
Intervenors' Exhibit Number 3	253,272
(City of Columbia Arrests - 2014 to 2019)	
Intervenors' Exhibit Number 4	306
(SC DOT Data)	
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(UofSC Graphs from Alcohol Edu Survey #3)	
Intervenors' Exhibit Number 6	407
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Intervenors' Exhibit Number 9	408,434
(Photograph Inside Group Therapy - 000063)	
Intervenors' Exhibit Number 10	408,434
(Photograph Inside Group Therapy - 000064)	

(The original exhibits were retained by the Administrative Law Court.)

STIPULATIONS

It is stipulated and agreed that this hearing is being taken pursuant to the rules of the Administrative Law Judge Division and the South Carolina Rules of Civil Procedure.



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1 (Respondent's Exhibit Numbers 1 through 7 were marked
2 prior to the hearing.)

3 DAY ONE:

4 CALL TO ORDER:

5 **THE COURT:** Okay. We're going to begin the hearing.

6 This is -- it's Docket number 19-ALJ-17-0001.

7 And it is -- the Petitioner is Eighteen Ink,

8 LLC, doing business as Group Therapy, versus

9 the South Carolina Department of Revenue. And

10 we've also got three Protestants that have

11 intervened in the case. We've got the

12 Petitioner represented by Bakari Sellers. And

13 I think Mr. Alphin is --

14 **MR. SELLERS:** Yes.

15 **MR. ALPHIN:** Yes, ma'am, Your Honor.

16 **THE COURT:** Okay. John Alphin is here as well. And

17 we've got the Department, is represented by Mr.

18 McCabe, Patrick McCabe.

19 **MR. MCCABE:** Yes. Good morning, Your Honor.

20 **THE COURT:** Okay. And then we've got the

21 Intervenors represented by Chris Kenney.

22 **MR. KENNEY:** Yes, Your Honor. Good morning.

23 **THE COURT:** Good morning. And before we get started

24 with the evidentiary portion of the hearing,

25 let's just say the contested portion of it,



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1 there are some outstanding motions that we need
2 to address before we get started.

3 **MR. SELLERS:** Yes, Your Honor, that's correct.

4 **THE COURT:** Okay.

5 **MR. SELLERS:** But I believe there are three and we
6 have one additional motion to make, an oral
7 motion based on some evidence we received
8 yesterday at about 3:00 o'clock. But I think
9 we can take them up in whatever order Your
10 Honor sees appropriate.

11 **THE COURT:** Okay.

12 **MR. SELLERS:** Your Honor, we would argue, just for
13 the purposes of efficiency, the Court should
14 probably hear our -- the Petitioner's motion in
15 limine first, moving to exclude any evidence
16 from the Intervenor's in regards to food sales.
17 The reason that we would ask for that to be
18 heard first, is the Intervenor's have motions,
19 which would rely upon your ruling in this
20 matter. And your ruling in this matter will
21 make this hearing more concise, will leave only
22 one, in our opinion, major issue outstanding,
23 which would be suitability, and would tailor
24 openings and tailor Court strategy. So we
25 would believe that would -- in the interest of



1 efficiency, should go first.

2 **THE COURT:** Okay. And I agree with that, Mr.
3 Sellers. So we will take your motion up.

4 **MOTION BY MR. SELLERS:**

5 **MR. SELLERS:** Thank you, Your Honor. You have --
6 you should have our motion that was filed on
7 February 6th, 2020; Your Honor. Let me just
8 start with telling the Court what we are asking
9 first.

10 We're asking that you prevent the
11 Intervenor from submitting any evidence or
12 testimony attempting to show the Petitioner
13 does not meet the statutory definition of a
14 bone fide primarily and substantially engaged
15 in the preparation of serving food, including
16 any discussion of food sales percentages.
17 We're also asking you to prevent them from
18 making any arguments, which are clearly in the
19 sole authority of the Department of Revenue.

20 And the reason that we would start, is I
21 have one very, very clear argument, Your Honor.
22 And that is, if you look at the South Carolina
23 Code Annotated Section 61-2-20, what we learn
24 there is that the Department of Revenue is the
25 governing entity. It's the entity that is



1 charged with administering the provisions of
2 that section. And the Department of Revenue
3 must enforce the provisions of that section.
4 There is no private right of action related to
5 the enforcement of alcohol laws. Your Honor is
6 very aware of that. All we have to do is look
7 at the South Carolina Department of Revenue
8 versus Sandalwood. We believe Sandalwood is
9 the governing case in this matter.

10 In the Department of Revenue, even in
11 their own Department determination, has
12 determined that the Petitioner met the
13 statutory requirement of being engaged
14 primarily and substantially in the preparation
15 of and serving of meals. Here it's very clear
16 in their determination. It says that the
17 Department determination, the matter in
18 dispute, is that this license, the reason it's
19 under dispute is based upon the suitability of
20 the locations alleged in the public protest.
21 Your Honor, it doesn't say anything about
22 percentage of sales or whether or not my client
23 primarily and substantially engaged in the
24 preparation of serving meals, Your Honor.

25 We believe again that Sandalwood is the



1 governing body in this case. And if there was
2 an issue, if there was any issue with whether
3 or not my client actually served meals or the
4 percentages thereof, then the Department of
5 Revenue has the sole authority to enforce that
6 provision and SLED has the sole authority to
7 investigate that provision.

8 Now, the Intervenors are relying on what
9 we believe to be antiquated law. They are
10 relying on Brunswick. Prior to the General
11 Assembly and all of their wisdom -- I say that
12 with a chuckle -- prior to them engaging --
13 enacting this statute, we would say that
14 Brunswick would have been the law of the land.
15 However, it's no longer applicable going
16 forward. The main reason is this: And with
17 all the creativity of Dick Harpootlian and
18 Chris Kenney, and with all due respect to them
19 and their legal prowess and the Intervenors,
20 they do not have the right to actually be
21 creative in creating their own legislation.
22 What they would like to do is actually have the
23 Court create some percentage metric, which is
24 not in the statute. What they want to do is
25 create, in their own wisdom, some metric by



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1 which they can choose what should be allowable
2 and what's not. They want to say that maybe
3 it's 35 percent of food sales or 40 percent of
4 food sales. We're asking you to prohibit all
5 of this and all of these arguments and evidence
6 regarding the Petitioner's food sales, should
7 you actually allow the Intervenors to challenge
8 whether the Petitioner is engaged in that as
9 well.

10 So let me recap. There are two things.
11 The first is, I don't believe -- and we believe
12 that Sandalwood is the governing body and
13 governing law in this case, Your Honor.
14 Sandalwood states that the enforcement of the
15 law that governs alcohol licenses is in the
16 sole authority of the Department of Revenue,
17 period. The Department of Revenue has made a
18 determination that my client satisfies that
19 requirement. The Intervenors want to say they
20 do not. I am saying that the law does not
21 allow the Intervenors to make that, as it's in
22 the sole authority of the Department.

23 If Your Honor decides that they should be
24 allowed to challenge whether or not we are
25 primarily and substantially engaged in the



1 preparationth of serving^d of meals, we would say
2 that, with all due respect to the Counsel and
3 the Intervenors, they do not get to willy nilly
4 decide what the percentage should be. And so
5 we would ask that you exclude any evidence
6 regarding that percentage of sales. That is
7 not in their purview. And if they would like
8 to do that, then they could run for the General
9 Assembly, because the General Assembly has made
10 that decision, Your Honor. And in their
11 wisdom, a percentage of sale is actually not in
12 the statute.

13 I don't believe any of it should be
14 allowed in. I think Sandalwood governs. And
15 if the Department of Revenue, after an
16 investigation by SLED, says that they did not
17 meet this metric, so be it. They did not do
18 that in this case before Your Honor. I'll
19 answer any questions the Court may have.

20 **THE COURT:** I don't have any questions right now.

21 **MR. SELLERS:** Thank you, Your Honor.

22 **THE COURT:** Mr. Kenney.

23 **MR. KENNEY:** Yes, Your Honor. May it please the
24 Court. Let me begin by just noting that we
25 filed a reply in connection with another



1 motion, Your Honor, that details our position
2 with respect to many of the issues Mr. Sellers
3 just raised. It was filed on December 19. I
4 have another copy if you'd like one, Your
5 Honor. I can hand it up to the Court.

6 **THE COURT:** Yes. Thank you.

7 **MR. KENNEY:** Yes, ma'am. Your Honor, we filed this
8 reply because it was in conjunction with
9 another matter. Many of these issues that Mr.
10 Sellers has just discussed were raised in
11 response to our motion and so we filed that
12 reply to try to lay out our position with
13 respect to the Sandalwood issue and the
14 constitutional issue.

15 So let me start with the Sandalwood issue.
16 First of all, our view of the statute, which is
17 Section 61-6-1825(A). What that statute says,
18 it establishes the procedure for members of the
19 public to participate in a re-licensure
20 proceeding like this one. And what the statute
21 says is that, they may protest the issuance of
22 renewal of a license by providing certain
23 information including, quote, the specific
24 reasons why the application should be denied.
25 Now, we think that's significant because the



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1 reasons that a member of the public might be
2 able to raise with the Court are not enumerated
3 by the statute, they're not limited by the
4 statute. It doesn't say you can raise X, but
5 not Y. It doesn't say you can argue public
6 safety, but you can't argue restaurant status.
7 It just says the reasons. Now, at the end of
8 the day, Your Honor's the one who's going to
9 decide whether the reasons are legally
10 sufficient to grant or deny the license. But
11 the initial starting point here is the
12 statutory scheme gives us an opportunity, gives
13 the Protestants an opportunity to come in and
14 raise any reason they believe is justified
15 under the law.

16 So let's deal with Sandalwood. Sandalwood
17 is a case where the Department brought an
18 enforcement proceeding, very different than
19 what we're here to do today. This is a renewal
20 proceeding. And as we understand the statutory
21 scheme, this is the public's opportunity to be
22 heard, this proceeding right here. Now, if
23 you, for example, were to grant the licence and
24 permit, then the public would be closed out for
25 that two-year period while the license and



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1 permit was in place and it would be within the
2 sole and exclusive power of the Department of
3 Revenue and SLED to investigate, to write
4 citations, to bring prosecutions. We don't
5 dispute that. We agree with that. But this is
6 under the public protest statute. This is our
7 opportunity to raise reasons. And what
8 happened in Sandalwood was, first of all, the
9 -- a member of the public was permitted to
10 intervene for a limited purpose in order to
11 offer evidence in support of a citation and a
12 enforcement proceeding that the Department
13 wanted to bring. That individual was permitted
14 to come into the case to offer that evidence.
15 But then the Court of Appeals had criticism for
16 the Administrative Law Court because that
17 individual bootstrapped other evidence in an
18 effort to try to say this bar or restaurant is
19 violating all these other conditions. And what
20 the Court was saying is, look, when it comes to
21 enforcement, that's DOR and SLED. The public
22 doesn't get to parachute in. And we agree with
23 that.

24 This case is much more similar to -- I
25 believe Your Honor handled a case called Be My,



1. Incorporated. And in that case the homeowner
2. challenged whether the restaurant, the
3. applicant, met the statutory seating
4. requirement. Now, you disagreed with the
5. Protestor and said they did meet the seating
6. requirement. But there was never any question
7. about whether the public member had an
8. opportunity or a right to appear before this
9. Court and raise that issue.

10. And so I think one of the questions the
11. Court might want to ask our friends on the
12. other side is, this rule that Mr. Sellers is
13. encouraging you to adopt, what would that allow
14. public protestants to appear and challenge in
15. a proceeding like this? Where do you draw the
16. line with that rule? Because on the face of
17. the statute it says we get to come and make an
18. argument as to the reasons. So that's
19. Sandalwood.

20. Let me transition to the constitutional
21. restaurant requirement. And I think in our
22. memo we tried to sort of explain this a little
23. more effectively than perhaps we have in the
24. past. What the South Carolina Constitution
25. requires, it says that a -- let me read this.



1 It says, quote, licenses may be granted to sell
2 and consume alcoholic liquors and beverages on
3 the premises of businesses, quote, which engage
4 primarily and substantially in the preparation
5 and serving of meals or furnishing of lodging
6 or on the premises of certain non-profit
7 organizations. So that's a constitutional
8 restaurant requirement. You have to be
9 primarily and substantially in the business of
10 preparing and serving meals. We read that
11 language to actually mean something. We do not
12 -- we think that the question for the Court and
13 what the evidence needs to reflect is that the
14 primary enterprise of Group Therapy is the
15 preparation and service of meals. And if it's
16 not, they're ineligible for a liquor license.
17 And then they also have to show that they're
18 actually substantially engaged in doing that.
19 So I think of it as both a qualitative and a
20 quantitative test.

21 Now, I do not agree with Mr. Sellers when
22 he suggests that we're here advocating for some
23 rigid percentage of food. I think Your Honor
24 has to take every case on a case-by-case basis.
25 I think there could be legitimate restaurants



1 that come before this Court that have a fairly
2 low percentage of food, particularly in a
3 situation where you have a fine dining
4 establishment that sells very, very expensive
5 wine or champagne, but the cost of a meal is
6 \$22 or \$30 a plate. The food in that situation
7 is likely to be a relatively small percentage.
8 But there would be other evidence the Court
9 could look to: Tables, reservations, staff to
10 serve meals, routing hours for serving meals.
11 There's a number of things that an applicant
12 could come to this Court and say, yeah, we have
13 a low percentage of food, but when you look at
14 all the evidence and weigh it, which is what
15 Your Honor is tasked with doing here, that
16 we're still primarily and substantially in the
17 business of preparing and serving meals. So
18 that is the issue we are raising here. It is
19 a constitutional restaurant requirement under
20 section -- under Article VIII-A, Section 1 of
21 the Constitution. And we believe we have a
22 right to do that.

23 Let me deal with the Statute. The
24 Statute, the General Assembly has enacted
25 certain definitions, statutory definitions.

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1 We're not raising those issues in terms of
2 their non-compliance with the statutory scheme.
3 The way we understand the Constitution in
4 relation to the Statute is this. The
5 Constitution sets the regulatory floor. The
6 General Assembly cannot go below that floor.
7 The people have spoken on this by ratifying
8 this Article. And so whatever the General
9 Assembly believes ought to be the requirements
10 for a restaurant serving liquor, it can never
11 fall below the primarily and substantially
12 language in the Constitution. They can
13 regulate all the way up to the ceiling. But
14 they can't go below the floor. And that's
15 really what we're here today on, is to test the
16 premise that they rise above the floor.

17 So in terms of the, you know, Title 61 and
18 whether the checklist that the DOR uses to
19 determine that somebody's a good-faith
20 restaurant, that's not an issue that we are
21 raising, the statutory scheme. We think that
22 the General Assembly has limited power. They
23 have limited power. They can regulate in
24 excess of the Constitution, but they cannot
25 allow a standard short of the constitutional



1 restaurant requirement. And if there's any
2 question about this, Your Honor, I'd encourage
3 you to look at -- I'd encourage you to look at
4 -- we cited it in the memo I handed up. But
5 there was a Act in 2018. It was Act 147 of
6 2018. And we quoted in the memo -- and the
7 significance of it is this: It has to do with
8 retail licenses. It doesn't have anything to
9 do with on-premises consumption. But in the --
10 in Section 1 of the Act, the General Assembly
11 declares certain things as to why they're
12 acting. And one of the things that they
13 declare is this: This is Section 1, capital
14 (B), quote, the state's police power to
15 regulate the business of liquor -- excuse me,
16 of retail liquor sales in the manner and to the
17 extent allowed by law including, but not
18 limited to, Section 1, Article VIII-A of the
19 South Carolina Constitution of 1895, includes
20 regulating the number and localities of retail
21 dealer licenses, et cetera, et cetera. The
22 point is this: As recently as 2018 the General
23 Assembly recognizes that they do not have
24 plenary power here. The Constitution limits
25 their power. And they can, again, regulate all



1 the way up to the ceiling. Nothing wrong with
2 that.

3 But the question here is whether Group
4 Therapy meets the floor. And we think we have
5 a right to do that under the public protest
6 provisions. The question for Your Honor is
7 going to be, is this bar primarily engaged in
8 preparing and serving meals and are they
9 substantially engaged in doing that? And I
10 think that you ought to consider evidence.
11 Food sales as a percentage is just one piece of
12 evidence, Your Honor. There will be other
13 pieces of evidence that I think you can and
14 should weigh. But the idea that we're unable
15 or ineligible or lack standing to raise these
16 issues, we reject that. We'd ask Your Honor to
17 deny this motion.

18 And I would just point out that a similar
19 argument was made in the Cover 3 case a couple
20 of months ago. And it was not successful in
21 terms of limiting our ability to present
22 evidence about that establishment's status as a
23 so-called restaurant.

24 **THE COURT:** Okay.

25 **MR. KENNEY:** Thank you, Your Honor.



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1 **THE COURT:** Mr. Sellers, briefly in response.

2 **MR. SELLERS:** I'll be brief. And, Your Honor, we
3 would -- we're very strenuous in our
4 discernment that Group Therapy is not Cover 3,
5 this case is different than that.

6 I think -- and I find it a little bit
7 unique. I was somewhat confused by the
8 Intervenors' argument, because they stated to
9 Your Honor that they're not here to argue my
10 client's non-compliance with the statute, which
11 I find to be interesting. And I wasn't sure he
12 was arguing that this statute that we're
13 talking about, 61-6-20, subsection (2), is
14 unconstitutional. In fact he even said that
15 there should be some quantitative and
16 qualitative additions to be made to that. But
17 I want to walk through the statute just briefly
18 with Your Honor. Because the General Assembly
19 actually defined what it meant to be a bona
20 fide engaged primarily and substantially in the
21 preparation of serving meals. It literally
22 defined this. It said that you must seat not
23 40 -- not fewer than 40 persons simultaneously
24 at tables or have the ability to, equipped with
25 a kitchen readily available to its guests and



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1 patrons, either menus with listings of various
2 meals offered for service or a listing of
3 available meals, prepares for service to
4 customers upon the demand of the customer of
5 hot meals at least once each day the business
6 establishment chooses to be open.

7 Now, the reason that we say that you
8 should exclude any evidence because of that is
9 two fold. The first is, the Department has
10 already said that we met the statutory
11 obligation. Do you know who else has argued
12 that we met the statutory obligation? The
13 Intervenor argued that we met the statutory
14 obligation. What they're saying is that
15 somehow the floor and the Constitution, you
16 should go by this when the legislature has
17 already defined what this is.

18 Even more importantly, even more
19 importantly, the Department is in charge with
20 enforcing this statute. The Department has
21 said that we met the metrics as defined by this
22 statute. What Intervenor do not get to do is
23 go around the Department and then become an
24 enforcement body. That would be patently
25 absurd if a group of individuals could then



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1 come into this Court and enforce a statute
2 simply because they don't like the Department's
3 determination. This is not an issue of whether
4 or not we meet the statutory obligations. Mr.
5 Kenney himself said we are not arguing
6 compliance with statutory obligations in this
7 particular instance. We meet that obligation,
8 Your Honor. We meet that obligation as put
9 forth by the Department. The Intervenor do
10 not get to in-run that, which they are trying
11 to do, Your Honor.

12 And so we would ask that you grant our
13 motion. There are still many arguments to be
14 made about suitability, et cetera, in this
15 matter and that's what we would argue. But
16 we're saying that to argue food sales and then
17 to come in here and say that we want to add
18 that to the statute, it should be there, it's
19 literally not in the statute. And I don't know
20 why we think that we could make additions to
21 the statute simply because we're Intervenor
22 and we want to, Your Honor. Not only is this
23 something already been decided upon by the
24 Department, we say that it goes to the
25 efficiency of this hearing, Your Honor. And we



1 can move forward, Your Honor, however you so
2 choose. Thank you.

3 **THE COURT:** Mr. Kenney.

4 **MR. KENNEY:** Yes, ma'am.

5 **THE COURT:** I'm sorry. Mr. McCabe. I wanted to get
6 some input from Mr. McCabe.

7 **MR. KENNEY:** Yes, ma'am.

8 **MR. MCCABE:** Yes, Your Honor. Thank you. Your
9 Honor, we find ourselves in the unique position
10 here where we did not actually file the motion
11 and we did not actually respond to this motion.
12 But we would inform the Court that we do
13 believe that Sandalwood is controlling and that
14 in a violation case, as which Sandalwood was,
15 that there is no private right of action to
16 allow an Intervenor to step into the shoes of
17 the Department.

18 However, in this case, this is an
19 application case. And 61-6-1825(A) is very
20 broad, in that it allows the Protestants to
21 state the reasons for their protest. So we
22 would mention that.

23 We would also mention originally we did
24 find that the establishment met all of the
25 requirements for licensure. However, there



1 have been some events that have occurred past
2 -- or since that determination that have
3 changed the Department's opinion as to
4 suitability. But as for the statutory
5 requirements, we did -- the Department did
6 determine that they met the requirements as
7 required.

8 **THE COURT:** Now, did you find that they meet the
9 requirement at the initial application, at the
10 point of the initial application or
11 subsequently?

12 **MR. MCCABE:** Yes, Your Honor, at the point of the
13 initial application the Department issued a
14 determination saying that they met the
15 requirement, but for the public protest, we
16 would have granted the license.

17 **THE COURT:** No, no. I'm talking about when they got
18 their initial license, Group Therapy, when they
19 were initially licensed by the Department many
20 years back, you found that they met the
21 restaurant requirements?

22 **MR. MCCABE:** Yes, Your Honor.

23 **THE COURT:** Okay. And have you subsequently looked
24 into whether that compliance has been ongoing?

25 **MR. MCCABE:** I myself have not, but I do have --



1 **THE COURT:** I'm speaking in terms of the Department.

2 **MR. MCCABE:** Yes. In terms of the Department, we do
3 have SLED and SLED have gone in and has checked
4 to make sure that they are meeting those
5 requirements. I think the last time that I can
6 confirm was early in September they did a
7 compliance check to make sure there was food,
8 there was a kitchen, there was a chef, there
9 was seating. So, yes, there have been ongoing
10 checks by SLED.

11 **THE COURT:** In September of what year?

12 **MR. MCCABE:** I'm sorry. Of 2019.

13 **THE COURT:** Okay. Okay. So subsequent to them
14 filing the application ---

15 **MR. MCCABE:** Yes, Your Honor.

16 **THE COURT:** --- for re-licensing ---

17 **MR. MCCABE:** Yes, Your Honor.

18 **THE COURT:** --- and subsequent to the Protestants --

19 -

20 **MR. MCCABE:** Right, Your Honor.

21 **THE COURT:** --- filing the protest. Okay. Okay.

22 **MR. MCCABE:** Thank you.

23 **THE COURT:** Mr. Kenney.

24 **MR. KENNEY:** Yes, Your Honor, very briefly. A
25 couple of points. Mr. Sellers raised the issue



1 of the Statute, the bona fide and the
2 itemization that Mr. McCabe just walked through
3 in terms of kitchen, stove, 40-person seating.
4 Those are statutory indicia in addition to the
5 floor. And one of the things I think you could
6 consider is the Statute uses language the
7 Constitution does not, which is bona fide,
8 meaning it's a good-faith effort. And if you
9 think about it, that sort of makes sense,
10 right, because when a restaurant opens up, they
11 have no sales. They have no -- they don't know
12 if anybody's going to walk in the door. But
13 the Department has to send people out there and
14 say, should we license them. And so those are
15 things, kitchen, stove, seating, that's pretty
16 good evidence that they're making a good-faith
17 effort to do it, to be a restaurant, right.

18 The problem that we have here is there's
19 still this question of are they actually a
20 restaurant. And that's what this case is
21 about, is Group Therapy actually a restaurant?
22 Because we're not going to contest the fact
23 they have a kitchen. We're not going to
24 contest the fact they have a stove or seating
25 for 40 people. Those matters are not in



1 dispute. But I think what the evidence is
2 going to show Your Honor is that this
3 establishment operates as a bar. Their
4 business model is lots of liquor, lots of beer,
5 little or no food. And, you know, I think
6 that's the sort of situation that the
7 Constitution does not allow.

8 And I'd just offer two additional
9 thoughts. Ms. Young with the Department of
10 Revenue sitting back here, we've identified her
11 as a witness. We've presented her in other
12 matters before Your Honor. I've deposed her.
13 I had an opportunity to spend some time with
14 her. I think what her testimony will be when
15 we call her is that, when they do licensing
16 checks, they take a checklist out, the
17 Department does, and it has -- you know, it
18 asks is there seating for 40 people; is there
19 a stove; is there all of the things that you
20 just heard Mr. McCabe detail. What they don't
21 do, is they don't investigate whether the
22 establishment is actually selling food. They
23 don't investigate whether it's actually
24 operating as a restaurant or is it a nightclub.
25 And that's not a criticism of the Department,



1 but that has been the procedure, is that they
2 go out to -- they use the checklist and that is
3 that good-faith indicia. But here we have
4 something different and the evidence, we think,
5 will show something different.

6 The final point I'd make with respect to
7 Mr. Seller's argument, the General Assembly has
8 no -- first of all, I don't think the statute
9 is unconstitutional. We're not arguing it's
10 unconstitutional. I think the best reading of
11 the statute is it's in addition to what the
12 Constitution requires. But let's step back.
13 If the Constitution says you have to be a
14 restaurant to get a liquor license, the General
15 Assembly cannot come in and supplant that.
16 They don't have the power to do it. And so I
17 think the best way to read the Constitution and
18 give it real effect, is to give that primarily
19 and substantially language meaning, which means
20 we need to make some inquiry into what the
21 business enterprise is engaged in and you look
22 to the statute to say, particularly in
23 situations where it's a new applicant, these
24 are indicia of a good-faith effort.

25 And so I think it's entirely consistent in



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1 terms of how you read the Constitutional scheme
2 and the statutory scheme together. And, again,
3 we just ask you deny the motion.

4 **THE COURT:** Now Mr. McCabe, I've got one more
5 question for you. The Department, when they --
6 when they did the investigation back in
7 September -- you said they did a compliance
8 investigation back in September?

9 **MR. MCCABE:** Yes, Your Honor. That is correct.

10 **THE COURT:** Did they look at food sales and
11 determine if they're primarily engaged in the
12 ---

13 **MR. MCCABE:** No, Your Honor. The SLED officer does
14 not do a -- an audit, if you will, of food
15 sales. They do to see if there is food in the
16 kitchen that's able to be served. They look to
17 see if there's a menu that has a listing of the
18 food. There are -- at least that's what
19 occurred with this inspection.

20 I would note though, from time to time
21 SLED could go in undercover and try to purchase
22 food. And if that were to occur, that would be
23 a violation. And the penalty for that type of
24 violation is revocation of the license.

25 So there are multiple ways the Department



1 investigates to make sure they meet the
2 requirements. But we do not do an audit of
3 food sales.

4 **THE COURT:** Now if you've got an allegation, as the
5 Protestants have alleged, that this business is
6 not engaged primarily and substantially in
7 selling food ---

8 **MR. MCCABE:** Correct.

9 **THE COURT:** --- would not that be -- indicate that
10 maybe we need to expand this investigation and
11 do a determination of some audit of their food
12 sales?

13 **MR. MCCABE:** Well, Your Honor, we are going off of
14 strictly what is in the statute. And there is
15 no requirement in the statute for any type of
16 percentages. There is no threshold for -- I
17 mean there's no requirement there.

18 **THE COURT:** There's not a percentage, but there is
19 the requirement that they be engaged primarily
20 and substantially.

21 **MR. MCCABE:** Correct. But those terms are defined
22 in the statute. And none of those definitions
23 of primarily and substantially are assigned to
24 a percentage of food sales.

25 **THE COURT:** Okay.



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1 **MR. MCCABE:** Those terms are assigned to specific
2 things such as do they have seating for 40. Do
3 they have food in the kitchen, able to serve 40
4 meals simultaneously. Do they have a oven,
5 those types of things, refrigeration. Those
6 are how the statute defines primarily and
7 substantially.

8 **THE COURT:** Okay. And I -- what concerns me is that
9 the way the Department views their role --
10 including SLED views their role, is that you
11 could conceivably just get a license, we meet
12 the statutory requirements, we meet the
13 constitutional requirements, we have that stove
14 and whatever the other list of items are. Once
15 you do that, you don't have to sell a morsel of
16 food.

17 **MR. MCCABE:** Your Honor, if you would remember the
18 case of Cover 3 ---

19 **THE COURT:** Yes.

20 **MR. MCCABE:** --- the Department took a stance that
21 less than one percent of food was not someone
22 who was primarily and substantially engaged in
23 the preparation and serving of meals. So there
24 is this -- at least this understanding that
25 there has to be some food sales there. But



1 there's no requirement for us to have to
2 investigate the food sales during an
3 inspection.

4 However, in that case and in this case as
5 well, once those allegations did come up, the
6 Department did -- was able to look at evidence
7 of food sales. So it was something we did look
8 at. But along with that, we also did our
9 standard compliance checks to make sure that
10 they were complying with the law.

11 **THE COURT:** Thank you. Is there anything further on
12 that particular matter?

13 **MR. SELLERS:** Your Honor, I know it's -- I think
14 that we're -- I think it's been pretty clear,
15 Your Honor. I think that the Department went
16 in and did their checklist. They did the
17 enforcement thereof and now the Intervenors are
18 trying to make an end-run and be the enforcing
19 body.

20 Your Honor, you asked a really good
21 question and you posed a -- you posited a
22 really good question to the Department about
23 percentage of food sales and what could be done
24 and what should be done. You know, we would
25 argue though, Your Honor, that if there are to



1 be any additions to the statute, then those
2 have to be made somewhere else on the grounds
3 and not in this courtroom, Your Honor.

4 **MR. KENNEY:** Your Honor, I don't have anything
5 further, unless you wanted me to very briefly
6 address the Brunswick case, which I neglected
7 to mention earlier. only if it's helpful.

8 **THE COURT:** Okay. Go on.

9 **MR. KENNEY:** All I would say about Brunswick is
10 this, Your Honor: It -- when we're trying to
11 figure out what the constitutional language
12 means, the reason Brunswick is significant --
13 it's a 1979 case I think. At the time that
14 that case was decided, the Court was construing
15 a statute that used the language bona fide
16 primarily and substantially engaged in. That
17 was both the statutory language at the time.

18 I would note the bowling alley had -- they
19 had food, they had hot dogs, they had 40-plus
20 seating, they had many of the same things Group
21 Therapy has. But what the Court said in
22 construing the statute, is that ten percent of
23 food sales is not a enterprise that is
24 primarily and substantially engaged in
25 preparing and selling meals. So we think that



1 is very persuasive -- should be very persuasive
2 to Your Honor in terms of how do we read the
3 constitutional language and actually give it
4 some meaning. Brunswick did it with the
5 statute that was in place at that time.

6 I wish we had some other authority as to
7 what exactly -- you know, how to read that
8 language. And we don't, except that -- and we
9 cited in our memo. The purpose seemed to be,
10 when we enacted that constitutional provision,
11 that we wanted to do away with the public
12 saloon. And that is -- I think sort of goes to
13 Your Honor's question, which is, if I have all
14 the tables, I have the kitchen, I have the
15 food, can I just have a big empty room filled
16 with young people drinking liquor? That's the
17 public saloon. That's what we were trying to
18 abolish.

19 **MR. SELLERS:** Your Honor, that was good. And
20 Brunswick was awesomely written. Brunswick was
21 actually written one year after Group Therapy
22 opened in 1979. In fact, I was five years away
23 from being born then. The Constitution, Your
24 Honor, has since -- there's actually been a
25 statute since that time. It's been a statute



1 since Brunswick that deals with this issue.
2 Brunswick is insignificant. It's very well
3 written and it's good case for them to rely on.
4 It just doesn't matter today, Your Honor.

5 **THE COURT:** Okay.

6 **MR. MCCABE:** Your Honor, if I may real quickly. I
7 just wanted to address something. You had
8 asked that a business would be able to have the
9 minimum requirements, but not sell any food.
10 I just wanted to reiterate that, if that were
11 occurring and SLED were to go in and attempt to
12 make a purchase of food from that type of
13 establishment, if they did not have food, that
14 would be a violation of the license and we
15 would seek revocation of that business'
16 license, if that fact were to occur.

17 **THE COURT:** Because this motion, it does -- it will
18 affect how we proceed with this hearing, I'm
19 going to take five minutes just to kind of
20 ponder this and then I'll make a ruling of the
21 motion.

22 **MR. SELLERS:** Thank you, Your Honor.

23 **MR. KENNEY:** Thank you, Your Honor.

24 **THE COURT:** Thank you.

25 (Off the Record at 9:53 a.m.)



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1 **THE COURT:** After taking a few moments just to go
2 over the arguments in my head to see -- and try
3 to kind of sort them out, I'm inclined to --
4 well, I am granting the Petitioners' motion,
5 because I do find that the Petition, the
6 Protestants' allegations of the -- that Group
7 Therapy is not operating primarily -- engaged
8 primarily and substantially in the business of
9 selling food and is basically -- you know, I
10 just find that is an enforcement argument. And
11 I think enforcement is the responsibility of
12 the Department and SLED and that the citizens,
13 while it's -- you know, in this instance it
14 concerns me that I don't think that SLED and
15 the Department are adequately fulfilling their
16 role. But the citizens don't have that private
17 right to bring an enforcement action. I think
18 the Sandalwood case is pretty clear on that.

19 **MR. SELLERS:** Thank you, Your Honor.

20 **MR. KENNEY:** Your Honor, at the appropriate time,
21 just to protect our position, I'd like to make
22 a proffer about what we think of the food
23 evidence would show. Some of it is attached to
24 motions that we filed with the Court and are in
25 the record. I can do that now or I can do that



1 along the way with witnesses, whatever is
2 convenient. I do think the issue touches on a
3 couple of witnesses, so it may be easier to do
4 it on a witness-by-witness basis. Or I'd be
5 happy to, within so many days of concluding
6 this hearing, filing something in writing. I
7 can do it however Your Honor deems appropriate.
8 But I would like to have an opportunity to put
9 our position on the record.

10 **THE COURT:** Okay. And Mr. Kenney, from my review of
11 the file, you've got lots of other ...

12 **MR. KENNEY:** Yes, Your Honor.

13 **MR. SELLERS:** We would object to that proffer, Your
14 Honor. You've granted the motion, so I don't
15 believe it's proper for witnesses to be
16 discussing food sales and percentages and the
17 substantial aspect. If he wants to file
18 something later down the road, I'm absolutely
19 sure he knows how to file documents. We've
20 seen that throughout the case. So I don't have
21 any objection to them filing at a later date.
22 And we'll respond if need be or not.

23 **THE COURT:** Okay.

24 **MR. KENNEY:** Your Honor, just so I'm clear on the
25 procedure, we will have protected our position



1 on this issue if we file something in writing
2 indicating what we believe the food-related
3 evidence would show.

4 **THE COURT:** That's correct.

5 **MR. KENNEY:** Thank you, Your Honor.

6 **THE COURT:** Is there anything else we need to
7 address before we hear opening statements?

8 **MOTION BY MR. KENNEY:**

9 **MR. KENNEY:** Yes, Your Honor. The Intervenors had
10 two motions.

11 **THE COURT:** Okay.

12 **MR. KENNEY:** And I did have one additional one. I
13 believe I can truncate this somewhat. If it
14 please the Court, let me just deal with -- let
15 me just deal with the spoliation motion this
16 way. There were two issues in the spoliation
17 motion. One had to do with the business
18 records concerning food sales. Obviously we're
19 not worried about that anymore. The other one
20 had to do with surveillance video that was not
21 produced and some of which was spoliated.

22 Your Honor, I do believe as to the second
23 piece of it, just the video, the inside of
24 Group Therapy and the video evidence we were
25 attempting to obtain, I do believe that's still



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1 in play, because it does speak to some of the
2 public safety issues that we intend to raise,
3 it speaks to the crowd and the alcohol. But
4 let me suggest that why don't we go ahead and
5 withdraw that spoliation motion, and we have
6 some other evidence that I believe will speak
7 to these issues. And I do intend to ask Mr.
8 Taneyhill about why we don't have that video.
9 And I think Your Honor can give that whatever
10 -- his explanation whatever weight you deem
11 appropriate in terms of why we don't have the
12 video. But if it suits the Court, I would just
13 go ahead and withdraw that motion.

14 **THE COURT:** Okay.

15 **MR. KENNEY:** The next motion, Your Honor, is we
16 filed a motion in limine to exclude untimely
17 disclosed witnesses. This was a late filing.
18 I don't know if -- we had sent a copy to the
19 Court. But we are asking to exclude two
20 witnesses. And Glen and Cook were identified
21 by Group Therapy for the first time on February
22 4, 2020. As you know, this case has been
23 pending for some time. We served standard
24 interrogatories a year ago to the day asking,
25 among other things, identify your witnesses and



1 provide a summary of what they intend to
2 testify about. We received answers on April
3 11, 2019 and they identified Mr. Taneyhill, an
4 individual named Riley, and Thomas. And they
5 provided a brief summary of what those three
6 individuals are going to testify to.

7 Glen and Cook were identified last week.
8 We were -- it was seven days before this
9 hearing, so under Rule 30 we didn't have
10 sufficient time to notice a deposition. I
11 don't have a summary of what they're
12 anticipated testimony would be. And I don't
13 have the ability to marshal any other evidence
14 that might be necessary to rebut or respond to
15 whatever those individuals plan to say.

16 So I think under Rule 37 it's an
17 incomplete disclosure, it's a failure to
18 supplement under Rule 26(e). And we'd ask that
19 Mr. Glen and Mr. Cook be excluded and that
20 Group Therapy be prevented from calling those
21 witnesses.

22 There's one other piece of that. We filed
23 this motion in limine yesterday at about noon.
24 At about 2:55, at 3:00. If I can approach,
25 Your Honor.



1 THE COURT: Yes.

2 MR. KENNEY: Beg the Court's indulgence.

3 MR. SELLERS: Your Honor.

4 THE COURT: Yes.

5 MR. SELLERS: We provided that information to help
6 bolster our argument that is no longer relevant
7 because of your earlier ruling, Your Honor. So
8 what he just added is moot at this point, Your
9 Honor.

10 MR. KENNEY: Based on ---

11 THE COURT: I'm sorry. The testimony of Glen ---

12 MR. SELLERS: No, no, no.

13 THE COURT: I'm sorry.

14 MR. SELLERS: Referring to this, what he just added.

15 THE COURT: Okay.

16 MR. SELLERS: The second part. We do have -- we
17 will not be calling Cook, Your Honor. Glen,
18 though, at the appropriate time, I will make an
19 argument about Glen.

20 THE COURT: Okay.

21 MR. KENNEY: And, Your Honor, I think what Mr.
22 Sellers is saying, is these emails I handed up
23 with additional documents that we got at 3:00
24 -- about 3:00 o'clock yesterday, if I
25 understand Mr. Sellers, what he's saying is it



1 is no longer necessary for them to offer any of
2 those documents and so they don't plan to offer
3 those documents.

4 **THE COURT:** Okay. Gotcha.

5 **MR. KENNEY:** Is that ...

6 **MR. SELLERS:** Yes.

7 **MR. KENNEY:** Okay.

8 **THE COURT:** Gotcha.

9 **MR. SELLERS:** Thank you for being clear on my
10 statements.

11 **MR. KENNEY:** Not a problem.

12 **THE COURT:** Thank you for clarifying.

13 **MR. KENNEY:** Your Honor, we just -- based on what
14 Mr. Sellers said, we just ask that you exclude
15 Mr. Glen.

16 **THE COURT:** Okay. Mr. Sellers.

17 **MR. SELLERS:** Your Honor, we were looking to call
18 Mr. Glen as a rebuttal witness in this case to
19 April Lucas. April Lucas has made multiple
20 statements -- she is testifying in this case.
21 She has made multiple statements in her
22 testimony and in the public domain. We are
23 focusing on -- and Your Honor, if you would
24 like for me to give him a summary of what Mr.
25 Glen will testify to, then I can just do that



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1 briefly here. There was a meeting on ---

2 **MR. KENNEY:** Well, Your Honor, I don't know that we
3 need to. You know, I don't know that we need
4 to get into that. The question is, is he
5 timely disclosed. And he's not. So whatever
6 he's going to say really doesn't matter.

7 **MR. SELLERS:** Your Honor, we would actually
8 articulate that just as late as their most
9 recent prehearing notice ---

10 **MR. ALPHIN:** It's last night.

11 **MR. SELLERS:** --- last night, this is kind of what's
12 good for the goose is good for the gander. But
13 in their -- in the notice of fairness and
14 hoping that we can get fairness and efficiency,
15 just last night we got a fourth prehearing
16 statement from the Intervenor, including
17 evidence from February 9th.

18 **MR. KENNEY:** That's correct, Your Honor.

19 **MR. SELLERS:** Let me just tell Your Honor, February
20 9th was Sunday. So we get a fourth prehearing
21 statement the night before the trial, including
22 evidence they want to use from Sunday. Today
23 is Tuesday. And now they want to exclude a
24 witness because of timeliness. And what I'm
25 saying, Your Honor, is to make sure that it's



1 fair, I can stipulate right now to what Mr.
2 Glen's testimony will be in rebuttal to Mr.
3 Lucas. We're hoping to get to their case-in-
4 chief tomorrow. There's more than enough time.
5 Ms. Lucas is here. She can hear what we're
6 going to stipulate to. It does not prejudice
7 them at all. It just makes for a full record,
8 Your Honor.

9 **MR. KENNEY:** Your Honor, let me suggest this and let
10 me respond, first of all, to the prehearing
11 statement. Here's the difference between their
12 -- our supplement in the pretrial statement.
13 We were never served with discovery. There is
14 no interrogatory that is pending for the
15 Intervenors to identify anybody or any document
16 request requiring us to turn anything over.
17 Your Honor entered an order saying, pursuant to
18 your order, we should file a prehearing
19 statement identifying exhibits and whatnot and
20 you should timely supplement it. So we've been
21 doing that. But we didn't have to disclose
22 anything to the Petitioner, because they never
23 asked. Conversely, we served discovery a year
24 ago for Mr. Glen -- or to identify witnesses
25 that should have caused them to identify Mr.



1 Glen. So it's apples and oranges here. They
2 had an obligation under the rules. We did not.
3 So that's the first point.

4 The second point is, if this is a rebuttal
5 witness to Ms. Lucas, then let me just suggest
6 that Your Honor take the motion under
7 advisement, we cross that bridge when we get
8 there, and you can rule on whether you're going
9 to exclude this individual or not. And if you
10 exclude the individual, then Mr. Sellers can
11 make his proffer for the record.

12 **THE COURT:** Okay. What we're going to do, is I'm
13 not going to exclude Mr. Glen at this point.
14 I mean, I'm not -- you know, there may be some
15 change in my ruling once we ---

16 **MR. SELLERS:** And Your Honor, if you want me to go
17 ahead and stipulate to what he'll testify to --
18 -

19 **THE COURT:** No, I don't need you to do that.

20 **MR. SELLERS:** No? Okay, perfect.

21 **MR. KENNEY:** Thank you, Your Honor.

22 **THE COURT:** Anything else?

23 **MR. KENNEY:** Not for the Intervenors, Your Honor.

24 **THE COURT:** Okay. The Petitioner?

25 **MR. SELLERS:** Not for the Petitioner, Your Honor.



1 **THE COURT:** Okay. Let's proceed to opening
2 arguments.

3 **OPENING STATEMENT BY MR. SELLERS:**

4 **MR. SELLERS:** Thank you, Your Honor. I'm actually
5 going to be brief. I had a brainstorm and was
6 thinking about this case for a very long
7 period of time. And I had these very verbose
8 opening arguments, Your Honor. But I think
9 that this case is relatively simple. I have to
10 quote one of my favorite songs. With a little
11 love and some tenderness, we'll walk upon the
12 water, we'll rise above this mess. With a
13 little peace and some harmony, we'll take the
14 world together, we'll take them by the hand.
15 Your Honor, that's from Hootie and the
16 Blowfish, Hold my Hand. The difference between
17 this case and some of the other cases that Your
18 Honor deals with, is that we're talking about
19 Group Therapy, which is a cherished
20 establishment in the city of Columbia.
21 Group Therapy was founded in 1978. It's
22 owner now is Steve Taneyhill, who sits to my
23 left at this desk. And Steve Taneyhill is an
24 awesome man. I don't think anybody, regardless
25 of what the Intervenor's lawyers or the



1 Department of Revenue may try to do, no one can
2 impugn his character. In fact, just recently
3 he gave \$10,000 to the Special Olympics. I
4 know we'll have a conversation about that
5 later.

6 But this case is quite interesting,
7 because Group Therapy is not a fly-by-night
8 bar. We have bars in Five Points that open up
9 at 8:00 p.m., close at 2:00 a.m., and are only
10 there to serve liquor to kids. That's not what
11 Group Therapy actually is. It's an
12 establishment. It's open about 360 days a
13 year. It meets all those statutory
14 requirements. But what we have here is a group
15 of individuals in the City of Columbia who have
16 turned themselves into the fun police, as if
17 they were never children, as if they were never
18 college students.

19 We're going to see a case where there's
20 not much evidence that directly ties any of the
21 patrons from Group Therapy to urinating on
22 sidewalks or sex in cars or anything else. In
23 fact, you'll see a bunch of people who can't
24 make any direct correlations between the
25 patrons at Group Therapy and any of the



1 instances that they're talking about. I just
2 subpoenaed records from the CPD. And we'll get
3 to that. And what we'll see in those records
4 is they say absolutely nothing about Group
5 Therapy.

6 But what we do know about Group Therapy,
7 is in 2019 Darius Rucker and Hootie and the
8 Blowfish, they went on a big worldwide tour.
9 And you know the name they adorned themselves
10 with? The tour was called Group Therapy. Now,
11 my Daddy and I were talking about this case.
12 And for my Daddy, I had to tell him that the
13 similarity would be if Earth, Wind and Fire
14 named their tour Group Therapy, so he
15 understood what I was talking about. But
16 people understand that this is an establishment
17 that a group of individuals are simply trying
18 to shut down.

19 We'll have conversations about suitability
20 because that is what this case is about. We'll
21 have a conversation about an incident that
22 happened in the bar with a young man who was
23 found with marijuana in there. And we'll go
24 through the statute and talk to him. We'll
25 talk to Steve Taneyhill. And then we'll get to



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1 the root cause of this.

2 I mean, these individuals are protesting
3 -- the Intervenor's are protesting -- well, the
4 Departments protesting a marijuana issue that
5 happened. We'll deal with that. And there are
6 some public safety issues that are raised by
7 the CPD and others. And we'll get to that.
8 None of those directly tie. But at the root
9 cause of this, I believe it's stated most
10 recently in the Free Times by my good friend,
11 Chris Trainor, in the back, it says but what we
12 have been able to discover is it's getting a
13 very rough crowd. They have a problem with the
14 crowd at Group Therapy. And Your Honor, we'll
15 tell you what they view that rough crowd to be.
16 Even more importantly, we'll tell you what they
17 view that rough crowd to look like.

18 And so, Your Honor, we say that we're in
19 here and the irony in this is that there's not
20 much fairness in the argument of the
21 intervenors. We know there to be bars down
22 there in Five Points that don't even have
23 kitchens, but yet they haven't even brought any
24 actions against them.

25 Mr. Taneyhill's a good man. Group



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1 Therapy's an awesome establishment. You know,
2 Dick Harpootlian and my good friend Chris
3 Kenney want to be the fun police and act like
4 they were never college students, so be it.
5 But we do know what the law states and we do
6 know the things that my client has done and
7 he's done it the right way. And if Your Honor
8 feels that there's some other things we can do
9 in addition to, we'll do that. But he's been
10 a good corporate citizen. And Group Therapy
11 has been around a long time. We're actually
12 begging Your Honor to allow for it to stay open
13 even longer as an establishment and a good
14 corporate citizen in Columbia, South Carolina.

15 **THE COURT:** Okay. Mr. McCabe.

16 **OPENING STATEMENT BY MR. MCCABE:**

17 **MR. MCCABE:** Yes, Your Honor. Thank you. Yes, Your
18 Honor. As I said earlier, at the time of our
19 initial determination, we found that the
20 Applicant met all the statutory requirements
21 for licensure and, but for the public protest,
22 we would have granted a license. However, in
23 September of 2019 the Licensee was cited for
24 permitting a criminal act on the premises.

25 Now, what happened here was there was an



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1 agent or employee in the locked office of the
2 bar smoking marijuana. And that was discovered
3 by SLED while conducting a compliance check.
4 Now, because that act itself would lead to
5 revocation, the Department did not feel that it
6 was appropriate to say that the Applicant now
7 meets all the statutory requirements. So
8 that's why in our amended prehearing statement
9 the Department now came with the decision that
10 this location is unsuitable due to the fact
11 that this was not just a bystander, someone who
12 snuck into, you know, the bathroom and was
13 smoking a joint. This was an agent or an
14 employee of the establishment in an employee-
15 only area of the establishment, inside a locked
16 office of the establishment. And this
17 individual was observed by other members of the
18 establishment.

19 Because those facts lead us to believe
20 that possibly the establishment knew -- or
21 agents or employees of the establishment knew
22 that the smoking of marijuana was going on in
23 the office, we can find that the location is no
24 longer suitable. And we would ask the Court to
25 deny the permit and license.



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1 **THE COURT:** Okay. Thank you.

2 **MR. MCCABE:** Thank you.

3 **THE COURT:** Mr. Kenney.

4 **OPENING STATEMENT BY MR. KENNEY:**

5 **MR. KENNEY:** Thank you, Your Honor. If it pleases
6 the Court, I'll just make some brief remarks
7 from right here, if that's all right.

8 **THE COURT:** Uh-huh.

9 **MR. KENNEY:** First of all, the Intervenor's concur
10 fully with Mr. McCabe's comments and the
11 Department's position with respect to criminal
12 activity on the premises. In light of Your
13 Honor's ruling a minute ago, let me just
14 address the issue of what is a proper location,
15 proper location, suitability.

16 Suitability, as you know, the case law,
17 there's an -- almost an infinite number of
18 factors that you might take into account. But
19 some of those include noise, crowds, loitering,
20 congregating, large groups of young people,
21 undue impact or too much burden placed on local
22 law enforcement. Those are all things that
23 other courts have considered, that Your Honor
24 has considered in other cases.

25 And we'd respectfully submit, with both --



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1 with respect to Group Therapy specifically and
2 Five Points more broadly, there is a public
3 safety problem in Five Points. On a Thursday,
4 Friday, Saturday night, you have a large group
5 of young people. These are mostly college
6 students, many of whom are underage. And the
7 business model of Group Therapy and other bars
8 is to serve large quantities of alcohol,
9 typically liquor, between 10:00 p.m. and 2:00
10 a.m.

11 These young people, they drink to excess.
12 And as Chief Holbrook will explain tomorrow
13 morning, that invites other threats that looks
14 to prey upon large groups of people who aren't
15 paying attention to their wallets or their cell
16 phones or leave their cars overnight. So what
17 happens is you get car break-ins, you get
18 people who are -- simple assaults, you get
19 fights. All of these things flow from both the
20 general chaos in Five Points, the sort of
21 lawlessness atmosphere in Five Points, and
22 specifically Group Therapy, which also
23 participates in this type of business model.

24 It has a -- we believe the evidence is
25 going to show that they have a large number of



1. people inside that establishment late at night.
2. They play music, loud music, serve a lot of
3. drinks, and then oftentimes this place is a
4. burden on the Columbia Police Department in
5. terms of a large volume of calls for service,
6. both specifically as to that location and as to
7. the 800 block of Harden and the 2100 block of
8. Greene Street, where Group Therapy is located.
9. And then you could back out even further and
10. look at Five Points more broadly and you'll see
11. more of the same problems.

12. So, you know, this is an effort by
13. neighbors. And you're going to hear from
14. people who live in the University Hills
15. neighborhood, which is west of Five Points.
16. You're going to hear from people in the Shandon
17. neighborhood, which is south of Five Points.
18. You're going to hear from people in the Martin
19. Luther King neighborhood, which is east of Five
20. Points. In every single neighborhood adjacent
21. with Five Points, they are dealing with the
22. fallout of the bar culture late at night on the
23. weekend when college is in session. It's
24. unsafe. It's burdening local law enforcement.
25. It causes the taxpayers to devote a significant



1 amount of resources down there to keep the
2 peace and try to keep people safe. And my
3 clients, these neighbors, and the other 15
4 public Protestants that are here asking you to
5 deny this license, including the University of
6 South Carolina, including the Columbia Police
7 Department, they've had enough. And they're
8 trying to get control on the situation in Five
9 Points. And denying this license and this
10 permit will be another small step in that right
11 direction. Thank you.

12 **THE COURT:** Thank you, Mr. Kenney.

13 **MR. SELLERS:** Your Honor, at this time I would just
14 like to lay out, if Your Honor's okay -- and I
15 believe Mr. McCabe and Mr. Kenney are okay. I
16 just want to lay out what we feel to be the
17 timeline of the day ---

18 **THE COURT:** Uh-huh.

19 **MR. SELLERS:** --- if that's okay. We feel like,
20 Your Honor, we can get through our case-in-
21 chief, basically this morning, early afternoon.
22 And we believe that -- I believe Mr. McCabe has
23 one witness if I'm not -- is that right?

24 **MR. MCCABE:** Correct.

25 **MR. SELLERS:** Correct. And we can finish their case



1 this afternoon. And we would ask that the
2 Intervenors' case start first thing in the
3 morning, Your Honor, if you're okay with that.

4 **THE COURT:** Okay.

5 **MR. KENNEY:** Your Honor, just one scheduling item.
6 We had asked -- Chief Holbrook from the
7 Columbia Police Department has a personal
8 obligation that requires him to leave town
9 tomorrow. If it is possible to begin at 9:00
10 a.m. tomorrow morning. He plans to be here.
11 We could do him first and then release him so
12 that he could attend to other matters.

13 **THE COURT:** Okay. That was our intent --

14 **MR. KENNEY:** Yes, Your Honor.

15 **THE COURT:** --- to begin at 9:00 a.m. And since
16 you'll be presenting your case-in-chief, if you
17 want to call him as your first witness, that is
18 fine.

19 **MR. KENNEY:** Yes, Your Honor. Thank you.

20 **THE COURT:** Okay. Very good.

21 **MR. SELLERS:** Your Honor, my first witness, if you -
22 - if it may please the Court, is Torrickory
23 Outing.

24 **THE COURT:** Mr. Outing. The witness seat is over
25 here, Mr. Outing. Before you take your seat,



1 if you will face the court reporter, and raise
2 your right hand, she will swear you.

3 **COURT REPORTER:** Sir, please state and spell your
4 first and last name.

5 **MR. OUTING:** Torrickory Outing, T-O-R-R-I-C-K-O-R-Y.
6 Last name Outing, O-U-T-I-N-G.

7 **TORRICKORY OUTING,** having been duly sworn, testifies
8 as follows:

9 **THE COURT:** Mr. Outing, I can already tell that you
10 speak very low.

11 **MR. OUTING:** Yes, ma'am.

12 **THE COURT:** But if you would, speak a little louder
13 so that we can all hear you.

14 **MR. OUTING:** Yes, ma'am.

15 **MR. OUTING - DIRECT EXAMINATION BY MR. SELLERS:**

16 Q: Mr. Outing, can you just state your name one
17 more time for the Court?

18 A: Torrickory Outing, T-O-R-R-I-C-K-O-R-Y,
19 Torrickory.

20 Q: Mr. Outing, how old are you?

21 A: Twenty-one years.

22 Q: And tell me, were you ever a DJ at Group
23 Therapy?

24 A: Occasionally.

25 Q: And what does occasionally mean?



1 A: I tend to kind of be the back-up DJ. You know,
2 if one of the other DJs aren't available or
3 something like an emergency happens, you know,
4 I get a call, can you come in. And, you know,
5 if I can, I can.

6 Q: But you're a DJ. You're not an employee of
7 Group Therapy?

8 A: Correct.

9 Q: Do you know the instance that we're ---

10 **MR. KENNEY:** Objection. Leading.

11 **THE COURT:** Rephrase.

12 Q: What's your employment status at Group Therapy?

13 A: I'm not employed there.

14 Q: Thank you. Were you ever cited or did you ever
15 have any legal issues while you were at Group
16 Therapy?

17 A: Speaking of the one instance that we're all
18 aware of, that's the only occasion.

19 Q: And tell me about that instance. What date was
20 that?

21 A: I don't recall the actual date. I apologize.

22 Q: And tell me what you were cited for.

23 A: I was cited for minor possession of marijuana.

24 Q: Minor possession of marijuana?

25 A: Yeah.



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1 Q: So you weren't -- you weren't cited for having
2 a pound of marijuana in the back?

3 MR. KENNEY: Objection. Leading.

4 A: No.

5 Q: Were you cited for having more drugs than your
6 ---

7 MR. KENNEY: Objection, Your Honor. I'm sorry to be
8 a obstreperous, but it's ---

9 MR. SELLERS: You are.

10 MR. KENNEY: --- it's who, what, when, where, and
11 how are the questions Mr. Sellers can ask him.

12 MR. SELLERS: I know how to practice law, Chris.

13 THE COURT: Okay.

14 MR. SELLERS: Usually there's a little bit more
15 leeway in administrative law court, but to help
16 him not have to work out his thighs, I'll stick
17 to that.

18 MR. KENNEY: Thank you.

19 THE COURT: Okay. So you're rephrasing the
20 question.

21 MR. SELLERS: Yeah.

22 Q: You've met Mr. Kenney. So tell me what
23 happened on the night in question.

24 A: On the night in question, it was me and a
25 friend of mine, a female friend of mine. You



1 know, seeming that I'm familiar with Group
2 Therapy, I'm not going to, you know, go out,
3 you know, to a place that I'm not familiar
4 with. So me and my lady friend, we decided to
5 go, you know, to Group Therapy, have a good
6 time, have a couple drinks. And that was
7 really the only reason, you know, we decided to
8 go there that night. I had left my -- some of
9 my personal belongings in my office previously
10 and, you know, went to go retrieve them. And
11 then that's when the situation occurred.

12 Q: What did you leave in the office?

13 A: A book bag.

14 Q: Who did you tell that you left the book bag
15 there?

16 A: There's a individual that works at Group
17 Therapy. I just told him that, hey, I need to
18 grab my bag out of the office and then we'll be
19 about our way, because, you know, we had some
20 other business that we were trying to get to.

21 Q: So at no point did you tell anybody -- at any
22 point did you tell anybody at Group Therapy
23 what you were planning on doing?

24 A: I mean, my plan was to go in my office -- you
25 know, go in the office and get my bag, so.



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1 Q: Let me ask -- let's try to answer this
2 question. At any point, did you tell anyone at
3 Group Therapy what you planned on doing in the
4 back?

5 A: No, because that wasn't the plan. In all
6 honesty, I just went back there to get my bag.
7 And she decided she wanted, you know, to take
8 a load off, take her heels off. And so we
9 decided to, you know, stay back there for a
10 little while and, you know.

11 Q: Tell me what happened while you were back
12 there.

13 A: While I was back there, you know, we decided
14 to, you know, take a seat, relax a little bit.
15 And at that point there was a knock at the
16 door. There were some officers that came in.
17 They searched the bag and they found a -- what
18 you would call a grinder, with a green, leafy
19 substance on the inside. That's what was
20 notated on the citation.

21 Q: How much weed did you have?

22 A: Enough to fit in your palm, a very small
23 amount.

24 Q: What was the result of this citation?

25 A: I ended up going -- I had court hearing and I



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1 enrolled in a program called PTI, pretrial
2 intervention, which allows me to go through a
3 process that would remove the citation from my
4 permanent record.

5 Q: As you sit here today, do you have a criminal
6 record?

7 A: As I sit here today, I have pending -- a
8 pending charge against me. But with the
9 completion of this program, there'd be nothing
10 on there.

11 Q: So you're in PTI now?

12 A: Yes.

13 Q: Okay. Are you in school?

14 A: Yes.

15 Q: Where do you go to school?

16 A: Benedict.

17 Q: Benedict?

18 A: Yes, sir.

19 Q: What year are you at Benedict?

20 A: Sophomore.

21 Q: And what's your major?

22 A: Psychology.

23 Q: And what you going to be when you grow up?

24 A: Psychologist.

25 **MR. SELLERS:** May I beg the Court's indulgence?



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1 **THE COURT:** Yes.

2 **Q:** Have you smoked weed at Group Therapy before?

3 **A:** Not before.

4 **Q:** Before -- and not since?

5 **A:** Not since. Correct.

6 **Q:** And since I can only ask who, what, when,
7 where, how questions, who at Group Therapy knew
8 you were going to be smoking weed back there?

9 **A:** Nobody.

10 **MR. SELLERS:** No further questions, Your Honor.

11 **THE COURT:** Okay. Mr. McCabe.

12 **MR. MCCABE:** Yes. Thank you, Your Honor.

13 **MR. OUTING - CROSS-EXAMINATION BY MR. MCCABE:**

14 **Q:** Good morning. You said that you DJed for Group
15 Therapy. Were you DJing that night?

16 **A:** No, sir.

17 **Q:** You were not. Could you explain why Mr.
18 Taneyhill identified you as the DJ for that
19 evening?

20 **A:** It may have been some sort of miscommunication.
21 I've actually never met Mr. Steve before the --
22 you know, after the incident. So it may have
23 been, you know, some form of miscommunication.
24 To be honest, I'm sure the owner of a business
25 isn't going to know every single DJ that comes



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1 through, considering the fact that we're not
2 actual employees.

3 Q: Okay. But you are paid by Group Therapy when
4 you DJ, correct?

5 A: By check, yes.

6 Q: Okay. So you said you put your stuff in the
7 office. How did that stuff get into the
8 office?

9 A: Well, it was in there from a couple of days
10 before.

11 Q: Do other guests get to put stuff in the office?

12 A: Well, considering the fact that, you know, I do
13 DJ there and I have personal belongings that
14 can't always be near me, I would actually
15 rather them be in a safer environment, so.

16 Q: Okay.

17 A: That's just personal.

18 Q: So do other guests get to put things in the
19 office?

20 A: No.

21 Q: Okay. But you are allowed because why?

22 A: Because I tend to DJ there occasionally.

23 Q: Okay. So, let me see if I get this right. You
24 went in the office, you and your female
25 companion there. Now, you weren't just cited



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1 -- or you weren't just -- you didn't just have
2 marijuana; you were smoking it, correct?

3 A: Incorrect.

4 Q: Okay. So when SLED comes up and testifies that
5 they smelled burning marijuana and that's what
6 led them to this room, are you saying what?

7 A: I'm saying when they came in the room, they did
8 not see or witness anybody smoking marijuana.

9 Q: No, I'm asking were you smoking marijuana.
10 Whether or not -- not whether SLED witnessed
11 it, but were you?

12 A: Me personally?

13 Q: Was someone in the room smoking marijuana?

14 A: Someone in the room was smoking.

15 Q: And who was that person?

16 A: One of the individuals inside the room.

17 Q: Okay. I'd like you to identify them, please.

18 A: All right. Well, I don't know two of the other
19 individuals that was in the room. It was
20 myself and my female friend.

21 Q: All right. So how did these two other
22 individuals get into the office? And let's
23 clarify. This is a locked office, correct?

24 A: Correct.

25 Q: All right. So this is a locked office. How



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1 did these two other individuals get into the
2 locked office?

3 A: I mean, you would have to ask them. I don't
4 know.

5 Q: Okay. So your testimony is you did not open
6 the door and allow them into the office?

7 A: Correct.

8 Q: That's your testimony?

9 A: I did not.

10 Q: Okay. All right. That's fine. Marijuana is
11 illegal, correct?

12 A: Yes, sir, in the state of South Carolina.

13 Q: Okay. Yes. In the state of South Carolina is
14 it illegal?

15 A: Yes.

16 Q: All right. So when you were in the office with
17 your lady friend, did anybody else come into
18 the office, any other employees come into that
19 office and see you in there?

20 A: Someone came in there and saw me, yes.

21 Q: Okay. And did they say anything to you like
22 you shouldn't be here or, hey, don't be smoking
23 marijuana in here?

24 A: Well, at the time, we all -- there was no
25 marijuana smoking in the room. When the



1 individual came in, came, spoke, he said, hey,
2 how y'all doing, and then he went about his
3 business.

4 Q: Okay. That's a male?

5 A: Correct.

6 Q: Okay. Did a female employee come into that
7 room about a minute before SLED showed up?

8 A: I believe so. It's possible. I'll be honest.
9 We were -- you know, we had had a couple of
10 drinks and so the night is a little blurry.

11 Q: So you're saying -- you've said here -- so if
12 your testimony is a little fuzzy, why should we
13 believe anything you've said thus far?

14 A: I mean, because I know what I did and what I
15 didn't do. Just because I had, you know, maybe
16 a drink, doesn't nullify my testimony.

17 Q: Okay. So about a minute before SLED comes in,
18 an employee may have come in. When did the
19 marijuana -- when did you start smoking
20 marijuana?

21 A: I'll be honest, sir, I'm not sure what you know
22 about marijuana, but it doesn't take long to
23 smoke, you know, even a cigarette.

24 Q: I'm asking when did you start.

25 A: Personally, I didn't.



1 Q: Okay. But you don't know the name of the two
2 people that you let into the locked office?

3 A: I didn't lead anybody into the locked office,
4 other than my female friend.

5 Q: Well, we'll let the body camera footage show
6 that.

7 A: Okay.

8 Q: But how long did -- when did they start smoking
9 the marijuana?

10 A: I'll be honest, maybe about 45 -- maybe about
11 30, 45 seconds before SLED came in.

12 Q: Okay.

13 **MR. MCCABE:** No further questions, Your Honor.

14 **THE COURT:** Thank you. Mr. Kenney.

15 **MR. OUTING - CROSS-EXAMINATION BY MR. KENNEY:**

16 Q: It's Mr. Outing?

17 A: Yes, sir.

18 Q: Hey, I'm Chris Kenney. We've spoken on the
19 phone, but I don't think we've met. I have a
20 couple of questions to follow up on. So would
21 you tell me a little more about -- let's start
22 with your work as a DJ for Group Therapy.

23 A: Okay.

24 Q: About how many occasions do you think you have
25 DJed at Group Therapy?



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1 A: I don't tend to keep count, because I'll be
2 honest, Group Therapy is just like any of my
3 other bookings. I get called, I go, get paid
4 at the end of the night, I go home.

5 Q: Who calls you?

6 A: It depends. You know, it'll maybe be one of
7 the employees. I'll be honest, I know
8 nicknames. I don't really know names. I'll
9 get a call saying, hey, are you available
10 tonight? You know, we need a last-minute DJ.
11 And that's it, just like any other booking I
12 have.

13 Q: Share a couple of nicknames of the people who
14 you do know. Just give us a couple.

15 A: I mean, you've got Jessie, James. You've got
16 a guy named Fabi.

17 Q: Fabian, maybe?

18 A: I'm not sure. I just know F-A-B-I, yeah.

19 Q: Okay. But somebody from Group calls you, says,
20 hey, we need a DJ, can you get down here?

21 A: Yeah.

22 Q: Okay. Now, where -- when you set up as a DJ,
23 where do you set up?

24 A: There's a -- there's a area, kind of like a
25 specific -- kind of like a dance-floor area



1 that they have. And that's usually where I end
2 up spinning at.

3 Q: Now, so you've been to Group Therapy a couple
4 of times, right?

5 A: Yeah, a couple times.

6 Q: So explain for the Court, when you enter Group
7 Therapy, you come in what door?

8 A: You come into the main door. There's a
9 sidewalk and then the entrance is going to be
10 to your left.

11 Q: Okay. And that's the Greene Street entrance,
12 correct?

13 A: Yes.

14 Q: And then you walk down a long hallway past a
15 bar?

16 A: Yes.

17 Q: And then you take a right into the area where
18 you describe as the dance floor?

19 A: It depends on the night. Sometimes there's a
20 dance floor on the inside. Sometimes it's
21 outside. You know, it's a large venue with a
22 speaker system throughout. So kind of -- the
23 entire thing is pretty much a dance floor, but
24 the main area where I DJ at, that's what you're
25 describing, yes.



1 Q: I gotcha. And then if I go right into the
2 indoor dance floor area, how do I get from
3 there to the outdoor area?

4 A: The indoor area will be on your left and the
5 outdoor area will be on the right.

6 Q: Okay. And am I correct that the outdoor area
7 is like an open air enclosed courtyard?

8 A: Yeah.

9 Q: All right. And Sometimes you'll set up out
10 there?

11 A: Yeah.

12 Q: Okay. Now, how many people -- on the nights
13 that you have DJed, how many people do you
14 estimate are in Group Therapy on the dance
15 floor?

16 A: On the dance floor I have to say maybe about --
17 about 50 to 75 people, more a little bit more
18 or less.

19 Q: Would that be indoor or outdoor?

20 A: That's where I'm DJing at.

21 Q: I see. And what about outside, how many people
22 would there be?

23 A: Maybe about -- it depends on the weather, you
24 know, considering it being outside. You know,
25 if it's a little misty, foggy, cold, not that



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1 many. But you know, it'll disperse, because
2 not everybody wants to be, you know, all up on
3 each other.

4 Q: Does it ever get crowded?

5 A: It'll get a little dense, but it's mostly on
6 the dance floor, because that's where the live
7 entertainment is. If I'm DJing and then let's
8 say I go inside and grab a drink from the bar,
9 it'll be more dense on the outside than on the
10 inside. It'll be, you know -- it'll be kind of
11 crowded, but not, you know, uncontainable.
12 It's not like you can't move.

13 Q: When it's crowded, what is your best estimate
14 of how many hundreds of people are in there?

15 A: I'll be honest, as a DJ, I just try to do my
16 job. I don't look at the numbers. But if I
17 had to give you a number, maybe about 200
18 people, a little bit less, 150, somewhere
19 around there.

20 Q: I mean, you're not counting heads, you're
21 DJing.

22 A: Just the -- yeah.

23 Q: Okay. And it's dark; is that correct?

24 A: There's a -- they have a light show, so I'm
25 pretty aware of, you know, what I see.



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1 Q: They have a light show. What does that mean?

2 A: You know at any club, you know, there'll be
3 areas that are dark. And as a DJ, you know,
4 those are the instances where there may be, you
5 know, some sort of problem. Because, you know,
6 in the dark, you know, you might get pushed,
7 shoved, a drink spilled on you. But in Group
8 Therapy, you know, they have a lighting that
9 goes across the top that kind of helps your
10 visibility. And they also have one of the
11 light bars, that you might call it. And they
12 have that posted above myself, so I can, you
13 know, see the crowd a little bit better.

14 Q: Okay. Are those like colored lights for effect
15 also?

16 A: Yeah.

17 Q: Okay. Now, just a couple of more questions
18 about DJing. What do you typically get paid
19 for, let's say, one night of work?

20 A: Is it relevant?

21 Q: Sir?

22 A: Is that relevant?

23 Q: Well, here's the thing. See, Judge Robinson
24 decides what's relevant. So how about answer
25 my question. What do you get paid for a night



1 of work?

2 A: \$100.

3 **THE COURT:** Mr. Outing, did you answer the question?

4 **MR. OUTING:** I did.

5 Q: I'm sorry, sir. I didn't hear.

6 A: Maybe like \$100.

7 Q: \$100, for ---

8 A: \$100, that's nothing for a DJ.

9 Q: Okay. I agree. That's not a lot of money.

10 How many hours would you spend to earn a
11 hundred bucks?

12 A: Maybe about three hours.

13 Q: Okay. Now, you -- and that's like you're an
14 independent contractor, they send you a 1099 or
15 what, or cash?

16 A: It'd be in check form.

17 Q: Okay. And you ever deal with Mr. Taneyhill?

18 A: No.

19 Q: Never?

20 A: No.

21 Q: You ever spoken to Mr. Taneyhill?

22 A: Not before that night, no.

23 Q: Tell me, when you spoke to him -- when you say
24 that night, which night are you talking about?

25 A: The night in question where I was given a



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1 citation for minor possession of marijuana that
2 night.

3 Q: How did you speak to Mr. Taneyhill?

4 A: I called one of my contacts at Group Therapy
5 and I told them that I would like to apologize
6 for impeding on his business.

7 Q: And what did he say, anything?

8 A: When I -- when I spoke with Mr. Taneyhill, I
9 hadn't actually spoken with him on the phone.
10 I came up to Group because I'd like to make a
11 personal apology for something that I
12 personally did, basically getting us all here
13 today. I just went up to Mr. Steve and I told
14 him, I said, you know, I'd like to apologize.
15 This was a personal thing. This is something
16 I did. And, you know, I'd like to take full
17 responsibility on any legal things that, you
18 know, may come. I just -- I gave him a
19 heartfelt apology because it wasn't any of my
20 intention, for him giving me an opportunity to
21 DJ in his establishment to me, to cause what
22 we have going on here today.

23 Q: And I mean -- I mean, look, this is a small
24 amount of marijuana that you got popped with,
25 right? I mean, and you've taken responsibility



- 1 for that?
- 2 A: Correct.
- 3 Q: All right. Marijuana smells, correct?
- 4 A: Correct.
- 5 Q: Is it fair to say that people outside that
- 6 office would have smelled it?
- 7 A: Not before SLED, no.
- 8 Q: Okay. How do you know that?
- 9 A: Because when SLED came into the office, they
- 10 came in immediately after the smell had begun
- 11 to disperse. And so, like I said, at that
- 12 time, you know, we may have made some bad
- 13 decisions, but I believe that if, you know,
- 14 that someone at the bar had, you know, maybe
- 15 smelled it or came in, they would have probably
- 16 said, you know, hey, you can't do that here.
- 17 Q: Who are the other two young men that you led in
- 18 the room? Who were they?
- 19 A: I don't know who they are.
- 20 Q: You don't know their names?
- 21 A: Don't know their names, I've never seen them
- 22 before that night. I've never seen them before
- 23 in that office.
- 24 Q: Why did you let them in the office if you were
- 25 in there smoking marijuana?



1 A: I wasn't -- I wasn't going in there to smoke
2 marijuana. I was going in there to get my bag.

3 Q: But you were -- at the time the two gentlemen,
4 the two other gentlemen came in, you were
5 smoking marijuana.

6 A: What two gentlemen are you referring to?

7 Q: I believe they were probably 20-something, both
8 white. You remember those guys?

9 A: Yeah, I do.

10 Q: Okay. So when they came into the room, you let
11 them in the office ---

12 A: Uh-huh.

13 Q: --- is that right?

14 A: I may have. Like I said, the nights a little
15 fuzzy. I know they were in the office. I was
16 coherent enough to remember that.

17 Q: Okay. And did y'all all smoke marijuana
18 together?

19 A: No.

20 Q: Why did you let them in?

21 A: Because if there -- I'll give you a scenario.

22 Q: No, no, I don't need a scenario.

23 **MR. SELLERS:** Your Honor, with all due respect, he's
24 not going to browbeat my witness. He asked a
25 question. If he would allow him to answer it,



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1 then we could probably move forward a little
2 bit smoother.

3 **THE COURT:** Okay.

4 Q: Why did you let them in?

5 A: If -- when they came into the office, as I do
6 remember, when they came into the office, there
7 was just a knock at the door. And to be
8 honest, I'm not sure who they were. I'm not
9 sure, you know, what they were doing. They --
10 to be honest, I just heard of Mr. Taneyhill.
11 They could have been his children. I'm just
12 being honest.

13 Q: Okay.

14 A: I'm not going to -- it's not my office, I'm not
15 going to say, hey, you can't come in here,
16 because I say you can't.

17 Q: Okay. What did they say? Do you remember
18 anything those two guess said?

19 A: No, not really.

20 Q: Did they ask for like -- hey, man, you know,
21 pass it over or give me a hit or anything like
22 that?

23 A: I don't recall.

24 Q: You don't remember that?

25 A: Don't recall.



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1 Q: Okay. You had mentioned -- you told Mr. McCabe
2 that you had had a couple of drinks that night,
3 perhaps that's one of the reasons you have some
4 trouble with a couple of -- th recall in terms
5 of a couple of specific incidents.

6 A: Correct.

7 Q: Okay. How many drinks do you think you had
8 that night?

9 A: Maybe two.

10 Q: Do you remember what you were drinking?

11 A: I was drinking whatever my lady friend had.

12 Q: So like was it a vodka or what?

13 A: I don't recall.

14 Q: Okay. But it was alcohol?

15 A: Yeah.

16 Q: You were born on [REDACTED] [REDACTED] [REDACTED]; is that
17 right?

18 A: Correct.

19 Q: And so this incident happened when?

20 A: Like I said earlier, I don't recall the actual
21 significant date.

22 **MR. KENNEY:** I beg the Court's indulgence.

23 Q: If I said that this happened on September 16,
24 2019, does that sort of refresh your
25 recollection a little bit?



- 1 A: It may have been around that time.
- 2 Q: September, right?
- 3 A: Sounds about right.
- 4 Q: So you weren't 21 at the time?
- 5 A: No.
- 6 Q: So where did you get those drinks?
- 7 A: Like I said, from my lady.
- 8 Q: Where did she get those drinks?
- 9 A: From the bar.
- 10 Q: And were you carded when you entered Group
- 11 Therapy?
- 12 A: Yes.
- 13 Q: By who?
- 14 A: By whoever was at the door. I don't -- like I
- 15 said I don't know names. I know nicknames.
- 16 Q: Did you give them your real ID or a fake ID?
- 17 A: Read ID.
- 18 Q: Okay. Did you get like a black X on your hand
- 19 showing you were underage or something like
- 20 that?
- 21 A: Well, the individuals at the bar, you know,
- 22 considering the fact that I DJ there, they know
- 23 that I'm not -- I wasn't 21 at the time, so
- 24 they wouldn't just serve me drinks.
- 25 Q: Is that the only time you've drank alcohol in



1 Group Therapy?

2 A: Before I was 21, yes. Now I'm 21 years of age,
3 I can do anything -- whatever I want.

4 Q: So you've DJed there a number of times before.
5 You let yourself into the back office. You let
6 yourself into the manager's office with a lock
7 ---

8 A: Incorrect.

9 Q: Excuse me. You locked the door. Y'all smoked
10 marijuana. Had a couple of drinks. And your
11 testimony is this is the only time you've ever
12 had alcohol underage in Group Therapy, that's
13 your testimony?

14 A: That was incorrect.

15 Q: Which part?

16 A: Most of it.

17 Q: Which part of it?

18 A: The part about me entering a locked office --
19 or letting myself in, about me going to a
20 designated area, or being led into -- I'm not
21 sure what you said. I stopped listening,
22 because most of it was wrong. I went into
23 Group Therapy. I was acknowledged at the door
24 by the door guy, whoever it was that night.
25 When I go in, I went to the dance floor. My



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1 lady friend got a couple of drinks. And I
2 asked her for some, because that was, you know,
3 a personal thing. I asked her, she gave to me.
4 Then I decided that it was time to leave, went
5 to the office to go get my bag and that's when
6 the situation happened.

7 Q: Have you met with Mr. Sellers before today?

8 A: No.

9 Q: Has Mr. Taneyhill promised you anything, future
10 work, help you with your legal fees?

11 A: No, sir.

12 Q: Who paid for your lawyer?

13 A: I don't have a lawyer.

14 Q: You don't have a lawyer on your PTI?

15 A: No.

16 Q: You do not?

17 A: No.

18 Q: Okay. You remember our telephone conversation?

19 A: Not really.

20 Q: Do you remember telling me you've never worked
21 for Group Therapy?

22 A: No, I don't recall.

23 Q: You don't recall that. Okay.

24 **MR. KENNEY:** Those are all the questions I have,
25 Your Honor.



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1 THE COURT: Mr. Sellers.

2 MR. SELLERS: I don't have any further questions,
3 Your Honor.

4 THE COURT: Okay. Thank you, Mr. Outing.

5 MR. OUTING: Yes, ma'am.

6 MR. KENNEY: Your Honor, he's here pursuant to a
7 subpoena. We'd ask he be released.

8 THE COURT: Okay. Mr. Sellers, do you have a
9 problem with releasing this witness?

10 MR. SELLERS: No.

11 THE COURT: Mr. McCabe, do you have a problem with
12 him being released?

13 MR. MCCABE: One moment, Your Honor.

14 THE COURT: Mr. Outing, before you leave the room.

15 MR. MCCABE: No, Your Honor. He'd be free to leave.

16 THE COURT: Thank you, Mr. Outing. You're free to
17 go. Who's your next witness?

18 MR. ALPHIN: Mr. Taneyhill will be our next witness.

19 I imagine he's going to take a minute. May we
20 ---

21 THE COURT: That's -- yeah.

22 MR. SELLERS: --- indulge in a break, Your Honor?

23 THE COURT: Let's take a ten minute break before we
24 ---

25 MR. SELLERS: May I approach, Your Honor.



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1 **MR. ALPHIN:** May we approach?

2 **THE COURT:** Yes.

3 (Off the Record at 10:51 a.m.)

4 **MR. SELLERS:** Your Honor, if we may approach just
5 briefly.

6 **THE COURT:** Yes.

7 (Off the Record)

8 **THE COURT:** Now Mr. Kenney, we're only looking at
9 those Protestants that have not -- that are no
10 longer just merely Protestants, but are
11 Intervenors.

12 **MR. KENNEY:** Yes, Your Honor. Just non-Intervenor
13 Protestants, if you would take roll, there's a
14 couple of folks who do need to be elsewhere.

15 **THE COURT:** Okay. How many Protestants do we have
16 that's present in the audience?

17 **MR. KENNEY:** Stand up.

18 **THE COURT:** Okay. Okay. Would you give us your
19 names for the record, so that we can have it in
20 the record that you all were in attendance
21 today?

22 **MR. GOTTSALL:** I'm Thomas R. Gotshall. I'm one of
23 the Intervenors.

24 **MR. DRENNAN:** I'm Michael Drennan, one of the
25 Intervenors.



- 1 **MS. LUCAS:** April C. Lucas, one of the Intervenors.
- 2 **MR. FRANCIS:** Steven Francis.
- 3 **MS. LAMB:** Susalee Lamb.
- 4 **MR. LAMB:** Bill Lamb.
- 5 **THE COURT:** Okay. And over on this side.
- 6 **MR. DANIEL:** Jim Daniel, Protestant.
- 7 **MS. MORRISON:** Polly Morrison, Protestant.
- 8 **MS. BELSER:** Karen Belser.
- 9 **MR. STUCKER:** John Stucker, Protestant.
- 10 **THE COURT:** Okay. Thank you.
- 11 **MR. KENNEY:** Thank you, Your Honor. The only other
- 12 housekeeping matter, is based on your ruling
- 13 this morning on the food issue, I think we
- 14 could excuse Tammy Young with the Department of
- 15 Revenue. She, I'm sure, has other work to do
- 16 for the public than sit here. We'd ask she be
- 17 released from our subpoena.
- 18 **THE COURT:** Okay. Mr. McCabe?
- 19 **MR. MCCABE:** No objection.
- 20 **THE COURT:** Okay. Mr. Alphin?
- 21 **MR. ALPHIN:** No objection, Your Honor.
- 22 **THE COURT:** Okay.
- 23 **MR. ALPHIN:** And we also have no issues -- if the
- 24 Protestants need to leave today and come back
- 25 tomorrow, we have no issues with them being



1 released for the rest of the day as well, Your
2 Honor.

3 **MR. KENNEY:** Thank you.

4 **THE COURT:** Very good. And thank you for coming.
5 Okay.

6 **MR. ALPHIN:** May it please the Court, Your Honor.
7 The Petitioners call Steve Taneyhill.

8 **THE COURT:** Mr. Taneyhill, if you will go over to
9 the witness box. Before you take your seat, if
10 you'd raise your right hand, face the Court
11 reporter. She's going to swear you.

12 **COURT REPORTER:** Please state and spell your first
13 and last name.

14 **MR. TANEYHILL:** Steve, S-T-E-V-E, Taneyhill, T-A-N-E-
15 Y-H-I-L-L.

16 **STEVE TANEYHILL,** having been duly sworn, testifies as
17 follows:

18 **STEVE TANEYHILL - DIRECT EXAMINATION BY MR. ALPHIN:**

19 Q: Good morning, Mr. Taneyhill.

20 A: Good morning.

21 Q: Are you a member of an LLC in South Carolina?

22 A: Yes.

23 Q: Which LLC are you a member of?

24 A: Eighteen Ink, LLC.

25 Q: Are there any other members of Eighteen Ink,



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- 1 LLC?
- 2 A: Yes.
- 3 Q: Who are those members?
- 4 A: Tiffany Lancaster.
- 5 Q: Okay. What does Eighteen Ink operate?
- 6 A: We do business as Group Therapy.
- 7 Q: Okay. When did Eighteen Ink, LLC, purchase
- 8 Group Therapy?
- 9 A: June 30th, 2016.
- 10 Q: Okay. When taking over that location, did you
- 11 become aware as to how long that location had
- 12 been in operation as Group Therapy?
- 13 A: Yeah. 1978.
- 14 Q: Okay.
- 15 A: Yes, sir.
- 16 Q: Does Group Therapy have any general managers?
- 17 A: Yes.
- 18 Q: And who is that general manager?
- 19 A: Myself.
- 20 Q: Does Group Therapy have any other managers,
- 21 other than yourself?
- 22 A: No.
- 23 Q: How many employees does Group Therapy have?
- 24 A: Roughly 16.
- 25 Q: What is the location of Group Therapy?



1 A: The address?

2 Q: Yes, sir, please.

3 A: 2107 Greene Street.

4 Q: Does Eighteen Ink operate any other locations?

5 A: No, sir.

6 Q: So the only location operated out of Eighteen
7 Ink is Group Therapy in Five Points; is that
8 correct?

9 A: Yes.

10 Q: What hours does Group Therapy operate?

11 A: Mondays we usually open at 8:00. And that goes
12 until -- we do have our after-hours permit, so
13 we can go later than 2:00. Tuesday, Wednesday,
14 Thursday, Friday we open at 4:30. Saturdays
15 and Sundays we usually open in the afternoons.

16 Q: Okay. But no event do you stay open selling
17 alcoholic beverages, liquor after 2:00 a.m.; is
18 that correct?

19 A: Not after 2:00, no, sir.

20 Q: Okay. Were you here when Mr. Outing testified
21 earlier today?

22 A: Yes, sir.

23 Q: So prior to that, were you familiar with an
24 incident that took place at Group Therapy in
25 September of 2019?



1 A: I was. I am. Yes, I was.

2 Q: As the general manager and owner, did you
3 investigate the facts surrounding that
4 incident?

5 A: I did.

6 Q: Please tell the Court about your investigation.

7 A: I first spoke to Leland, who's one of my --
8 Leland Gadsen's one of the employees, about why
9 he opened the door. The outside door was
10 broke, so -- and obviously that's on us not to
11 fix the door. But that outside door to get to
12 that area was broke. The young man asked to
13 get his stuff. And this is me talking to
14 Leland. Leland punched the code and let him
15 in. I asked Leland what he said. He just said
16 I need to get my stuff.

17 Obviously I knew the next day about the
18 marijuana charge. I saw the film of Leland
19 open them -- open the door. The two other boys
20 that came in there, they didn't ask anybody to
21 come in there, from interviewing my people that
22 work there. And so, I mean, once I found out
23 what happened on Sunday, you know, we got to
24 the facts of the matter.

25 Q: Okay. Based on your investigation, did you



1 ever become aware of any employees, other than
2 Mr. Leland letting him in, that had any
3 knowledge as to what was going to happen in
4 that office?

5 A: No. I asked -- no. No I did not.

6 Q: Okay. Does Group Therapy specifically have
7 policies and procedures that prevent these kind
8 of incidents from taking place?

9 A: Yeah. Yes, we -- yes, we do.

10 Q: Okay. So illegal drug use at your facility is
11 absolutely not allowed, is it?

12 A: No, it's not permitted.

13 Q: Okay. And just to be clear, did you or any of
14 your employees knowingly allow the use of drugs
15 at the location on that evening?

16 A: I did not. And from interviewing my employees,
17 they did not.

18 Q: Okay. I'm sure one of the things that we will
19 hear about today is your Friday After Class.
20 Does Group Therapy host an event called Friday
21 After Class?

22 A: Yes.

23 Q: Will you please tell the Court about what the
24 Friday After Class events are, sir?

25 A: Basically it's happy hour. It's from -- it



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1 doesn't always start at 4:30, but when the boys
2 from one of the fraternities came to us two and
3 a half years ago, they wanted to come in the
4 daytime. They came to me, asked me. I said
5 basically you're talking about what us adults
6 call happy hour. And it's just been going on
7 since. It's not every Friday. It's not always
8 the same groups. But they come, you know --
9 normally they're out of there by 8:00, but they
10 do come starting around 4:30.

11 Q: And you just said that the event ends at 8:00;
12 is that correct?

13 A: Right. Normally it ends, you know, right
14 around 8:00.

15 Q: And what do your employees do when this event
16 ends?

17 A: We shut down the deck and the back bar. We
18 leave the front bar open for our regulars that
19 come. We have regulars that come Tuesday. We
20 have regulars that come Wednesday. We have
21 regulars that come Thursday. And we have
22 regulars that come Friday. So we leave the
23 main bar at the front open for them.

24 Q: I think you were just describing some of your
25 customers. Can you tell the Court about your



1 average customer?

2 A: I like to tell people 21 to 71, as far as age
3 group. We have -- we've had a -- we've had a
4 50-year old surprise birthday party in there.
5 Group's been there so long that you have
6 students that go to University of South
7 Carolina that their parents come into Group
8 when they're here, you know, to see their
9 students. I mean, it's just a place that's
10 been there a long time and a lot of students
11 went there when they were in school and now
12 they come back. And like I said, you could be
13 sitting at the bar beside a 75-year-old
14 customer or you could be sitting there beside,
15 you know, a 25-year-old customer.

16 Q: Just to be clear for the Court, Group Therapy
17 does not target college students into the bar.

18 A: Target by?

19 Q: Advertising or anything like that.

20 A: We don't -- we don't target. I mean, you're
21 going to have some college students come, I
22 mean, if you're in Five Points. But we don't
23 specifically do anything to pull them in. The
24 Friday After Class is not orchestrated by us.
25 We just -- you know, it's just like any other



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1 time. You open the door, the patrons come.

2 Q: Does Group Therapy have security in place?

3 A: Yes.

4 Q: Will you tell the Court how many employees
5 Group Therapy devotes to security?

6 A: Of the 16, ten are what we call door guys.
7 Some can door or -- door or bartend. I like to
8 have people that are what I call five tool, so
9 they can do multiple things. You can have them
10 on the front door, they could get behind a bar,
11 they could bar-back, clean. You know being
12 diverse is what we want. All of our employees
13 are professionals. We don't employ college
14 students. But we have ten guys that could be
15 a door guy. Normally six work at a time when
16 we're busy, plus a bar-back, plus a manager in
17 there.

18 Q: Does Group Therapy have an employee -- have
19 employees stationed at the entrance to the
20 location?

21 A: Yes. Normally it's two at the front door.

22 Q: Okay. Do the employees at the entrance of the
23 location check identifications of the
24 individuals?

25 A: They do.



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1 Q: Okay. Were you present at a meeting in the
2 summer of 2018 that involved owners of
3 establishments in Five Points and the City of
4 Columbia police?

5 A: Yes.

6 Q: Will you tell the Court about that meeting,
7 please?

8 A: CPD was there, SLED was there, I believe a
9 representative from the University was there,
10 and a representative from the Mayor's office.
11 And normally when Amy Beth was the -- she ran
12 a Five Points Association, she liked to get
13 everybody together just to go over before
14 school started, you know, what's going to
15 happen in Five Points, because it -- she felt
16 like it would be a good time to get everybody
17 together. So at that meeting we were told
18 about a lot of different ---

19 MR. KENNEY: Objection, Your Honor. Hearsay. I
20 don't believe he can testify what he was told
21 to -- told.

22 MR. ALPHIN: I will ask the question ---

23 (Interruption)

24 THE COURT: Who has a phone?

25 MALE ATTENDEE: I'm sorry. I had it turned off.



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1 Excuse me.

2 **MR. KENNEY:** I apologize, Your Honor.

3 **THE COURT:** Okay. Yeah. Just to -- all phones
4 should be silenced while they're in the -- and
5 if another one goes off, you know, I may be
6 confiscating it and holding it hostage until a
7 fine is paid. I'm sorry. Go on.

8 **MR. ALPHIN:** Thank you, Your Honor.

9 **MR. KENNEY:** I object on hearsay grounds. I believe
10 Mr. Alphin said he was going to rephrase his
11 question.

12 **MR. ALPHIN:** I'll clear up the question so that he
13 doesn't -- allow eliciting testimony by what he
14 was told.

15 **THE COURT:** Okay. Thank you.

16 Q: What were your take-aways from that meeting?

17 A: One of the things that they talked about at
18 that meeting ---

19 Q: Don't tell us what they talked about. Tell us
20 what your take-aways were. What did you learn
21 at the meeting? What did you do as a result?

22 A: What we did as a result of that meeting is we
23 purchased the Intellicheck scanner. Soon
24 thereafter that meeting, I think it was August
25 of 2018 that meeting, I think that's right, we



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1 went and through Amy Beth letting us know where
2 to get the scanners -- because you can get
3 online and see a lot of different scanners, but
4 we went with Intellicheck, the ID system that
5 helps to alleviate the ID process.

6 Q: And will you tell the Court about that ID
7 system and the process?

8 A: So I purchased a phone and then you call
9 Intellicheck and they put the app onto the
10 phone. At that point in time we tried to have
11 one -- the phone I purchased is the phone.
12 They use the app. When a person comes to the
13 door, that app takes a picture and it gives you
14 a, you know, a green check or a denial or it
15 could be an orange I think that says it's
16 having an issue.

17 Q: And have you become aware if that's the same
18 system that the City of Columbia Police use?

19 A: I -- from what Amy Beth said, we purchased the
20 same system as CPD.

21 Q: Okay. How much did the system cost to set up
22 initially?

23 A: Well, I had to buy the phone and then, you
24 know, you pay for the phone every month and
25 then the system itself is 59.99 each month.



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1 Q: And how much is the phone each month?

2 A: It's about \$180.

3 Q: So just for the Intellicheck system, Group
4 Therapy is spending an excess of \$250 a month?

5 A: That's correct.

6 Q: Have you also worked with other owners in Five
7 Points to promote the safety of visitors to the
8 Five Points area?

9 A: Yes.

10 Q: Okay. Did your employees become involved in a
11 program last year with other owners in Five
12 Points?

13 A: Yes.

14 Q: Will you please tell the Court about that?

15 A: When the unfortunate incident with the young
16 lady happened, some of my employees thought it
17 would be a good idea to get a sheet signed by
18 all the places down there that we would walk --
19 if you were by yourself, we would walk you to
20 your Uber, walk you to your car if you needed
21 us to. But we drew up the letter. We took it
22 around and got all the other places down there
23 to sign it, saying that they would be involved
24 in it.

25 Q: So Group Therapy formed and is running the Safe



1 and Sound Pledge; is that correct?

2 A: We started it, yes.

3 Q: Okay. And will you tell the Court what the
4 Safe and Sound Pledge is?

5 A: We will walk you to the car, basically, if
6 you're by yourself or you're walking to your
7 Uber. If we have enough staff available, we
8 will help, especially if we see somebody by
9 themselves. And it's to help prevent, you
10 know, horrible things.

11 Q: And it's really -- and you're also trying to
12 make sure that your customers and the other
13 customers at other establishments are safe?

14 A: Safe, right. And we felt like if we could get
15 everybody in, it would be a group -- not Group
16 Therapy, but a group of everybody down there on
17 board. And everybody -- I think we got -- you
18 know, I think we got maybe 15 or 16 signed.
19 But we did when we started it.

20 Q: So everyone in Five Points is working
21 collaboratively?

22 A: We try, yes.

23 Q: Okay. What hours does Group Therapy serve beer
24 and wine?

25 A: We can sell that from when we're open until



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1 2:00. It's really about 1:40, 1:45. Well,
2 beer and wine you can sell through -- after
3 2:00. You can sell liquor up until about 1:40.

4 Q: Okay. And you stop serving liquor at 1:40?

5 A: Well, you got to have it out and gone. And
6 that's the goal. If it's busy, you know you --
7 but the goal is to get the liquor done. And we
8 have gates that go up on the liquor shelves.

9 Q: Will you tell the Court about an incident that
10 occurred where there was a alcoholic beverage
11 on the counter after 2:00 o'clock in the
12 morning?

13 A: That was in the -- that was in the -- that was
14 before we got our late-night permit, I believe.
15 Is that the incident?

16 Q: Yes, sir.

17 A: We were cleaning up, and there was still --
18 there was beer -- a beer bottle on -- we were
19 done serving. The CPD came in I think like at
20 2:01 and there were some alcoholic -- there was
21 a beer or something on the front. And I think
22 at the deck, there were some patrons out there.
23 We just hadn't got them out the door yet.

24 Q: Okay. Is it Group Therapy's policy to only
25 serve alcohol -- alcoholic beverages to



1 individuals over the age of 21?

2 A: Yes.

3 Q: Do you require your servers to take a training
4 course prior to serving alcohol at Group
5 Therapy?

6 A: Yes.

7 Q: Will you tell the Court about that program?

8 A: Serve Safe. And to even attempt to get your
9 after 2:00 permit, everybody has to be
10 certified in that. I think it costs \$25.
11 Individual pays, you get a form, and you turn
12 that into CPD when you apply for your late
13 night. But we make -- everyone has to do that.

14 MR. ALPHIN: May I approach, Your Honor?

15 THE COURT: Yes.

16 MR. ALPHIN: May I approach, Your Honor?

17 THE COURT: Yes.

18 MR. ALPHIN: We move to admit this exhibit with no
19 objection from ---

20 MR. KENNEY: No objection, Your Honor.

21 MR. MCCABE: No objection, Your Honor.

22 THE COURT: Okay. Thank you. It's admitted.

23 MR. ALPHIN: Thank you, Your Honor.

24 Q: Will you tell the Court what this document is?

25 COURT REPORTER: Can I mark it really quick?



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1 MR. ALPHIN: Yes, please. I apologize.

2 COURT REPORTER: Thank you. It's Petitioners'
3 Exhibit Number 1.

4 (Petitioner's Exhibit Number 1 was marked and
5 admitted into the record.)

6 Q: Will you tell the Court what these documents
7 are, sir?

8 A: This is the Safe Serve, the training
9 certificate program. This is the letter that
10 says this individual has completed the program.

11 Q: And you keep these documents in the normal,
12 ordinary course of business?

13 A: Excuse me?

14 Q: You keep these documents in your employee files
15 ---

16 A: Right.

17 Q: --- in the ordinary course ---

18 A: We have a box. Yes, sir.

19 Q: Okay. And you require each of your employees
20 to get this and stay current as they continue
21 employment?

22 A: Yes. If one -- this goes, I think, three
23 years.

24 Q: Okay. One of the issues that's come up in
25 other cases is drink prices. Will you tell the



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1 Court about the prices of your drinks at Group
2 Therapy?

3 A: The lowest drink price we have is \$3.

4 Q: Okay. And why is your lowest drink price \$3?

5 A: When I bought the bar -- or restaurant, excuse
6 me -- bar slash restaurant, restaurant slash
7 bar, whatever, it -- we left the prices the
8 same. We did raise a few prices. They did
9 have Natural Light and PBR at \$2. And that
10 went for a long time. But when I read the
11 Rooftop case and one of their mandates was to
12 have everything at 3, we moved everything to 3
13 -- well, two things to 3.

14 Q: And all your other items were already above the
15 \$3 mark?

16 A: (Nods head affirmatively.)

17 Q: Do you currently serve on any boards?

18 A: I'm a member of the Five Points Association.

19 Q: Okay. Will you tell the Court about your
20 membership in the Five Points Association
21 board?

22 A: I was contacted by a few people when an opening
23 came up, a few people in Five Points, people
24 that owned a store or something, and said it
25 would be a good idea for me to get on. Amy



1 Beth contacted me and I sent a little blurb to
2 her and she put it on a thing. And, I mean, I
3 never went around and talked to anybody about
4 electing. I just put my name up there and I
5 was elected to the board.

6 Q: How long have you served on the board?

7 A: It was some time in the spring.

8 Q: Of 2019?

9 A: Yes.

10 Q: And why do you serve on the board?

11 A: Well, I'm invested in Five Points. I did want
12 to be a part of the board when I thought about
13 it. I've learned a lot being on the board.
14 But I wanted to be invested in where my
15 business is. And I thought being on there I
16 could help in any way. And so far so good.
17 I'm glad to be a part of it.

18 Q: Is Group Therapy also involved in the
19 community?

20 A: Yes.

21 Q: Will you tell the Court about the chili cook-
22 off?

23 A: We were approached, I guess, in the spring of
24 2019 to take over the chili cook-off that Group
25 Therapy started 30 something years ago by the



1 Five Points Association. And they didn't want
2 to run it anymore. Came to me and asked me if
3 I'd take it back over and I jumped on it. I
4 think it's a great thing. You know, this year
5 we gave 100 percent of the donations through
6 the chili to Special Olympics, which was
7 \$7,000.

8 **MR. ALPHIN:** May I approach, Your Honor?

9 **THE COURT:** Yes.

10 **MR. KENNEY:** Are you going to offer this?

11 **MR. ALPHIN:** I can either go through and ask him the
12 questions off it. Are you going to object or

13
14 **MR. KENNEY:** Go ahead and ask him the questions.

15 **Q:** You received the document that I've handed you.
16 Can you identify this document for the Court,
17 please?

18 **A:** It's a letter from the Director of
19 Communications at the Special Olympics, South
20 Carolina.

21 **Q:** And have you received letters like this from
22 other community organizations?

23 **A:** Special Olympics.

24 **Q:** Okay. And you keep these in your files in the
25 normal and ordinary course of business to



1 document your work in the community?

2 A: Yes.

3 MR. ALPHIN: We would ask that this document be
4 moved in as a business record, Your Honor.

5 MR. KENNEY: Your Honor, we object. It's hearsay.
6 It's also not relevant. Mr. Taneyhill's just
7 testified about his Special Olympics work.
8 That wasn't relevant either, but it's on the
9 record. The letter is hearsay and it's not
10 relevant and should be excluded.

11 MR. MCCABE: Your Honor, the Department would echo
12 those concerns as the hearsay and the relevancy
13 of the letter itself.

14 MR. ALPHIN: I'm fine.

15 THE COURT: His testimony is already ---

16 MR. ALPHIN: Thank you, Your Honor.

17 THE COURT: --- concerning his community service.

18 MR. KENNEY: Thank you, Your Honor.

19 THE COURT: So I'm not admitting it.

20 MR. ALPHIN: Okay.

21 Q: In recap, Group Therapy goes out of its way to
22 provide security to its patrons?

23 A: Yes.

24 Q: Can you tell the Court about what other
25 security measures you have at Group Therapy to



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1 try to provide safety to your patrons?

2 A: Well, the camera system is there to -- you
3 know, if something would happen. But on a
4 given night and even the fire marshals
5 explained to us, they use us as a point of
6 reference of how we have people in there as far
7 as where the exits are to work with the fire
8 code. But we, you know, have six or seven door
9 guys in there, you know, basically everywhere
10 you could go to try to handle safety, you know,
11 safety and security.

12 Q: And to try and make sure no one under the age
13 of 21 drinks in your establishment?

14 A: That's the idea with the scanner. The
15 scanner's not a hundred percent, but that's why
16 we purchased the scanner.

17 MR. ALPHIN: No further questions, Your Honor.

18 THE COURT: Thank you. Mr. McCabe.

19 MR. MCCABE: Yes, Your Honor. Just a couple of
20 brief questions here.

21 **MR. TANEYHILL - CROSS-EXAMINATION BY MR. MCCABE:**

22 Q: Good morning, Mr. Taneyhill. How are you?

23 A: Good morning.

24 Q: Good. I just got a couple of questions for
25 you. So your testimony was that you didn't



1 have any managers; is that correct?

2 A: Correct.

3 Q: All right. I'm going to hand you a photograph.
4 Could you identify this gentleman for me?

5 **(Respondent's Exhibit Number 1 was introduced.)**

6 A: Yeah, that's Fabian Ludwig.

7 Q: Okay. And what's Fabian's role in your
8 business?

9 A: He's an employee.

10 Q: He's an employee? Does he have any type of
11 managerial role or anything of that sort?

12 A: He handles the door guys.

13 Q: Okay.

14 A: He can book DJs. He's not a manager.

15 Q: Okay. But he -- he works for you. He's an
16 employee of yours; is that correct?

17 A: Yes, sir.

18 Q: Okay. And he also was there on the night of
19 the marijuana incident; is that correct?

20 A: Yes.

21 Q: All right. And were you there that night?

22 A: No, sir.

23 Q: Okay. And let me hand you this back real
24 quick. If you can look on this picture.
25 There's a sign located above that door. It's



1 a little hard to see. But maybe you can look
2 at it and tell me.

3 A: Can I see it?

4 Q: Yeah, yeah. Let me -- tell me what that says
5 right there. It's a little -- the glare on it
6 makes it a little bit difficult.

7 A: I see only.

8 Q: Okay. That's fine.

9 A: That's the office door.

10 Q: Okay.

11 A: It says employees only.

12 Q: All right. That's your office door?

13 A: Yes.

14 Q: Okay. And we already know who the DJ is. And
15 these pictures are a little bit more grainy,
16 but I just want to see if maybe you could help
17 -- just to help clarify my notes. This is the
18 individual that allowed the DJ back into the
19 office.

20 **(Respondent's Exhibit Number 4 was introduced.)**

21 **MR. SELLERS:** Your Honor, I know he's not offering
22 it as evidence, but if we could see them as
23 they go up.

24 **MR. MCCABE:** They were -- they were provided to you.

25 **MR. SELLERS:** If you could just -- do you have a



1 copy of them?

2 **MR. MCCABE:** You have a copy of them.

3 **MR. SELLERS:** Gosh, you guys are a little too feisty
4 over there. Okay. No worries, Your Honor.
5 Just continue. I just wanted ---

6 **MR. MCCABE:** All exhibits were provided.

7 **MR. SELLERS:** Usually when you hand up exhibits, you
8 show other people. But that's fine. Keep ---

9 **THE COURT:** Right, yeah. Mr. McCabe.

10 **MR. MCCABE:** Yes, ma'am.

11 **THE COURT:** I mean, he may have them, but he doesn't
12 know which exhibit you're showing the witness.

13 **MR. SELLERS:** Correct. Thank you.

14 **A:** That would be Leland.

15 **Q:** That's Leland. He's one of your employees?

16 **A:** Yes, sir.

17 **Q:** Okay. Just one more, do you know who this
18 female is that's going into the office?

19 **(Respondent's Exhibit Number 5 was introduced.)**

20 **A:** I can't see.

21 **Q:** Okay.

22 **A:** I can't ---

23 **Q:** That's fine. It's a little foggy.

24 **Q:** Would it be safe to assume that someone going
25 into the office would be an employee?



1 A: Just repeat the question for me.

2 Q: Would it be safe to assume that someone
3 entering into the office with a key code ---

4 A: If they have a key code, yes, they should be an
5 employee.

6 Q: They should be an employee. Okay.

7 **MR. MCCABE:** Okay. I have no further questions,
8 Your Honor.

9 **MR. TANEYHILL - CROSS-EXAMINATION BY MR. KENNEY:**

10 Q: Thank you, Your Honor. Mr. Taneyhill, I'm
11 Chris Kenney. It's good to see you again.

12 A: Yes, sir.

13 Q: First of all, housekeeping. The photos that
14 Mr. McCabe showed, you, that's Respondent's
15 Exhibit Number 1, Number 4, and Number 5; is
16 that right?

17 A: You mean, what's written on the bottom of them?

18 Q: Yeah. I just want to -- for the record I want
19 to note that that's what they are.

20 A: Five, Four, One.

21 Q: Five, Four, One. Thank you so much.

22 Q: Okay. So let me ask you a couple of questions
23 about your bar slash restaurant. Your staff --
24 you testified you have 16 employees, correct?

25 A: (Nods head affirmatively).



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1 Q: Is that a yes?

2 A: Yes, sir.

3 Q: Okay. I think you said ten of them are either
4 security slash bartenders. Is that what you
5 testified to?

6 A: Yes, ten guys -- ten guys could be door guys.
7 And some of them also could be bartenders.

8 Q: Okay. And what do the other six employees do?

9 A: Bartenders.

10 Q: I see. So the -- of the 16, all of them are
11 either door or bar?

12 A: And then the cook, I had one cook.

13 Q: You have one cook. And give me his name for
14 the record.

15 A: Brian Riley.

16 Q: Okay. And you purchased this business in 2016.

17 A: Sure.

18 Q: June 2016. Do you have any dishwashers?

19 A: No.

20 **MR. SELLERS:** Objection, Your Honor. I don't even
21 want to start creeping down this path. You
22 know, we -- this food services, et cetera has
23 been excluded, Your Honor. I think we
24 clarified that at the counter. And he's asking
25 about dishes and dishwashers now.



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1 **MR. KENNEY:** Your Honor, I was just trying to get
2 square on the 16 people and what they do. I
3 think we're ready to move on.

4 **THE COURT:** Okay.

5 **MR. KENNEY:** Thank you.

6 **THE COURT:** Let's do that.

7 **Q:** All right. Mr. Taneyhill, I want to ask --
8 talk about drink prices for a second.

9 **A:** Uh-huh.

10 **Q:** Y'all sell beer, wine, and liquor drinks,
11 correct?

12 **A:** Yes.

13 **Q:** Now, I think you testified that your cheapest
14 drink at Group is a \$3 liquor drink; is that
15 right?

16 **A:** Yes.

17 **Q:** Let me show you -- let me show you a copy of
18 this. Do you recognize that photo?

19 **MR. KENNEY:** Ms. Smith, can I get the Elmo?

20 **A:** Yes.

21 **Q:** And where is that -- what does that photo
22 depict?

23 **A:** That's a -- that's the board behind the front
24 bar.

25 **Q:** Okay. Now, just to sort of orient the Court in



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1 terms -- and when you said front bar, you mean
2 in Group Therapy, correct?

3 A: Yes.

4 Q: All right. Now, to orient us, when you come in
5 off of Greene Street, there's a long room with
6 a bar on the left, right?

7 A: Uh-huh. Yes.

8 Q: Okay. Is that the room that this is in?

9 A: Yes, the front bar.

10 Q: All right. And you put drink specials up on
11 the board, correct?

12 A: Yes.

13 Q: One of those is a \$2 drink special?

14 A: I see it, yes.

15 Q: So you were perhaps mistaken earlier; is that
16 right?

17 A: Yes. All our drinks are \$3. This has to be an
18 old picture.

19 Q: Okay.

20 **MR. KENNEY:** Well, Your Honor, I'd like to have this
21 marked and admitted as Intervenor Number 1.

22 **MR. SELLERS:** Objection, Your Honor. He can't
23 validify when the picture was taken. He can't
24 -- the person who took the picture, I'm
25 assuming, is not here.



1 **MR. DRENNAN:** Actually, I'm here.

2 **MR. KENNEY:** Hold on.

3 **MR. SELLERS:** They're very feisty today.

4 **MR. KENNEY:** They are. They're very feisty.

5 **MR. SELLERS:** Your Honor, if they want to put the
6 picture in, then somebody has to testify at the
7 stand as to what the picture is, who they --
8 who took it, when they took it, et cetera. He
9 cannot put this picture into evidence through
10 Mr. Taneyhill, Your Honor.

11 **MR. KENNEY:** Your Honor, I would say that, first of
12 all, Mr. Taneyhill does not have to take the
13 photo in order for it to be admissible. He
14 just has to be able to tell you it is what it
15 purports to be. And he's told you this is his
16 drink special board in his bar. So I believe
17 that's sufficient.

18 **MR. SELLERS:** He also said this is a old photo. So
19 no one can testify as to when this picture ---

20 **THE COURT:** Yeah. We don't know the time frame when
21 the photo was taken.

22 **MR. KENNEY:** Yes, Your Honor.

23 **THE COURT:** I think the best course would be for you
24 to put it in through the individual that -- if
25 you've got the individual here who actually



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1 took the photograph, yes.

2 **MR. KENNEY:** Your Honor, I'd just like to have it
3 marked as Intervenor One and we can deal with
4 that at a later time. Thank you so much.

5 **THE COURT:** Okay.

6 Q: Mr. Taneyhill ---

7 **MR. SELLERS:** Your Honor, with all due respect, if
8 it's not into evidence now, I don't think it
9 can be marked as an exhibit.

10 **MR. KENNEY:** Can we just mark it as a Court's
11 exhibit for the time being?

12 **THE COURT:** You can mark it for identification
13 purposes.

14 **MR. KENNEY:** Thank you, Your Honor. I appreciate
15 it.

16 **(Intervenors' Exhibit Number 1 was marked for**
17 **identification purposes.)**

18 Q: Okay. Mr. Taneyhill, let me ask you about a
19 couple of other things. We talked about drink
20 prices. Refreshing your recollection based on
21 this photo, are you sure you don't have any
22 other drink specials under \$2?

23 A: Under \$2?

24 Q: Yes, sir.

25 A: Yes.



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1 Q: Okay. Now, let's talk about the guys who do
2 security. Do they sometimes get called
3 bouncers?

4 A: Yes.

5 Q: All right. And you described for Mr. Alphin
6 something called a Intellicheck scanner system.

7 A: Yes.

8 Q: That's like a phone that you scan an ID?

9 A: Correct.

10 Q: And I understand you said that's the same
11 system the Columbia Police Department uses.

12 A: That's what we're told, yes.

13 Q: Okay. And has that system -- where is that
14 system used? Where is it deployed? Is it at
15 the door?

16 A: Front door.

17 Q: That'd be Greene Street, correct?

18 A: Correct.

19 Q: All right. Now, you have one phone or multiple
20 phones?

21 A: One phone, it's 59.99 for one app sent to one
22 phone. So if you lose that phone, you have to
23 call that company and get it put on another
24 phone.

25 Q: Got it. And the purpose of that piece of



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1 software in the phone is to identify potential
2 underage drinkers and exclude them from the
3 bar; is that right?

4 A: No.

5 Q: What's the purpose?

6 A: Underage entrance into the bar.

7 Q: Thank you for that clarification. So in other
8 words, you don't let anybody under the age of
9 21 into your bar.

10 A: We sell food sometimes, so there could be
11 somebody under 21 in there to eat.

12 Q: Well, how does that work then? If you are
13 scanning the ID at the door and you find
14 somebody who has an ID under the age of 21, are
15 they admitted or turned away?

16 A: What time is it?

17 Q: Why don't we start at 4:00 p.m. in the
18 afternoon. Would they be admitted or turned
19 away?

20 A: If they came to get food, they would be
21 admitted.

22 Q: All right How about -- how about at 8:00 in
23 the evening, would they be turned away or
24 admitted?

25 A: If they came to get food, pick up a delivery or



1 something, they'd be admitted.

2 Q: At what point -- at what time of night do you
3 start turning people away for being under the
4 age of 21?

5 A: Depends.

6 Q: That's what I'm trying to figure out, is
7 depends on what?

8 A: I mean, if you're -- if it's -- if they're not
9 there to get food and they're just trying to
10 get in and we have the scanner going and it
11 bangs out that they're under, then we turn them
12 away.

13 Q: Okay. So is it your testimony that the door
14 staff asks the potential patron why are you
15 here and then they scan the ID?

16 A: No. They probably don't do that.

17 Q: Explain how -- how does it -- how's it supposed
18 to work?

19 A: It just depends on what day it is.

20 Q: So it's a different policy every night?

21 A: No. It's not a different policy every night,
22 but you don't -- the scanner's not used every
23 night. It's not used at 4:00 o'clock on
24 Tuesday.

25 Q: I understand that. What time should your staff



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1 begin using it and turning away underage
2 patrons?

3 A: Well, we -- what time should they?

4 Q: Yes.

5 A: That's up to the door guy and the day. I mean,
6 we don't use the scanner, you know, from when
7 we open at 4:00 o'clock every day. I mean,
8 you're -- you can just check an ID looking at
9 it.

10 Q: All right. You're the manager at Group
11 Therapy, right?

12 A: Yes, general manager.

13 Q: You're the guy in charge.

14 A: I am.

15 Q: You tell your people what to do?

16 A: Yeah.

17 Q: When you tell them what to do, do they follow
18 your instructions?

19 A: I would hope so.

20 Q: Okay. What have you told your people in terms
21 of what time of day or night should you start
22 turning away underage patrons?

23 A: I haven't told them a specific time.

24 Q: Okay. To your knowledge, does anybody get
25 turned away?



1 A: Yes.

2 Q: How do you know that?

3 A: You can look into the scanner and go back into
4 the records and see who's been turned away.

5 Q: All right. Did you bring those scanner reports
6 or whatever with you today?

7 A: No.

8 Q: All right. I'm going to move on, but I just
9 want to be clear about this. Is there a time
10 of night after which a person under the age of
11 21 should not be in Group Therapy according to
12 your policies and procedures?

13 A: If they're not -- if they haven't ordered food,
14 they should not be there, no.

15 Q: Okay. Let me move on. What is the occupancy
16 for Group Therapy?

17 A: Two hundred and forty.

18 Q: Is that inside or is that inside and outside?

19 A: Combined.

20 Q: Combined. So that would include both the dance
21 floor area inside that Mr. Outing discussed and
22 it also includes the courtyard behind it?

23 A: There's no dance floor. It's just an open
24 space.

25 Q: Open space, okay. So that's the inside open



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1 space and the outside open space.

2 A: The entire bar is zoned for -- it's 240.

3 Q: I understand. Thank you. Do you ever reach
4 your occupancy in the evening and at night?

5 A: Sure.

6 Q: How do you keep track of that?

7 A: The door guy has two clickers, so we've got two
8 guys at the door. So you click. They could go
9 out the alleyway, so there's a lot of
10 communication between the guys inside. The
11 back door we have a -- which would be the
12 Harden Street door, we have an employee back
13 there to make sure no one sneaks in that door.
14 We do let people go out that door. But once
15 you get to that number, and I think our number
16 is usually 230, then we stop it, one in, one
17 out.

18 Q: Okay. I understand that. Now sometimes people
19 who have not been admitted still are trying to
20 get in, but you're full. I mean, that happens,
21 correct?

22 A: Yeah.

23 Q: I mean, y'all are a popular location, correct?

24 A: If you say so.

25 Q: Well, I'm asking you. You think you're a



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1 pretty popular location in town?

2 A: Sure.

3 Q: Okay. I mean you hope so, right? You're in
4 this to make money.

5 A: I would hope that we -- people feel safe to
6 come to Group, yeah.

7 Q: Okay. And the more people who come to Group,
8 the more money you make.

9 A: Not necessarily.

10 Q: All right. What happens to the people who are
11 attempting to gain entry, but can't come in yet
12 because you're at full capacity?

13 A: They should be in a line.

14 Q: All right. Now, do you or your staff have
15 anything to do with that line?

16 A: Yes. That's why there should be two guys at
17 the front door.

18 Q: Okay. Tell -- explain to the Court what you do
19 in terms of the line.

20 A: There's a -- we have a chain and we have a
21 black rope with two things that you put down
22 the sidewalk to keep them behind that. It's
23 only probably ten or 12 foot. So after that,
24 you know, if the line's super long, it could go
25 down the sidewalk.



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1 Q: All right. And it's not uncommon for it to go
2 down the sidewalk. On a Thursday, Friday,
3 Saturday night, 'that's not an uncommon
4 occurrence.

5 A: It could happen those nights.

6 Q: I mean, you spend time in Five Points on a
7 Thursday, Friday, Saturday evening, correct?
8 You're down there many times; is that right?

9 A: I've been down there.

10 Q: You've been down there to supervise your bar,
11 correct?

12 A: I've been down there.

13 Q: You ever walk around and look at what's going
14 on at other people's businesses?

15 A: I have.

16 Q: How would you describe for the Court the number
17 of people who are on the streets and sidewalks
18 in Five Points on Thursday, Friday, Saturday
19 night?

20 A: There's many.

21 Q: Thousands?

22 A: I can't look out there and count.

23 Q: Sidewalks are crowded?

24 A: It's crowded.

25 Q: You ever see young people who have consumed too



1 much alcohol?

2 A: I wouldn't know what a young -- what do you
3 mean young person?

4 Q: Well, I mean, you ever seen anybody who's
5 consumed too much alcohol?

6 A: They're down there.

7 Q: They're down there. That's not uncommon,
8 either?

9 A: I mean, they're there.

10 Q: Okay. Okay. Heavy police presence?

11 A: I don't know what you would consider heavy.

12 Q: Well, let me ask. What -- would you consider
13 it a heavy police presence?

14 A: No.

15 Q: Okay. And in terms of Group Therapy, you're
16 fairly busy, particularly on nights you have
17 music, a DJ, correct?

18 A: We have bands or DJs, yes.

19 Q: Okay. Now, tell me why -- well, first of all,
20 how often do you have a band or a DJ?

21 A: Usually Thursday, Friday, Saturday.

22 Q: So all three nights typically?

23 A: Yes. We have a jukebox as well. We can use
24 that. But normally we try to book a band or a
25 DJ Thursday, Friday, Saturday. But there could



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1 be one Tuesday.

2 Q: All right. Let's just focus on Thursday,
3 Friday, Saturday for a second. Do you book a
4 DJ or band all year long on those nights if
5 you're able to? In other words, January
6 through December, Thursday, Friday, Saturday,
7 there's music at Group Therapy?

8 A: Yes, we try.

9 Q: All right. And what time does the music start?

10 A: That depends.

11 Q: Typically.

12 A: I think we normally get -- they usually get --
13 try to get set up 9:30.

14 Q: All right. And how late does music go?

15 A: Normally about 1:00. It could go longer.

16 Q: 1:00 a.m. ---

17 A: Right.

18 Q: --- 1:30? Now you have to -- do you cut the
19 music off when 2:00 o'clock rolls around?

20 A: You don't have to.

21 Q: But do you?

22 A: They could.

23 Q: All right. And you have an after-hours permit?

24 A: I do.

25 Q: That's just for beer and wine?



- 1 A: Correct.
- 2 Q: Through the City of Columbia?
- 3 A: Correct.
- 4 Q: Liquor can't go beyond 2:00.
- 5 A: Correct.
- 6 Q: Got it. You ever have music into 2:00 a.m. or
- 7 past 2:00 a.m.?
- 8 A: Yes, I would imagine.
- 9 Q: All right. Is there a particular time when you
- 10 would do that, time of year I mean?
- 11 A: No.
- 12 Q: Okay. So as a business matter, why do you have
- 13 the music?
- 14 A: Why?
- 15 Q: Yes, sir.
- 16 A: People that come can hear the music.
- 17 Q: I mean, it brings a crowd in, right?
- 18 A: There's been a band in there and 50 people
- 19 listening to it. So that question, I guess it
- 20 could bring people in, but I mean ...
- 21 Q: Getting back to my sort of questioning a couple
- 22 of minutes ago. You are in this to make money,
- 23 right?
- 24 A: Yes.
- 25 Q: You are making money, correct?



- 1 A: We hope to.
- 2 Q: I mean, you -- I'm not asking for the number,
3 but you're profitable.
- 4 A: Yes.
- 5 Q: Okay.
- 6 A: We're out of debt.
- 7 Q: So if you were losing money on this, you
8 wouldn't do it, I assume.
- 9 A: But we're in a lease, so we're there.
- 10 Q: What does that mean?
- 11 A: With a lease, you can't get out until the lease
12 is up.
- 13 Q: Right. But again, I'm just trying to focus on
14 why we have music that brings a crowd in. If
15 you weren't bringing a crowd in, you'd stop the
16 music. It'd cost you money, right?
- 17 A: Well, we've had a band in there a lot and it
18 didn't do a lot, but we wanted to go back to
19 the roots of Group, so we started with -- we
20 tried bands on Friday night. We went about a
21 year and a half with a band on pretty much
22 every Friday night.
- 23 Q: Okay. Just one more time and then I'm going to
24 move on. Is it your position that you're just
25 going to have music in there whether it's



1 profitable or not?

2 A: We're going to have music.

3 Q: That's just -- that's just -- you just do that
4 because you like music?

5 A: We're going to have music.

6 Q: Okay. That's fine. Let me ask you about IDs
7 again for a minute. Your door guys, was there
8 ever a period where your door personnel was
9 limiting access to Group Therapy based on folks
10 who either had a student ID or a military ID?

11 A: Yes.

12 Q: Now, tell the Court what period of time that was
13 happening.

14 A: It's happened on numerous occasions. We did it
15 this summer. I talked to Captain Williams on
16 the phone and he directed me that he wanted to
17 fix some of the things that were going inside
18 with the crowd. I asked him about do you want
19 me to put student and military IDs. And he
20 said, the crowd that you've got's not students
21 and it might help eliminate a problem. So we
22 can put student or military IDs up there. We
23 do it some. We don't do it all the time. It
24 could be any time.

25 Q: Just for clarification, what was the time



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1 period during which you did that, you limited
2 access to that population, students and
3 military?

4 A: It's happened many times.

5 Q: No, but I'm asking for the time periods, like
6 when. I'm trying to establish when that has
7 happened.

8 A: I mean, time of night?

9 Q: No, I mean like time of year, like ---

10 A: Any time of the year.

11 Q: Okay. Okay. You bought the place in June of
12 '16, right?

13 A: Correct.

14 Q: Did you immediately implement that policy?

15 A: It's not -- it's not a 24/7 policy. We use it
16 when we feel like we need to. Just like when
17 Captain Williams called me, we wouldn't have
18 had that out there in the summer, but he asked
19 me to -- he said that might help. So we tried.

20 Q: Okay. And I'm just trying to establish when,
21 this summer, last summer, the summer before
22 that?

23 A: Captain Williams called me this past summer.

24 Q: Okay. And how long did you do that?

25 A: We did it that night that he asked me to.



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1 Q: Any more than that night?

2 A: We've done some.

3 Q: How often?

4 A: I don't know to the exact number of how often.

5 Q: Okay. Do you think of the Thursday, Friday,
6 Saturday nights that you have been opened since
7 June of 2016 you've done it more than 50
8 percent of the time?

9 A: I would say no, not 50 percent.

10 Q: Twenty-five percent of the time?

11 A: I have no idea about a number.

12 Q: Five percent of the time?

13 A: I have no idea.

14 **MR. SELLERS:** Your Honor. Objection, Your Honor.
15 He's asked and answered the question many
16 times. My client has said he has no idea. He
17 doesn't know the number. So I -- you know, to
18 continue down this path is duplicitous.

19 **MR. KENNEY:** Your Honor ---

20 **THE COURT:** I'm listing to -- Mr. Taneyhill has not
21 really answered the question. He's been a
22 little -- kind of vague with most of the
23 answers in response to this line of
24 questioning.

25 **MR. TANEYHILL:** I don't know ---



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1 **THE COURT:** And it would help us to move along, Mr.
2 Taneyhill ---

3 **MR. TANEYHILL:** Okay.

4 **THE COURT:** --- if you will just answer it
5 completely to the best of your ability. And if
6 -- if you'll just answer it completely to the
7 best of your ability.

8 **MR. TANEYHILL:** I don't know the exact number or
9 percentage of how many times we've put that
10 sign out there.

11 **THE COURT:** Okay. If you don't know, you don't
12 know.

13 **MR. KENNEY:** Thank you, Your Honor. Appreciate it.

14 **Q:** Mr. Taneyhill, with reference to Captain
15 Williams or any other time that you've done
16 this, limited access to your establishment to
17 students and military, what was the purpose of
18 that?

19 **A:** What was the purpose? It would limit the
20 number of people that tried to come in, so you
21 could -- it could benefit your line. It could
22 -- people that -- you know, say a 40-year-old
23 is just down there, wouldn't think he could
24 come in unless he was a military. But a
25 student ID, you could actually use a student ID



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1 if you had one. So say you were, I mean, above
2 21, you could be really any age. And if you
3 were a student at the University of South
4 Carolina or any university, Benedict, Allen,
5 any university, you could still come in.

6 Q: All right. So -- but you would agree with me,
7 at least the times in which you were limiting
8 access based on student and military status,
9 the occupancy of your bar would have been
10 primarily students at that -- on those
11 particular nights?

12 A: Could be.

13 Q: Okay. Did Captain Williams ever express a
14 concern that one reason to do this might be to
15 exclude individuals who would prey upon
16 students or military personnel?

17 A: No.

18 Q: All right. Then I'm still not quite sure why
19 you would do this. If you are trying to make
20 as much money as possible -- and, I mean,
21 legitimately. I'm not saying there's anything
22 wrong with making as much money as possible.
23 If you want to make as much money as possible
24 at Group, why would you do this?

25 A: Well, on the occasion I'm talking about,



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1 Captain Williams asked me to, to control what
2 he thought was a problem crowd.

3 Q: Did he ever explain anymore about what he was
4 talking about or what he was thinking?

5 A: In the case -- he said that there was a large
6 gang activity that he thought through the gang
7 unit -- and was trying to limit that happening.
8 So if you throw that sign up there, he thought
9 that would help.

10 Q: Did Captain Williams ever ask you to stop using
11 a musical act that perhaps used language in the
12 act that could incite violence?

13 A: That was the same incidence Captain Williams
14 asked -- told me that through the gang unit,
15 the gang unit told that the DJ was playing some
16 song that brought the gang members in. I told
17 him I would talk to the DJ, but how about I
18 just don't have him play there on that Saturday
19 night. And I did exactly what he asked and I
20 removed that DJ.

21 Q: What was the name of that DJ?

22 A: Adam Tucker.

23 Q: Got it. Now, the -- let's go back to your
24 security personnel for just a second. I
25 understand we talked about the scanner. We



1 talked about the line. Do your folks ever
2 frisk people before they enter Group Therapy?

3 A: They -- we have patted them down before, yes.

4 Q: How often does that happen?

5 A: I can't give you a direct -- a number of how
6 many times it's happened.

7 Q: Have you -- you've gone out to eat in Columbia
8 before, correct?

9 A: I have.

10 Q: Have you ever been to a restaurant where you
11 were frisked?

12 A: Patted down?

13 Q: Yes, sir.

14 A: No. I've been to a ball game where they pat
15 you down.

16 Q: Okay. So when your folks are frisking patrons
17 coming in, what are they looking for?

18 A: Gun, knife.

19 Q: Ever find any?

20 A: Sure.

21 Q: How often?

22 A: Mostly knives, pocket knives.

23 Q: What do you do with them?

24 A: Put them in a box.

25 Q: Where?



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1 A: The door guy has a little box right there at
2 the front.

3 Q: People pick them up on the way out?

4 A: I believe once they leave, they get the pocket
5 knife back.

6 Q: You ever file a report or notify the Columbia
7 Police Department that somebody's trying to
8 bring a weapon into your establishment?

9 A: I don't think we have, no.

10 Q: How about just internally as a business matter,
11 do y'all ever keep track of that sort of thing?

12 A: The door staff alerts everybody.

13 Q: How?

14 A: Write it down.

15 Q: Where?

16 A: On a pad.

17 Q: Where is that pad kept?

18 A: In the office.

19 Q: And is that a pad that you keep track of?

20 A: It's just in the office. Just a -- you know,
21 if you -- if someone came in with a gun, you'd
22 definitely write it down. But a pocket knife,
23 unless it was a long blade, obviously you
24 wouldn't give back a long blade. But a pocket
25 knife, they would probably give it back. But



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1 I've seen a box full of knives in there, so I
2 know they didn't hand them all back.

3 Q: How about -- do you keep track on that pad of
4 crimes or suspected crimes that happen on the
5 facility?

6 A: No.

7 Q: Keep track of anything else on that pad?

8 A: If there was a -- say a door guy removed
9 somebody, he would log that.

10 Q: And for what purpose is that?

11 A: Just to have a record.

12 Q: All right. So in other words, I mean, what
13 your concern would be is maybe one of those
14 people comes back and sues you and then you'd
15 have a contemporaneous record that said, they,
16 we threw this guy out. He was rowdy.

17 A: But we have cameras, so that would help that.
18 But, yes, if you had a record of the date.

19 Q: Do you -- do you remember answering discovery
20 in this case?

21 A: Excuse me?

22 Q: Do you remember answering discovery in this
23 case?

24 A: When I was at your office?

25 Q: Well, that was a deposition, which was part of



1 discovery. But before that and one of the
2 things we ended up talking about at the
3 deposition were documents and records that we
4 were asking for; do you remember that?

5 A: Vaguely.

6 Q: Okay. Do you remember prior to the deposition
7 giving us documents that we had asked for or
8 identifying witnesses, answering
9 interrogatories? Do you remember that,
10 remember anything about that?

11 A: No, sir.

12 Q: Okay. If we had asked you to produce all
13 incident reports in terms of suspected crimes
14 or other business irregularity, would that pad
15 that you were talking about have been
16 responsive to that?

17 A: No. I would say no.

18 Q: Okay. Did you furnish that to counsel so it
19 could be furnished to us?

20 A: No.

21 Q: Do you still have that pad?

22 A: There might be a new pad, but, I mean, how long
23 do you keep it?

24 Q: I don't know. How long do you keep it?

25 A: I mean, we haven't -- unless there's something



1 that I haven't heard of anything through the
2 door staff that there needs to be anything on
3 that pad.

4 Q: Well, I'll just tell you, we didn't get any
5 reports of this nature in discovery. I'll just
6 let you know that. Let me ask you about -- let
7 me ask you about video. You have nine cameras
8 inside the facility and two cameras on the
9 outside of the facility; is that right?

10 A: No.

11 Q: What do you have?

12 A: Ten inside, one outside. One shows the front
13 door. You can see outside.

14 Q: Okay. Do you remember me asking you about the
15 cameras and the camera production during our --
16 the deposition I took?

17 A: No.

18 Q: Okay. Do you remember us asking y'all to
19 produce camera footage inside of Group Therapy?

20 A: Yeah. We gave you a flash drive of like a
21 whole bunch of hours.

22 Q: Okay. Let me chat with you about that for a
23 second. So we got --

24 **MR. KENNEY:** Ms. Smith, can we go to the computer?

25 Q: So, this is an example of something we got in



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1 April. And I don't know if you remember this,
2 but I can represent to you that we had asked
3 for some camera footage ---

4 A: Right.

5 Q: --- in February. And this is -- we got footage
6 from April 10th and this is one of the things
7 that you sent us. Do you recognize that guy
8 right there?

9 A: Yeah, that was -- he used to work for us.

10 Q: Who was that?

11 A: Big Jordan.

12 Q: Big Jordan? What did he do?

13 A: He was one of the cooks.

14 Q: Okay. What's he doing out there?

15 A: He's smoking. Looks like he's got the smokers
16 going.

17 Q: What is he smoking?

18 A: Chicken wings, chicken tenders, brisket.

19 Q: Is that -- how do y'all typically -- do y'all
20 always smoke outside?

21 A: We use it some.

22 Q: Gotha. Well, we can play this. Let me just
23 tell you that on April 10th, all we got was
24 this alleyway. That's all we got, which was
25 the reason I took your deposition.



1 A: Right.

2 Q: And then we got some more stuff and we got
3 about 1600 individual video files. They were
4 all real short little clips for about four
5 camera views. Is there a reason we couldn't
6 get the whole shebang, everything we asked for,
7 all the camera views, all the video, showing
8 the dance floor, showing the bar?

9 A: There's no dance floor.

10 Q: Open area?

11 A: The day that this was, Mr. Alphin came down
12 there and said we needed the video footage ---

13 Q: Let me stop you. I don't want to know anything
14 that Mr. Alphin told you or that you told him.

15 A: Okay. When I went to retrieve the ---

16 Q: There we go.

17 A: --- video footage on that day, someone had
18 moved the camera to just record this one
19 camera.

20 Q: So a bunch of stuff got erased, is what you're
21 saying?

22 A: It wasn't there, because this camera is the
23 only thing that rolled.

24 Q: I gotcha. In other words, this camera was
25 riding over all the other footage?



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1 A: I'm not that familiar with how the camera
2 system records or keeps track of everything.
3 This is all we could pull.

4 Q: How about after that? I mean, let me just tell
5 you that what we got after this -- after I took
6 your deposition, what I've seen is video
7 footage from April 21st to April 24th. That's
8 a Sunday to a Wednesday. I've never seen any
9 footage from inside your location for a
10 Thursday, a Friday, or a Saturday night. You
11 got anything, any video to that effect?

12 A: Should be.

13 Q: We asked for it.

14 A: We didn't have this here.

15 Q: Right.

16 A: And then you wanted video. We gave you video
17 that filled up -- it cost us \$200 bucks to get
18 the thing to put it on.

19 Q: Uh-huh. So is that why we couldn't get it? Is
20 that what you're saying?

21 A: Why you -- you couldn't get it because this is
22 all we had at that time.

23 Q: How about after that, going forward?

24 A: I was told you wanted video footage of us
25 serving food.



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1 Q: I do, very much so. I didn't get a lot of
2 that.

3 A: Well, I don't know that much about the system.
4 I didn't download it. I could go in there and
5 rewind from the night before. But I'm not the
6 one that would download it, pull it off. I'm
7 not that guy. I have an employee that would be
8 more -- should I say, would be -- knows the
9 system better than me.

10 Q: Who is that?

11 A: It would be Fabian.

12 Q: Is he still employed with you?

13 A: Yes.

14 Q: Okay. All right. Let's change gears here a
15 little bit. I want to talk a little bit more
16 about the situation on the street outside of --
17 like right outside Group Therapy, Greene
18 Street, right, Harden Street. You're familiar
19 with the area, spend a lot of time there,
20 right?

21 A: Uh-huh (affirmative response).

22 Q: Okay. You ever have crowding on the sidewalk?

23 A: Sure.

24 Q: Common on a Thursday, Friday, Saturday?

25 A: It depends, but it could be.



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- 1 Q: You ever have fights outside the bar?
- 2 A: I would imagine there's been a few.
- 3 Q: More than five?
- 4 A: I'd say no.
- 5 Q: And what period of time are you talking about?
- 6 All the way back to June of '16 or what?
- 7 A: I mean, directly resulting in us or just
- 8 anywhere on Greene Street?
- 9 Q: Well, let's start with right outside of Group
- 10 Therapy.
- 11 A: Over five in the three years, I'd say might be
- 12 a number, maybe.
- 13 Q: When that happens, do you memorialize that
- 14 anywhere?
- 15 A: Well, once they're on the street, at that point
- 16 we should have some help with CPD or law
- 17 enforcement.
- 18 Q: Right.
- 19 A: They might not even come from our
- 20 establishment. I mean, you can walk all over
- 21 Five Points. It doesn't mean you came from
- 22 inside. Our main goal is inside and our line.
- 23 Q: Okay.
- 24 A: Not on the street of Greene Street. We can't
- 25 control -- I mean, that's the problem on



1 Saturdays. Once you put everybody out in all
2 the streets, then you're going to have issues
3 in the street.

4 Q: That is a problem, right? I mean, you agree
5 that's a problem.

6 A: In the street.

7 Q: Because you end up with thousands of people out
8 there.

9 A: Well, we don't have enough CPD.

10 Q: Right. And how many CPD do you think it would
11 take to make that area safe once everybody puts
12 all those young people out onto the street?

13 A: Young people.

14 Q: People of all ages.

15 A: I don't know. That's not in my field.

16 Q: Would -- do you believe we need more police
17 resources in Five Point?

18 A: At certain times, yes.

19 Q: When?

20 A: You know, football season, you know, St.
21 Patties Day. I mean, I did the chili cook-off
22 with three officers and 3,000 people, so it
23 just depends.

24 Q: Let me ask you about that. What time is the
25 chili cook-off? What time is that?



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- 1 A: This year it officially kicked off a little
2 after noon.
- 3 Q: Okay. So this I the shank in the -- middle
4 day, right?
- 5 A: Right.
- 6 Q: Okay. And you said you had 3,000 people.
- 7 A: Roughly.
- 8 Q: A pretty good turnout.
- 9 A: It was all right.
- 10 Q: And you had three police officers to keep the
11 peace among 3,000 people.
- 12 A: I turned the information in, not the number,
13 and CPD allotted what they thought. Not -- I
14 had no idea.
- 15 Q: All right. How many did you observe?
- 16 A: Well, three came, because I paid three.
- 17 Q: Perfect. Okay. So there are more than three
18 police officers in Five Points on a Thursday,
19 Friday, Saturday, correct?
- 20 A: Definitely on Friday and Saturday.
- 21 Q: And it's not just CPD. It's also SLED, you've
22 seen SLED?
- 23 A: Uh-huh.
- 24 Q: Is that a yes?
- 25 A: Oh, yeah. They have AK-47s out.



- 1 Q: Okay.
- 2 A: Or a big gun.
- 3 Q: Like a long rifle?
- 4 A: They've had them, yeah.
- 5 Q: That's a weapon of war, right?
- 6 A: Yeah.
- 7 Q: I mean, that weapon is designed as a military
- 8 weapon.
- 9 A: It is.
- 10 Q: Does it concern you that SLED believes they
- 11 need to be armed with military-grade weapons in
- 12 Five Points on a Thursday, Friday, Saturday
- 13 night?
- 14 A: They came in Group Therapy on a Tuesday night
- 15 to serve me a warrant in that same thing. And
- 16 I think the exact comment was, why are you --
- 17 why you got all that on? We don't know what's
- 18 going to happen down there. I said it's --
- 19 okay.
- 20 Q: You're referring to the body armor, right?
- 21 A: I mean, they were strapped.
- 22 Q: Okay. Now, go back and answer my question.
- 23 Does it concern you -- you're a member of the
- 24 Five Points Association?
- 25 A: Right.



1 Q: Member of the community, concerned about Five
2 Points. Does it concern you that SLED believes
3 it's necessary to police Five Points on a
4 Thursday, Friday, Saturday with weapons of war?

5 A: Yes.

6 Q: What do you think we should do about that?

7 A: I don't think they need to have long rifles,
8 but I think they need to be there. The more
9 CPD and the more law enforcement's down there
10 we'd make a difference.

11 Q: If it took 250 officers every night to make
12 Five Points safe, do you believe that is a
13 legitimate use of community resources?

14 A: I didn't say Five Points safe. I just said I
15 think it would help down there.

16 Q: How -- I mean, do you have a view about whether
17 too much law enforcement becomes a burden to
18 this community?

19 A: I wouldn't know the answer.

20 Q: You pay taxes, correct?

21 A: Yes.

22 Q: So your taxes help pay for CPD, for SLED, for
23 the University police. You pay taxes just like
24 everybody else in this room, right?

25 A: Yes.



1 Q: Okay. Would you be willing to pay more taxes
2 to get a larger police presence in Five Points
3 so that maybe they didn't need the long rifles
4 or we could have more officers to deal with the
5 dump at 2:00 a.m.

6 A: Would I be willing to pay more taxes?

7 Q: Yeah, sure. Do you think that might be
8 necessary in order to put this sort of police
9 presence down there?

10 A: I can't answer that. But, I mean, you can
11 build a football stadium by going up a penny a
12 person. So why can't we have some extra law
13 enforcement?

14 Q: Okay. Do you believe it's fair -- if your
15 establishment and other establishments are the
16 reason that all of these people are coming to
17 Five Points, do you believe it's fair that the
18 community has to foot the bill for enough
19 police to keep everyone safe?

20 A: Fair, what do you mean by fair?

21 Q: I mean, whatever you think fair means.

22 A: What do you mean by foot the bill?

23 Q: We pay taxes. We talked about that.

24 A: Right. Your tax dollars go to all Richland
25 County to help police go to every place?



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1 Q: Do you think it's fair for the community to
2 have to pay more in police to make it safe in
3 Five Points ---

4 A: I think it is safe at times. But I think a few
5 more CPD would make it safer, yes.

6 Q: You think it's unsafe at times too?

7 A: You can get a lot of people down there at one
8 time.

9 Q: I agree. The things you've seen down there
10 when there's a lot of people -- you've seen
11 fights, we've talked about that.

12 A: (Nods head affirmatively).

13 Q: Is that a yes?

14 A: Yes.

15 Q: Okay. You've seen public intoxication?

16 A: Yes.

17 Q: You've seen underage consumption?

18 A: Seen it?

19 Q: Are you aware of it?

20 A: Oh, yeah.

21 Q: Do you ---

22 A: I mean, it's not hard to get a fake ID.

23 Q: Do you agree with me that that's a fairly
24 common occurrence?

25 A: I mean, it is a college town.



1 Q: Do you believe it's a fairly common occurrence
2 in Group Therapy?

3 A: I would hope not, no.

4 Q: Well, you're the owner of Group Therapy. Is it
5 a common occurrence?

6 A: No.

7 Q: How do you know?

8 A: Well, we have a scanner. I employ
9 professionals. And, you know, our -- the goal
10 is not to let the under 21 in. We don't want
11 under 21 in.

12 Q: All right. Have you ever seen people vomiting
13 or defecating in Five -- or urinating in Five
14 Points?

15 A: No, I have not.

16 Q: Okay. Do you -- are you aware that some of the
17 surrounding neighborhoods have complaints about
18 that type of activity as people are returning
19 to their homes after coming from Five Points?

20 A: Yes. I read that back in 2015.

21 Q: Do you have a belief whether that's true or
22 untrue?

23 A: Kids -- I mean, students walking back to their
24 houses throwing up or something? I would say
25 it's probably happened.



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1 Q: Okay. Does it bother you that your
2 establishment might be contributing to some of
3 these nuisance and public safety problems?

4 A: You could eat some bad food at our place and
5 throw up. You could eat some bad food at
6 Yesterday's and go throw up.

7 Q: Is that what you think's going on down there?

8 A: It could.

9 Q: Okay. Does it bother you if your establishment
10 is contributing to these public safety
11 problems?

12 A: Yes. I want our establishment to be held to a
13 higher standard.

14 Q: All right. How about loitering? Do you see
15 loitering down there, just people hanging out
16 late at night?

17 A: I see it all day.

18 Q: Okay. How about -- you mentioned with Mr.
19 Alphin a Uber program that y'all are
20 participating in.

21 A: We did that, yes.

22 Q: Why do you believe it's necessary to help
23 escort people by themselves to the Uber? Why
24 is that even necessary?

25 A: I don't think it was necessarily necessary. We



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1 thought that would go a long way as all of us
2 down there being on the same page, if there was
3 a person by themselves, we would like to help
4 them. We did it to try to promote everybody
5 getting home. There is a lot of people down
6 there.

7 Q: You agree the concern and the need for the
8 program is this idea that people, typically
9 women, by themselves could be assaulted while
10 they're trying to get home?

11 A: I wouldn't necessarily say assaulted. We just
12 want to help them get to where they're going.

13 Q: You don't think that's an irrational concern
14 that the community might have, do you?

15 A: The community -- you mean the neighborhoods?

16 Q: Yes, sir.

17 A: We're helping. You could have a person that
18 lives a block away. They're going to walk.

19 Q: Uh-huh.

20 A: But, I mean, we initiated that program, my
21 staff, to try to help people get to where
22 they're going safely. I thought it was a good
23 plan. I didn't look at it as, boy, it's so bad
24 down here, we've got to help them. I just --
25 we thought it was a good idea to get everybody



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1 together and to try to help.

2 Q: Do you know how many liquor drinks or beer
3 drinks or wine drinks, the number, do you know
4 how many you serve each month?

5 A: No, I don't know -- like a specific number?

6 Q: Yeah.

7 A: No, I don't know a number.

8 Q: I mean, you've only got occupancy for like 240
9 people, right?

10 A: Correct.

11 Q: So you would think on any given night what
12 would be a reasonable number of drinks for
13 everybody to have?

14 A: Three.

15 Q: Okay. So what, like 750?

16 A: Seven fifty?

17 Q: Seven hundred and fifty drinks over the course
18 of the evening?

19 A: We're not at 240 every night, so.

20 Q: Okay. On the nights when you are at full
21 capacity ---

22 A: Not everybody in there is drinking.

23 Q: Okay. On the nights you're at full capacity,
24 you'd be basically looking at somewhere between
25 500 to 750 drinks?



1 A: Is that what it -- is that what it adds up to?
2 I don't have a calculator in front of me, so.

3 Q: I'm asking you. Do you have any information
4 about ---

5 A: Nine times -- say you have 200 people in there
6 and 140 are drinking. So \$3 a drink, he gets
7 three drinks, nine times 150.

8 Q: How do you know only 140 people are typically
9 drinking?

10 A: I'm just throwing a number out there.

11 Q: Okay.

12 A: Because I don't think -- not everybody drinks.

13 Q: Do you have any basis for the number of people
14 who drink or how much they drink in Group
15 Therapy?

16 A: Well, the bar staff is trained to see how much
17 they serve somebody.

18 Q: But do you have any data, any evidence?

19 A: I don't have any data, no.

20 Q: Does your point of sale system tell you how
21 many alcoholic beverages you serve?

22 **MR. ALPHIN:** Your Honor, I just want to reiterate
23 that there was a motion in limine filed as it
24 relates to where he's trying to go with this.
25 So we just want to caution him that that's not



1 where we want to go.

2 **MR. KENNEY:** Your Honor, I'm trying to establish
3 whether Mr. Taneyhill knows how many alcoholic
4 drinks, particularly liquor, are served in his
5 bar at any given period of time. That's all
6 I'm trying to figure out.

7 **THE COURT:** Okay. I'm going to let you go. But I'm
8 getting the impression Mr. Taneyhill doesn't
9 know.

10 **MR. KENNEY:** I'm getting that impression too, Your
11 Honor.

12 **THE COURT:** But go on for a short period of time
13 only.

14 Q: Do you know?

15 A: Repeat your question.

16 Q: What I'm trying to get at is do you have a
17 system, a point of sale system, that tells you
18 how many alcoholic beverages you serve over any
19 given period of time?

20 A: Yes. That sheet does say how many -- it would
21 say items, yes. It would have a ...

22 **MR. ALPHIN:** Your Honor ---

23 **THE COURT:** Yes.

24 **MR. ALPHIN:** I understand what he's saying. But
25 he's trying to go down the path, which you



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1 specifically excluded, because the next
2 question's going to be, well, does it say how
3 many meals you served. And then he's going to
4 try to do math up here and have my client doing
5 math. My client has already testified he
6 doesn't know how many drinks are served. Plus
7 Your Honor has already ruled in the motion in
8 limine that he doesn't get to go into this
9 area. And so we ask him to please cut this
10 off.

11 (Fire Alarm Sounds)

12 THE COURT: Oh my gosh. You got your wish.

13 MR. KENNEY: Recess?

14 THE COURT: Yes, we'll take a recess.

15 MR. KENNEY: Thank you, Your Honor.

16 (Off the Record at 12:26 p.m.)

17 THE COURT: Please be seated. Everyone is ready.
18 We're going to reconvene the hearing.

19 MR. KENNEY: Yes, Your Honor.

20 THE COURT: Mr. Taneyhill. Okay. You were making
21 an objection?

22 MR. ALPHIN: Yes, Your Honor. Your Honor so kindly
23 granted our motion in limine before the
24 hearing. And specifically we'd asked that any
25 evidence attempting to show related to food



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1 sale percentages. And the document that he's
2 going to show you has our food sales, our
3 liquor, and our beer sales. I mean, he's going
4 to sit up here with a calculator, which he has
5 right in front of him and do those numbers for
6 you.

7 **MR. KENNEY:** Well, Your Honor, what I had hoped to
8 elicit from Mr. Taneyhill -- I guess we'll just
9 give him a preview. What I'd hoped to elicit
10 are there's some numbers on this sheet that I
11 believe quantify the number of alcoholic
12 drinks, which we had been discussing with him
13 earlier in terms of the number of drinks an
14 individual would typically consume based on the
15 capacity of their establishment. And that's
16 what I'm going for. I don't plan to ask him
17 about food. I plan to ask him about the number
18 of liquor and beer drinks.

19 **MR. ALPHIN:** As long as he's not introducing it as
20 to the food sales or anything like that.

21 **THE COURT:** And I realize I've already ruled on
22 that, so I wouldn't consider any evidence of
23 food sales.

24 **MR. ALPHIN:** Thank you, Your Honor.

25 **THE COURT:** Okay.



1 **MR. KENNEY:** Thank you, Your Honor.

2 Q: Mr. Taneyhill, did you have a good lunch?

3 A: I didn't eat.

4 Q: Oh, I'm sorry. I'm sorry. Do you have -- hold
5 on just a moment. Mr. Taneyhill, let me show
6 you a copy of this document, see if you can
7 identify it for me. Do you know what it is,
8 sir?

9 A: Yes.

10 Q: What is it?

11 A: Steve's Sunday Report 2.

12 **MR. KENNEY:** Ms. Smith, can I get the overhead?

13 Q: Okay. And just for background purpose, I have
14 a specific question about the second page, but
15 just tell the Court what this document is and
16 how you generate it.

17 A: This document is what you would print off to
18 look at your total sales for whatever time
19 period you want to put in.

20 Q: And so when you say time you want to put in,
21 you might be referring to -- for example, do
22 you see the time period on this sheet?

23 A: Yes.

24 Q: What's the time period?

25 A: One year.



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1 Q: And tell the Court -- read into the record the
2 year that we're talking about?

3 A: 4/16/2018 to 4/16/2019.

4 Q: Okay. Very good. Now, did you use the term
5 point of sale?

6 A: POS.

7 Q: So that's an electronic system that your
8 bartenders will key orders into and it tracks
9 them electronically in the system, correct?

10 A: Yes.

11 **MR. KENNEY:** All right. Your Honor, I'd ask that
12 this exhibit be marked and admitted into
13 evidence.

14 **MR. ALPHIN:** Subject to what I said before, Your
15 Honor, I mean, this is certainly a business
16 record that they keep in the ordinary course of
17 business, so.

18 **MR. MCCABE:** No objections, Your Honor.

19 Q: Mr. Taneyhill, will your hand that document to
20 our court reporter?

21 **THE COURT:** And I'm admitting it as -- actually as
22 it relates to the alcohol sales only, not the
23 food sales.

24 **MR. KENNEY:** Yes, Your Honor, thank you.

25 **THE COURT:** Okay. Thank you.



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1 COURT REPORTER: And this is Intervenor's Exhibit
2 Number Two, Your Honor.

3 (Intervenor's Exhibit Number 2 was marked and
4 admitted into the record.)

5 Q: Mr. Taneyhill, you got the exhibit in front of
6 you?

7 A: Yes, sir.

8 Q: So on page two of Intervenor's Number Two, if
9 you turn over to the next page. What I'm
10 curious about is this part of the chart here
11 that says system tracking. Do you see that?

12 A: Yes.

13 Q: Okay. And there are three columns, the first
14 column identifies what it is. The second
15 column has some numbers. And the third column
16 has some numbers. What are the second and
17 third columns?

18 A: That's orders.

19 Q: So is that like the number of orders, as in the
20 number of drinks with respect to liquor?

21 A: Yes.

22 Q: So is that individual drinks or is ---

23 A: No.

24 Q: --- that -- if I come to the bar and say give
25 me, you know, ten, you know, Group Therapy



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1 shots. Is that one order or ten orders?

2 A: Well, if there was a special up there that said
3 five for \$10, it would be keyed in. But this
4 here means this is the number. If you came and
5 said let me have a vodka tonic, that'd be one.

6 Q: All right. And what -- if I'm using your
7 example, let's say I wanted ten for five, how
8 many would that be on this report?

9 A: There's not ten for five.

10 Q: I'm sorry. How about five for ten, what would
11 that be on the report?

12 A: There's not five for ten. It would be -- this
13 is the number of actual liquor. So if you made
14 like a -- like something that had a bunch of
15 syrup or something in it, but it was like one
16 shot went five ways, that would be one.

17 Q: I'm with you. I'm tracking you. Okay. Now,
18 how about beer, would that be like one beer?

19 A: One.

20 Q: Okay. All right. So here's the question.
21 Tell me what the number is in terms of liquor
22 drinks that you served in -- from April of 2018
23 to April of 2019?

24 A: That's 186 -- 186,403.

25 Q: Okay. And how about give me -- I'm going to



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1 add to that the number of beer beverages. How
2 many beers?

3 A: Sixty five thousand eight hundred and sixty.

4 Q: And if you trust my calculator, how about read
5 the total number of alcoholic beverages served
6 during that year.

7 A: I think it says 250 -- I can't see it now.

8 Q: How about now?

9 A: There you go. Two fifty two, two sixty three.

10 Q: So that's 252,000 alcoholic beverages in 2008
11 to -- I'm sorry, 2018 to 2019, April to April?

12 A: Correct.

13 Q: Okay. Now, here's what I want to do. I want
14 to divide this by 365 days. Mr. Taneyhill, are
15 you open 365 days?

16 A: No.

17 Q: Okay. How many days a week are you typically
18 open?

19 A: Days a week?

20 Q: Yes, sir.

21 A: We're open seven, but there's a few days we
22 close, so it's about -- I'm sorry, go ahead.

23 Q: No, that's all right. We're going to divide by
24 365, is that fair?

25 A: Sure.



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- 1 Q: Okay. So if I do that, how many drinks is that
2 per day?
- 3 A: You have to push that up a little bit. I can't
4 see it.
- 5 Q: I'm sorry.
- 6 A: Six ninety one.
- 7 Q: Okay, 691. So I don't know if you remember our
8 conversation before lunch. We were talking
9 about, you know, how many folks -- how many
10 drinks folks would typically drink. You would
11 agree with me that some of your nights, you're
12 busier than other nights?
- 13 A: Correct.
- 14 Q: You agree? You would agree that the busiest
15 nights for you are typically a Thursday, a
16 Friday, or a Saturday, correct?
- 17 A: Yes.
- 18 Q: All right. And you would agree with me that
19 there's probably some days, like a Monday or a
20 Tuesday or a Wednesday, where you sell very
21 little alcohol, very few drinks. Is that a
22 fair summary?
- 23 A: Could be, could be.
- 24 Q: By comparison to the weekend?
- 25 A: Yes.



1 Q: Okay. But what we know based on your sales
2 data, April 2018 to April 2019, is that the
3 average number of alcoholic beverages sold in
4 your establishment per day is 691, correct?

5 A: If this is right, yes.

6 Q: That's for an establishment with a capacity of
7 240 people, right? Isn't it almost a certainty
8 that you're over serving some people in here?

9 A: No. Well, my staff is trained by ServSafe to
10 -- and all the things you've got to do do not
11 over serve.

12 Q: Are you surprised by the number of alcohol --
13 the average number of alcoholic drinks you
14 serve in a day?

15 A: Am I surprised?

16 Q: Yeah.

17 A: No.

18 Q: Okay. Do you -- are you aware of any instances
19 where you at Group Therapy, you or your staff
20 have over served a patron?

21 A: I'm not aware, no.

22 Q: How about, are you aware of any instances where
23 you or your staff have served an underage
24 individual?

25 A: Yes.



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- 1 Q: How often has that happened?
- 2 A: Once.
- 3 Q: Literally, one time?
- 4 A: One time.
- 5 Q: In all the years you've had the establishment?
- 6 A: Yes.
- 7 Q: You're certain about that?
- 8 A: That's the only time we've been written a
- 9 ticket.
- 10 Q: Okay. Do you know if it has happened in other
- 11 instances when you were not ticketed, perhaps
- 12 the underage patron was ticketed, but you
- 13 weren't?
- 14 A: I wouldn't know that. No, I wouldn't know the
- 15 answer to that.
- 16 Q: Would it surprise you if that happened?
- 17 A: If someone got in underage?
- 18 Q: Yes, sir. And served? And served?
- 19 A: Well, once they get in, the door man is there,
- 20 at that point in time, as the bartender, you
- 21 believe he's been IDed or they, male or female,
- 22 have been IDed.
- 23 Q: All right.
- 24 A: So the bartender's got to trust the door guys.
- 25 Q: Right. So you would be surprised, is what



1 you're saying?

2 A: Yes.

3 **MR. KENNEY:** Okay. Beg the Court's indulgence for a
4 second.

5 Q: Mr. Taneyhill, did you have an opportunity to
6 look at the Columbia Police Department's
7 protest in this case?

8 A: No.

9 Q: Okay. Would you dispute the fact that the
10 Columbia -- if the Columbia Police Department
11 said they had, for the period of July 1, 2018
12 to July 1, 2019, that they attributed 11 fights
13 or civil disturbances to your establishment?

14 A: So repeat the question.

15 Q: Yes, sir. For the period of July 1, 2018 --
16 let me back up. You have a late night permit.
17 We talked about that earlier.

18 A: Yes.

19 Q: Okay. And you're aware that as part of an
20 effort to, I mean, frankly to clean up Five
21 Points, that the Columbia Police Department has
22 been more rigorous in their examination of who
23 they're giving late night permits to? Are you
24 aware of that?

25 A: Yes.



1 Q: All right. And you understand that the
2 Columbia Police Department maintains books or
3 records and is pulling data, particularly with
4 respect to the late night folks, to make sure
5 that they're fit for a license?

6 A: Yes.

7 Q: Okay. Now, would you be surprised if, in that
8 process, they identified, from the period of
9 July 1, 2018 to July 1, 2019, 11 fights or
10 civil disturbances directly tied to Group
11 Therapy?

12 A: Would I be surprised, yes.

13 Q: You do not -- that you're not aware of 11
14 incidents in --

15 A: Inside the bar?

16 Q: Yes, sir.

17 A: Or inside the restaurants, excuse me. No, I'm
18 not aware of 11.

19 Q: Okay. How about -- let's look at a couple of
20 things. Mr. Taneyhill, I'm going to ask you
21 about not all of these, I promise. And let me
22 just -- one more housekeeping thing. I'm going
23 to use these little case numbers right at the
24 top. This is also in date order, so I'm going
25 to try to refer you to them by the date and the



1 case number. Is that fair?

2 A: I guess.

3 Q: So, how about -- let's see if we remember. Mr.
4 Taneyhill, turn to case number -- the last four
5 digits are 3639.

6 **MR. ALPHIN:** Your Honor, I would object to this line
7 of questioning. These are documents for the
8 Columbia Police Department. They haven't
9 offered our witness to authenticate these
10 documents before putting them into evidence.
11 Anything on these reports is hearsay until such
12 time.

13 **MR. KENNEY:** Your Honor, Mr. Taneyhill doesn't have
14 a real strong recollection of underage people
15 being in his establishment or of any fights
16 tied to his establishment. And I believe with
17 these records we can remind him and refresh his
18 recollection of a number of fights inside and
19 outside his bar and a number of underage
20 patrons inside his bar.

21 **MR. ALPHIN:** And you can ask Mr. -- he can ask Chief
22 Holbrook about that tomorrow.

23 **THE COURT:** Yeah, but you still haven't
24 authenticated the documents.

25 **MR. KENNEY:** Yes, Your Honor, but I believe I could



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1 use it to refresh his recollection since he
2 really has none.

3 **THE COURT:** Well, he has none, so what you're
4 looking -- what you're doing is basically
5 saying to him, these are the documents from the
6 Columbia Police Department, so you're -- they
7 are, in fact, true is what you're saying to him
8 by asking him about them and saying that this
9 is what they are. I think the better course is
10 to let the chief of police authenticate these
11 documents.

12 **MR. KENNEY:** Your Honor, if it would be all right, I
13 would just reserve the opportunity to try to
14 recall Mr. Taneyhill after we hear from the
15 Chief.

16 **THE COURT:** That is -- I would ---

17 **MR. ALPHIN:** And we have no objection to that. That
18 is certainly proper with his case in chief. He
19 can call ---

20 **MR. KENNEY:** We'll only do that if we need to, but I
21 appreciate -- I hear what Your Honor's saying.
22 I appreciate that very much.

23 **MR. ALPHIN:** Thank you, Your Honor.

24 **Q:** All right. Mr. Taneyhill, I just have --

25 **MR. KENNEY:** Your Honor, if you give me one minute



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1 and let me just make sure I'm not concluding
2 too hastily here..

3 **THE COURT:** Sure.

4 Q: So Mr. Taneyhill, we've talked about a lot of
5 things this morning and afternoon. I
6 appreciate your time, appreciate your comments
7 about what's going on in Five Points. I do
8 have one more question. Can I get your
9 autograph?

10 A: Huh?

11 Q: Can I get your autograph?

12 A: Twenty-five dollars.

13 Q: Oh, you're serious?

14 A: I mean, sure, \$25.00.

15 Q: Deal. You've been a good sport in all
16 seriousness. I appreciate it. I'd love to get
17 your autograph. I'd even give you \$25 after
18 this hearing. If you'd answer any of Mr.
19 McCabe's questions or Mr. Alphin's questions.
20 They keep this.

21 **MR. MCCABE:** Your Honor, before he's released, we
22 just had a couple of follow-up questions, based
23 off his testimony about the employee and their
24 Safe Serve certification.

25 **MR. ALPHIN:** Your Honor, he's already had an



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1 opportunity to cross-examine my witness. If I
2 don't ask any rebuttal questions, they're
3 shouldn't be anymore questions. And I'm not
4 going to ask any questions just for that
5 reason.

6 **MR. MCCABE:** Your Honor, just briefly. This
7 document was not provided to us before the
8 hearing. We have not had a chance to review
9 it. Based upon, what -- we've had a chance to
10 review it. There are some questions we have
11 concerning the number of employees certified
12 and if all employees are, in fact, certified.

13 **THE COURT:** Okay. I'm going to allow him to ask
14 those questions.

15 **MR. ALPHIN:** Yes, Your Honor.

16 **MR. MCCABE:** Thank you, Your Honor.

17 **THE COURT:** Go on, Mr. McCabe.

18 **MR. MCCABE:** Yeah, just very briefly.

19 **MR. TANEYHILL - RECROSS-EXAMINATION BY MR. MCCABE:**

20 Q: Mr. Taneyhill, would you say that this Safe
21 Serve is an important part of your business?

22 A: Yeah, because you've got a -- we require this
23 before you start working.

24 Q: Okay. And do you also believe that it helps
25 keep your staff educated on the proper service



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1 of alcoholic beverages?

2 A: Yes.

3 Q: All right. So is each employee that you have
4 there certified? I'm sorry, not on this sheet,
5 but every employee you have at your business,
6 are they certified?

7 A: Yes, they should be.

8 Q: Okay. Fabian, Mr. -- what's his last name?

9 A: Ludwig.

10 Q: Mr. Ludwig, I don't see his name listed in
11 these documents.

12 A: He is certified, but he's not in here.

13 Q: It's not in here?

14 A: Uh-uh (negative response). Would this be what
15 I gave the ...

16 Q: This is a document that was offered by your
17 attorney.

18 A: Yeah.

19 Q: Also in here there are only seven individuals
20 that have been licensed since 2018, but you
21 said you currently have 16 employees.

22 A: Right. Some of those employees are not full-
23 time and they're door guys. So the door guy's
24 not required, if they don't serve.

25 Q: Okay.



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- 1 A: Is my understanding.
- 2 Q: Okay. And the latest date on here is 2018.
- 3 Have you had any new hires since 2018?
- 4 A: Bartender-wise?
- 5 Q: Well, someone that you're requiring to have the
- 6 certification.
- 7 A: Haley Williamson's the last bartender.
- 8 Q: Okay.
- 9 A: We've kept our staff intact.
- 10 Q: Okay. Just a couple other questions here.
- 11 Cedric Johnson, is he still employed by you?
- 12 A: Yes.
- 13 Q: All right. This certification here was from
- 14 2016, which means it would have expired in
- 15 2019.
- 16 A: Correct.
- 17 Q: Do we have current certification for him?
- 18 A: Should be down there, yes.
- 19 Q: Down where?
- 20 A: It should be in a folder down there at the bar.
- 21 Q: At the bar, okay. You don't have it here in
- 22 this stack of documents, okay. And Bailey
- 23 Clark, does that individual still work for you?
- 24 A: Yes.
- 25 Q: All right. And this also would have expired in



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1 2019.

2 A: Yes, her's should be down there.

3 Q: Okay. And Vincent Kornickey, does he still
4 work for you?

5 A: Yes.

6 Q: All right. Haley Williamson, you've already
7 said is a bartender. Jordan Cowles?

8 A: Yes.

9 Q: Jaclyn Myers?

10 A: She's no longer there.

11 Q: Okay. So she's no longer there. Ashlyn Black?

12 A: She's no longer there.

13 Q: She's no longer there. Asheen Batchelder?

14 A: Yeah, she's no longer there.

15 Q: She's no longer there. And Demetris Corbin?

16 A: He's a door man. He moved recently.

17 Q: Okay. So some of the people that you've -- on
18 this list that you've given us are no longer
19 there; is that correct?

20 A: Yeah, this list was given back whenever.

21 Q: Okay.

22 A: We should have the other ones down there.

23 Q: Okay.

24 A: This is what you turn in to get your after
25 hours permit.



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1 Q: Okay. So this was supplied to Columbia?

2 A: (Nods head affirmatively).

3 Q: Okay.

4 A: Which they have a -- they should have one every
5 year you apply. You have to do everything over
6 again.

7 Q: Okay.. No further questions, Your Honor.

8 **THE COURT:** Okay. Thank you.

9 **MR. TANEYHILL - EXAMINATION BY THE COURT:**

10 **THE COURT:** Mr. Taneyhill, I've got one question for
11 you. The scanners?

12 A: Yes, ma'am.

13 **THE COURT:** You said you've got one phone?

14 A: Yes, ma'am.

15 **THE COURT:** Okay. So when you are -- your doormen
16 are working the doors and admitting
17 individuals, there's only one person scanning?

18 A: Correct. Because you only have it on one
19 phone.

20 **THE COURT:** Just on one phone?

21 A: Right.

22 **THE COURT:** But you have sometimes like 230 patrons.
23 Does that create a logjam at the door or are
24 you all checking both ---

25 A: Yes, ma'am. It could -- there could be a long



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1 line. Because for the 59.99 you just get one
2 app to use on one phone. So once you go to
3 Intellicheck, if I want another phone -- I
4 mean, if I want to put it on another phone, I
5 have to get another app. I mean, I could do
6 that. I mean, I could have two phones out
7 there doing the IDs.

8 **THE COURT:** How long does it take you to scan one
9 individual in?

10 A: Ten, 12, 15 seconds. It takes a picture. Like
11 it takes a picture of the ID and then it gives
12 you the color, like a checkmark, an X.

13 **THE COURT:** Thank you.

14 A: Yes, ma'am.

15 **MR. ALPHIN:** May I ask a question in response to the
16 question asked by the Court?

17 **THE COURT:** Yes.

18 **MR. TANEYHILL - REDIRECT EXAMINATION BY MR. ALPHIN:**

19 Q: Mr. Taneyhill, if the Court so desires, would
20 you be willing to get more phones in order to
21 alleviate any concerns of the Court?

22 A: Sure.

23 **MR. ALPHIN:** Thank you, Your Honor.

24 **THE COURT:** Thank you, Mr. Taneyhill.

25 **MR. TANEYHILL:** I leave this stuff up here?



1 MR. KENNEY: Yes, sir.

2 MR. ALPHIN: Please.

3 THE COURT: Okay. Mr. Alphin?

4 MR. ALPHIN: Petitioner rests, Your Honor.

5 THE COURT: Very good. Okay, Mr. McCabe?

6 MR. MCCABE: Yes, Your Honor. We just have one
7 witness. We would call SLED Special Agent
8 Kirkland Jordan to the stand.

9 THE COURT: Okay. Agent Jordan, if you -- before
10 you take your seat, if you'll face the court
11 reporter, raise your right hand, and she will
12 swear you.

13 COURT REPORTER: Please state and spell your first
14 and last name.

15 MS. KIRKLAND: First name is Kirkland, K-I-R-K-L-A-N-
16 D. Last name is Jordan, J-O-R-D-A-N.

17 AGENT KIRKLAND JORDAN, having been duly sworn,
18 testifies as follows:

19 AGENT JORDAN - DIRECT EXAMINATION BY MR. MCCABE:

20 Q: Good afternoon, Kirkland. How are you?

21 A: I'm doing good. How about yourself?

22 Q: Not too bad. Okay. So let's start off with
23 some of the basics. Where are you employed?

24 A: The South Carolina Law Enforcement Division.

25 Q: All right. And how long have you been employed



1 with SLED?

2 A: I've been a SLED agent for almost three years
3 now.

4 Q: Okay. Where were you employed before you came
5 to work for SLED?

6 A: Before I was an agent, I actually at SLED as a
7 dispatcher all through college.

8 Q: Okay. And so what are your job duties as a
9 SLED agent?

10 A: Well, I'm in the alcohol enforcement unit. So
11 that means any place that is a licensed
12 establishment that's able to sell alcohol,
13 whether it be a convenience store or liquor
14 store, bar or restaurant, something like that,
15 we're required to do inspections there, make
16 sure that they're in compliance with state laws
17 and regulations. We also do compliance checks
18 monthly to make sure that they're not selling
19 to underage kids. If there's, you know, a
20 place we think's doing after hours or
21 something, we'll check on them and see if
22 they're selling after 2:00. Things along that
23 matter.

24 Q: Okay. And so let's say you have an
25 investigation of a location and you find a



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1 violation. What does SLED do at that time?

2 A: If we find something that's in violation of a
3 law or a regulation, we have a violation that
4 SLED is able to issue out to the place. So,
5 you know, say they're selling liquor after 2:00
6 a.m., you know, a SLED agent would go in, make
7 a purchase after 2:00 a.m. I would walk in,
8 explain what happened and then I would issue
9 them a violation that basically goes against
10 their, either beer/wine license or their liquor
11 license, depending on the violation.

12 Q: Okay. Did you conduct an inspection of Group
13 Therapy on September 15th, 2019?

14 A: I did.

15 Q: And what was the purpose of this inspection?

16 A: Well, we were down there -- I think it was the
17 Alabama game. Carolina just played. This was
18 the biggest crowd I've seen in Five Points
19 since the St. Patrick's Day Festival. So we
20 were down there just making sure everybody was
21 staying safe, checking for underage drinking,
22 stuff like that. Most of the bars we ended up
23 doing inspections at, I probably inspected over
24 half the bars that night. It's just something
25 I typically do to make sure that the bars are



1 still in compliance with all the laws.

2 Q: Okay. And did you write a report of your
3 investigation into Group Therapy?

4 A: I did.

5 Q: All right. Let me have you mark -- what I've
6 marked as Exhibit Number Six. Several
7 documents here. If you could, just take a look
8 at those real quick.

9 **(Respondent's Exhibit Number 6 was introduced.)**

10 Q: Okay, do you recognize these documents?

11 A: I do.

12 Q: And what are these documents that I've handed
13 you?

14 A: This is a copy of my case file and the report
15 that I wrote after issuing a violation at Group
16 Therapy.

17 Q: And are you the author of the report?

18 A: I am.

19 Q: All right. And is it the ordinary practice of
20 SLED to document investigations?

21 A: It is.

22 Q: And is it in the ordinary practice of SLED to
23 retain these investigative reports?

24 A: It is.

25 Q: All right. And are you authorized to testify



1 as a record custodian for SLED?

2 A: Yes, I am.

3 MR. MCCABE: Your Honor, at this time I would offer
4 this SLED report into evidence as Respondent's
5 ---

6 MR. ALPHIN: No objection, Your Honor.

7 MR. MCCABE: --- Exhibit 6.

8 THE COURT: Mr. Kenney?

9 MR. KENNEY: None for the Intervenors, Your Honor.

10 THE COURT: It's admitted, Mr. McCabe.

11 MR. MCCABE: Oh, thank you, ma'am.

12 (Respondent's Exhibit Number 6 was admitted into the
13 record.)

14 Q: All right. So let's talk a little bit about
15 the investigation that evening. What did you
16 do when you walked into Group Therapy? Where
17 did you -- what did you ...

18 A: Well, we went up to the bartenders and we're
19 wearing fully marked vests stating that we're
20 law enforcement. So I walked up to the
21 bartenders -- sorry, the bouncers that were at
22 the door. I informed that we were there to do
23 an alcohol inspection. So we walked in, I went
24 behind the bar. To the left of the bar they
25 keep their alcohol license posted on the wall.



1 I took a picture of that and made sure it was
2 valid and up to date. I then checked behind
3 the bar, made sure there weren't any like 1.75
4 liter bottles restaurants are not allowed to
5 have anything else that they wouldn't be able
6 to have behind the bar. After checking behind
7 the bar, I walked around and then I noticed
8 there was a door on the right-hand side. I was
9 with two other SLED agents. We then walked
10 inside that door, there was no door handle on
11 it. And the moment we walked inside that door,
12 we could smell an odor consistent with that of
13 marijuana. We started looking for the source
14 of that odor.

15 Q: Okay. So I have to ask you, how are you
16 familiar with the smell of marijuana?

17 A: Being in law enforcement for a few years, I've
18 come in contact with it several times while
19 working different cases. I've also assisted
20 our narcotics unit several times and we've come
21 in contact with it.

22 Q: So was there any question about the odor that
23 you sensed when you walked into that area?

24 A: No, sir. To me it was pretty obvious that
25 somebody was smoking.



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1 Q: All right. Did you look for the source of that
2 odor?

3 A: I did.

4 Q: All right. Where all did you look?

5 A: When we first walked in, it's a large storage
6 area, but it's kind of narrowed into a hallway.
7 They've got some shelving on the right-hand
8 side. So it comes off kind of like a narrow
9 hallway. I walked in and I went to that back
10 left corner immediately, because I know there's
11 a toilet in that side and I thought, you know,
12 maybe someone was in that restroom smoking, but
13 no one was inside of it. I then walked back
14 toward where the shelving was. We looked at
15 that door and we were like, it's got to be
16 coming from there.

17 Q: Okay. So this room that you were in, what else
18 is inside this room? You said there's some
19 shelving. What else is present in this area?

20 A: This is where they store all of their back
21 stock, beer. They also keep some various like
22 random items in the back, like some tables and
23 chairs and stuff like that.

24 Q: Okay. So your search led you to a door. Was
25 there a sign on this door?



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- 1 A: Yes, sir.
- 2 Q: And what did that sign say?
- 3 A: Employees only.
- 4 Q: All right. And was there a lock on this door?
- 5 A: There was.
- 6 Q: And what type of lock was on the door?
- 7 A: A pin-code lock.
- 8 Q: A pin-code lock. And did a SLED officer
- 9 attempt to open that door?
- 10 A: He did.
- 11 Q: All right. Was he successful?
- 12 A: No, sir.
- 13 Q: All right. So how did SLED gain entrance into
- 14 this office area?
- 15 A: One of the agents that I was with, he tried to
- 16 jiggle the handle. It was locked. He knocked
- 17 on the door and we were let into that room.
- 18 Q: All right. And what did officers find when
- 19 they entered the office?
- 20 A: When we walked inside -- and, of course, I was
- 21 the last one in. I didn't see it first-hand,
- 22 because it was a very small room. But they
- 23 found some marijuana. We believe they had been
- 24 smoking a joint in there. The first agent in,
- 25 Agent Dorman, he witnessed a small grinder



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1 that's commonly associated with marijuana use.
2 And in -- like in plain view he could see a
3 little bit of marijuana left. He then asked
4 Mr. Outing, if he could search his bag and he
5 gave him consent to search his bag.

6 Q: Okay. And there's some question about the role
7 of this individual. But did you ask to speak
8 to a manager on duty at that point?

9 A: I did.

10 Q: All right. And who was identified as the
11 manager on duty?

12 A: Fabian.

13 Q: Fabian, Mr. Codwic?

14 A: I think it's Ludwig. I think when he signed
15 the violation, I read it as Codwic.

16 Q: Okay.

17 A: I think that was just a typo on my part.

18 Q: All right. All right. Okay.

19 A: It was hard to read his signature.

20 Q: All right. But Fabian --

21 A: Yeah, he's -- whenever I'm in there and I ask
22 to speak to the manager, that's who I talk to.

23 Q: Okay.

24 A: Everybody calls him Fabi.

25 Q: All right. Did you ask Fabian if any of the



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- 1 people in the office were employed by the bar?
- 2 A: I did.
- 3 Q: All right. And what was his response?
- 4 A: That none of them worked there.
- 5 Q: Okay. Did you also ask Fabian about how they
- 6 got into the closed off office?
- 7 A: I did.
- 8 Q: All right. And what his response there?
- 9 A: Well, he was saying that, since that -- the
- 10 first door to get into that area, you know, it
- 11 didn't have a lock on it, so they probably
- 12 snuck in.
- 13 Q: Okay. So they snuck into the office?
- 14 A: Uh-huh (affirmative response).
- 15 Q: All right. Was a criminal citation issued to
- 16 Mr. Outing?
- 17 A: It was.
- 18 Q: All right. And was an administrative violation
- 19 issued to Group Therapy?
- 20 A: It was.
- 21 Q: All right. On September 24th, did you return
- 22 to Group Therapy with a search warrant?
- 23 A: I did.
- 24 Q: And what was the reason for that search
- 25 warrant?



1 A: We wanted to be able to protect any
2 surveillance footage that went on that night.
3 We were trying to get footage of what was going
4 on in that office to help further our
5 investigation.

6 Q: Okay. And was Group Therapy helpful, did they
7 provide you of that footage?

8 A: Well, the manager, Fabian, he had left us a
9 flash drive supposedly with some of the footage
10 of that night on it. And we ended up taking
11 that. And then I went into the office where
12 they keep their security footage and I recorded
13 the incident on my body cam.

14 Q: So you have footage of their security camera
15 from their video monitor on your body camera?

16 A: Yes.

17 Q: Is that correct? All right. That flash drive,
18 did that provide any footage for SLED to be
19 able to use?

20 A: There was about five seconds of footage on it.

21 Q: All right. So is it your testimony that the
22 only footage from that evening exists on your
23 body camera footage?

24 A: It does.

25 MR. MCCABE: All right. Okay. Your Honor, if I



1 could have my computer brought up, we've got
2 the body camera footage I think we're going to
3 show here. Oh, sorry about that. All right.

4 **(Respondent's Exhibit Number 7 was introduced.)**

5 Q: So as we're looking at this, I'm going to ask
6 you a couple of questions just about what we're
7 viewing here.

8 **(Video Played)**

9 Q: So is this -- so what does this footage here
10 show?

11 A: This is us -- well, particularly this is me,
12 this is my footage walking into Group Therapy
13 to give them the search warrant for their
14 footage.

15 Q: Okay. And who did you speak to?

16 A: Mr. Taneyhill.

17 Q: Mr. Taneyhill's right there. All right.

18 Q: And you kind of continue into the back there.
19 What are you --

20 **MR. MCCABE:** I wonder if we can get the sound on
21 that?

22 A: So on this body cam, the sound doesn't roll for
23 the first 30 seconds.

24 Q: Oh, we haven't ---

25 A: It should -- I think I clicked it by the time



1 we walk in this back office.

2 Q: Okay.

3 A: So audio should kick up then.

4 Q: Okay. All right. But you're there for the
5 search warrant for the footage from the night
6 in question with the marijuana, is that
7 correct?

8 A: Yes.

9 Q: All right. Now, this area here that we're
10 looking at, what is this area?

11 A: This is their back storage area.

12 Q: So this is where you first witnessed -- or
13 noticed the smell of the marijuana?

14 A: Yes, sir.

15 Q: Okay.

16 A: And the sound should be rolling by now.

17 Q: I don't know. We're suppose to have, should
18 have sound.

19 **MR. MCCABE:** I'm sorry, Your Honor, if we could just
20 have a moment. I'm sorry, Your Honor. So if
21 we could just have a moment to --

22 (Off the Record)

23 **MR. MCCABE:** I'm sorry, Your Honor. So if we could
24 go to -- Your Honor, could I ask for maybe five
25 minutes, just to see if can get the sound



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1 working on this?

2 **THE COURT:** Do you want our IT person?

3 **MR. MCCABE:** Yes, if possible. Thank you, Your
4 Honor.

5 **THE COURT:** We'll take five.

6 (Off the Record at 2:18 p.m.)

7 **THE COURT:** Okay. Thank you all. Please take your
8 seat. Okay. Mr. McCabe.

9 **MR. MCCABE:** Yes, Your Honor.

10 Q: All right. So just as a refresher. This is
11 your body camera footage; is that correct?

12 A: It is.

13 Q: All right. And you spoke with Mr. Taneyhill on
14 that evening?

15 A: I did.

16 Q: And you also went to where the -- or did you go
17 to where the video storage -- the video
18 recordings were stored?

19 A: I did.

20 Q: And is it also true that you recorded that
21 video with your body camera footage?

22 A: I did.

23 Q: All right. So we're going to kind of jump
24 around a little bit here. Just so a little bit
25 of reference, we'll see -- just so the Court's



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1 aware where the security footage is stored.

2 **(Video Played)**

3 Q: Now, your reaction there, awesome, why was
4 that?

5 A: I've never seen that door unlocked before. I
6 was afraid that we were going to have to break
7 it in, because no one had a key when we got
8 there.

9 Q: Okay.

10 **(Video Played)**

11 **(Video Stopped)**

12 Q: And what are we looking at now?

13 A: So this is there security setup. That monitor
14 right there is connected to I guess whatever
15 system records all of their footage.

16 Q: Okay. So was this monitor of which you viewed
17 the footage; is that correct?

18 A: Yes, sir.

19 Q: All right. We're going to go ahead and move to
20 where you started recording the actual footage.
21 There's some time here of where you are kind of
22 trying to figure out the ins and outs of the
23 system.

24 **(Video Fast Forwarded)**

25 **(Video Played)**



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1 Q: Okay. So, this here is a particular camera and
2 what is that camera showing?

3 A: This is the camera that is showing where their
4 office is located.

5 (Video Stopped)

6 Q: Okay. And where is the office from that image?

7 A: It's kind of hard to see it, but it's --
8 there's a wall right there to the left and you
9 can see where that dark sliver is, that's the
10 office door.

11 Q: All right. And is that the office door that
12 said employees only?

13 A: It is.

14 Q: Okay.

15 (Video Played)

16 Q: Now, I'll just point out, it looks like Mr.
17 Outing has a cup in his hand; is that correct?

18 A: It is.

19 Q: And Mr. Outing was not over the age of 21; is
20 that correct?

21 A: He was not.

22 Q: Now, one other question, this area they're
23 standing in, is this open to the general
24 public?

25 A: It is not.



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1 Q: All right.

2 (Video Stopped)

3 Q: Okay. Now, right here, what has happened on
4 this footage here?

5 A: One of the employees, the black male that's
6 currently on the screen, he ends up letting in
7 Mr. Outing and that female that he was with
8 into the office.

9 Q: Okay. And it appears that he had walked out of
10 the office and closed the door behind him; is
11 that correct?

12 A: That is correct.

13 (Video Played)

14 Q: Okay. Now, we're going to move forward a
15 little bit. We've got a little bit of a gap in
16 time until we see another employee. Let's go
17 ahead and move to there.

18 (Video Fast Forwarded)

19 (Video Played)

20 (Video Stopped)

21 Q: Now, this portion we've skipped over, just to
22 kind of cut down on the length of it, during
23 that time did anyone go into the office or come
24 out of the office?

25 A: At this time I don't believe anybody came in or



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1 out. It's just a couple of minutes where they
2 were inside by themselves.

3 Q: All right.

4 (Video Played)

5 (Video Stopped)

6 Q: Now, this individual here, were you able to get
7 a identification of this individual?

8 A: I believe she's an employee there. I don't
9 think Mr. Taneyhill was able to recognize her
10 name.

11 Q: Okay. But according to the video, did she use
12 the keypad to gain entrance?

13 A: She did.

14 Q: All right.

15 (Video Played)

16 (Video Stopped)

17 Q: All right. Now, she walks past another
18 employee here; is that correct?

19 A: That is.

20 (Video Played)

21 (Video Stopped)

22 Q: All right. Now, do we know who this individual
23 is?

24 A: I'm not sure what his name was. But he was one
25 of the individuals that was in the office when



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1 we made entry into it.

2 Q: Okay.

3 (Video Played)

4 (Video Stopped)

5 Q: Now, we hear a voice that you're speaking with.

6 Who is that?

7 A: That's Mr. Taneyhill.

8 Q: All right. And he is in the room with you

9 while you're watching this video?

10 A: He is.

11 (Video Played)

12 (Video Stopped)

13 Q: All right. So at this time we hear a voice and

14 they say that the DJ is in there. Who is that

15 individual again?

16 A: Mr. Taneyhill.

17 Q: All right. So Mr. Taneyhill has identified Mr.

18 Outing as the DJ; is that correct?

19 A: It is.

20 (Video Played)

21 (Video Stopped)

22 Q: Now, what do we see this individual do here as

23 she passes the door?

24 A: It looks like she looks at the door and then

25 covers her nose.



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1 Q: Okay.

2 (Video Played)

3 (Video Stopped)

4 Q: And we have some individuals in the area. Who
5 was that on the screen right now?

6 A: The person in the front, that's me. And the
7 girl behind me is Agent Tiffany Tortorello.

8 (Video Played)

9 Q: All right. And what are you doing at this
10 moment?

11 A: We could smell something. You can see us kind
12 of looking around trying to figure out where
13 the source of that odor's coming from.

14 (Video Stopped)

15 Q: All right. And who is that individual that's
16 just walked in?

17 A: That's Agent Dorman.

18 (Video Played)

19 Q: All right. And just to be clear, you didn't
20 find anyone in any of the other locations of
21 the backroom?

22 A: Yes, there was no one else back there.

23 Q: All right. Okay. And at this point, we have
24 SLED entering the room, is that correct?

25 (Video Stopped)



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1 A: Yes, sir.

2 Q: All right. And it's your testimony that at
3 that time Agent Dorman was able to see a
4 grinder in plain view?

5 A: He was.

6 Q: And did he ask for permission to be able to
7 search Mr. Outing's belongings?

8 A: He did.

9 Q: And what was the result of that search?

10 A: Mr. Outing consented to a search. Agent Dorman
11 was able to find a small amount of marijuana.

12 Q: Okay. All right. Just a couple more minutes
13 here.

14 (Video Played)

15 Q: How many individuals were in this room beside
16 your SLED officers?

17 (Video Stopped)

18 A: There were four individuals in there.

19 (Video Played)

20 Q: All right. While we're waiting, you spoke with
21 Mr. Ludwig, that's correct?

22 A: It is.

23 Q: All right. And there he is there on the
24 screen; is that correct? Well, he was for a
25 second.



1 A: Yeah, I think I caught a glimpse of him.

2 Q: Okay.

3 (Video Stopped)

4 Q: And what was his explanation for having got
5 into the office?

6 A: He said that he thought they snuck in.

7 Q: All right. Does that appear to be the case by
8 viewing this video?

9 A: It does not.

10 Q: All right. Also -- did he also claim that none
11 of the employees inside the room -- or none of
12 the individuals inside the room were employed
13 by the club; is that correct?

14 A: That's correct. It's my understanding that he
15 didn't know any of the people in there, other
16 than that they were frequent guests of the
17 establishment.

18 (Video Played)

19 (Video Stopped)

20 Q: Now, the flash drive you hear Mr. Taneyhill's
21 speaking about, that is the -- what flash
22 drive?

23 A: It was a small, like a ten gig USB flash drive
24 that Fabian left in the office for us. We had
25 plans to meet with him one day to pick it up.



1 We had been in contact with him over the phone.
2 He was unable to meet that day. I think his
3 grandfather or somebody passed away. But he
4 ended up stating that he left it in the office
5 for us to retrieve.

6 Q: All right. But in reality, what was on that
7 flash drive?

8 A: I took it to our computer crimes unit to look
9 at it. On the data it said it was about 45
10 seconds, but he played the video back for me
11 and it was only about a five-second video of
12 just that hallway and the office, no one walks
13 past. I mean, it's pretty much a useless
14 video.

15 Q: Okay.

16 (Video Played)

17 Q: And we hear that voice again. Who is that
18 again speaking?

19 A: Mr. Taneyhill.

20 (Video Stopped)

21 Q: All right. So does that accurately represent
22 the night of September where you offered -- or
23 where you came in with the search warrant?

24 A: It does.

25 Q: All right. And do you normally -- is it normal



1 practice for SLED to record such interactions
2 with the public on body camera footage?

3 A: Yes, sir.

4 Q: All right. And is it ordinary practice of SLED
5 to keep body camera footage of investigations?

6 A: It is.

7 **MR. MCCABE:** All right. Your Honor, at this time, I
8 would offer the body camera footage as
9 Respondent's Exhibit Number 7 into evidence.

10 **MR. ALPHIN:** No objection, Your Honor.

11 **MR. KENNEY:** No objection.

12 **THE COURT:** It's admitted.

13 (Respondent's Exhibit Number 7 was admitted into the
14 record.)

15 Q: Jordan, I have no further questions for you.
16 If you could answer the questions from either
17 of the other attorneys. Thank you.

18 **THE COURT:** And while Mr. McCabe was questioning the
19 witness, I heard another cell phone go off.
20 Everyone is ---

21 **MR. MCCABE:** Your Honor, that was ---

22 **THE COURT:** Oh, that was on there?

23 **MR. MCCABE:** That was on this -- yes, Your Honor.

24 **THE COURT:** Okay. Okay.

25 **MR. MCCABE:** I didn't want anybody -- that was on



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1 the footage itself.

2 **THE COURT:** Thank you for correcting me.

3 **MR. MCCABE:** Yes.

4 **MR. KENNEY:** May I, Your Honor?

5 **THE COURT:** Yes, you may.

6 **MR. KENNEY:** Thank you.

7 **AGENT JORDAN - CROSS-EXAMINATION BY MR. KENNEY:**

8 Q: Special Agent Jordan, Chris Kenney, we met this
9 morning. A little follow-up questions. First
10 of all, did Mr. Taneyhill attempt to persuade
11 you -- well, let me back up. You wrote him an
12 administrative ticket, correct?

13 A: I did.

14 Q: Okay. Did Mr. Taneyhill attempt to persuade
15 you not to do that?

16 A: No, sir. Because he wasn't there the night
17 that I wrote the violation.

18 Q: How about the -- on this video right here, did
19 y'all chat for a little longer?

20 A: After -- what we didn't see on the video was me
21 reading the search warrant to him and then
22 having him give me the flash drive.

23 Q: Did he attempt to persuade you that maybe you
24 should ticket Mr. Outing instead of him?

25 A: He did. I told him that Mr. Outing did receive



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1 a criminal citation that night, as well as an
2 administrative violation that was issued to the
3 bar.

4 Q: So in other words, you wrote them both up?

5 A: I did.

6 Q: Okay. Now, did you ever get the ages of the
7 two -- either the black female or the two white
8 males in the room?

9 A: We did. I believe they were all -- the other
10 three people were 21. I know two of them were
11 in possession of alcohol, so we did ID them.
12 Typically, I would keep a copy of that, but we
13 had a new agent with us, the other female that
14 was with us. And we used the age ID
15 verification, application on our phones.
16 Typically we would save that data, but since it
17 was a new app on her phone, she didn't have it
18 set up to save history, so we ended up not
19 having their IDs after the fact.

20 Q: I understand. I want to ask you a couple of
21 questions about Group Therapy and then Five
22 Points more broadly. Would you describe for
23 the Court, other than the parts of the bar that
24 we've seen you in on this video, you know, the
25 entry, the sort of bar alley as you walk in,



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1 and then the backroom area, did you visit any
2 other parts of Group Therapy that evening?

3 A: Not when we did the search warrant, but the
4 night that I issued the violation, I did a full
5 inspection of the location.

6 Q: Would you just tell the Court what you
7 observed, particularly with respect to the
8 density of the number of patrons that were in
9 the bar, and what people were doing?

10 A: I go in there every time we do Five Points
11 details. I'm over our Five Points details for
12 Five Points, so I'm always there. We go down
13 a couple of times a month. Almost every time
14 I've been inside Group Therapy, it's pretty
15 packed full of patrons to the point where we're
16 kind of having to elbow a little bit to walk
17 past people, up until you get into the -- if
18 you walk straight in, you'll see -- there's a
19 bar to your left, but there's also a bar
20 straight back. And then there's an eating area
21 to the left and there's typically not many
22 people over there. Everyone's kind of over
23 where the music is and the bar.

24 Q: Would you say most folks have drinks in their
25 hands?



1 A: Yes.

2 Q: Do you -- when you're in there, do you see
3 people who appear to have over consumed?

4 A: Yes.

5 Q: Do you see people who are either, you know,
6 sort of slouched over or, you know, visibly
7 inebriated?

8 A: Yes, sir.

9 Q: Do you do anything when you see that?

10 A: If they appear to be underage, you know, we'll
11 make an effort to ID them. A lot of nights
12 they've got a diverse crowd. I've noticed that
13 most of the underage crowd at Group will be
14 kind of earlier in the evening. And then it
15 gets a little bit older the more the night
16 progresses. But we have written a couple
17 underage individuals in there.

18 Q: Okay. And loud music?

19 A: Yes.

20 Q: Dark?

21 A: Not in the -- when you first walk in it's not.
22 The patio area tends to be darker where people
23 are dancing. They'll have a couple of light
24 going, but it's -- since it's outdoors, it's
25 typically pretty dark out there.



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1 Q: In the area where people dance or outside where
2 they're enjoying the music, is it the sort of
3 place where you could, let's say, have a quiet
4 conversation?

5 A: No, sir.

6 Q: Okay. Have you ever observed fights or civil
7 disturbances in Group Therapy?

8 A: Not while I was inside.

9 Q: Are you aware of them?

10 A: I have been told of some, yes.

11 Q: Okay. How ---

12 **MR. ALPHIN:** Objection, Your Honor. She can't
13 testify to what other people have told her
14 about.

15 **MR. KENNEY:** I'll move on, Your Honor.

16 **THE COURT:** Thank you.

17 Q: How about outside, what have you seen outside?

18 A: I've personally broken up a couple of fights.
19 Not directly in front of their door, but
20 within, you know, that area, that street
21 corner.

22 Q: You're talking about the corner of Harden and
23 Greene Street?

24 A: Yes, but on the other side. So I can't
25 attribute it to Group Therapy.



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1 Q: Okay. And that raises an interesting question.
2 Would you give the Court a sense -- you spend
3 a lot of time in Five Points.

4 A: I do.

5 Q: And would you describe the atmosphere in Five
6 Points on a Thursday, Friday, Saturday night
7 when the University of South Carolina and other
8 colleges in Columbia when they're in session,
9 what do you see down there?

10 A: It is packed with underage. Underage is a huge
11 problem down there. The main issue is that
12 most of them have fake IDs. The bars do check
13 IDs. You know, I'm down there, I witness, you
14 know, 99 percent of the bars are checking them.
15 But unfortunately, most of these kids nowadays
16 have a fake, so they're getting let in, you
17 know, regardless of them being underage or not.

18 Q: Now, Group Therapy, I think you've testified
19 earlier that they use the same app that SLED
20 uses to check IDs.

21 A: It is. They have a civilian version of it, so
22 it limits them a little bit. The law
23 enforcement version has access to almost
24 everybody -- like the South Carolina DMV, we
25 have access to all those data bases pulled from



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1 the country, we can access that from our phone.
2 So that way, if we get an out-of-state ID,
3 it'll still come up. Whereas there's a couple
4 that aren't a part of that civilian package.

5 Q: I got you. Aside from that issue, is their
6 capacity, in terms of scanning and ID and
7 identifying a fake, is it as good as SLED's
8 capacity?

9 A: Almost as good.

10 Q: Okay. Okay, that's helpful. Now, in terms of
11 the atmosphere in Five Points, same sorts of
12 questions, do you see people congregating and
13 loitering?

14 A: Yeah, the streets are jammed packed, especially
15 like a night after a home football game for
16 Carolina. A lot of the times, the sidewalks
17 are so congested, we end up having to walk in
18 the street just so we don't have to, you know,
19 go straight through the middle of a crowd.
20 I've seen, you know, people in the streets.
21 Sometimes at different various bars, lines flow
22 over and they can't even contain them all to
23 the sidewalk. I've seen intoxicated people
24 passed out on the street we've had to call EMS
25 for. I've seen people urinating on the sides



1 of buildings. You see a lot of stuff down
2 there when you work it that often.

3 Q: Fights?

4 A: Lots of fights. Typically, when the bars will
5 dump at about 1:45 to 2:00 a.m., all the bars
6 close down in Five Points, I've noticed that
7 the number of fights increases astronomically,
8 a bunch of intoxicated younger individuals
9 bumping into each other. They'll start
10 throwing fists for no reason.

11 Q: In terms of the lines that you referenced a
12 minute ago, have you seen a line outside of
13 Group Therapy of people waiting to get in?

14 A: I have.

15 Q: And, I mean, quantify the size of that line as
16 compared to the other bars.

17 A: Yeah. It varies from night-to-night, to be
18 honest with you. A home football night, you
19 know, sometimes it'll be around the corner.
20 The night that I wrote this violation, I
21 actually took a photo of it and all the other
22 bars, just because I was amazed. If you've
23 ever been to a St. Patrick's Day festival, the
24 sheer amount of people that are in one area.
25 It looked like they had taken all those people,



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1 got them out of the street and pushed them on
2 the sidewalk. The line was, you know, out the
3 door and around the corner. You could barely
4 even see the sidewalk on the ground.

5 Q: Is that safe?

6 A: No.

7 Q: Why not?

8 A: People need to be able to get by on the
9 sidewalk. If there's an emergency or
10 something, we need to be able to get through.
11 It typically gets very crowded. There are some
12 nights I've been down there where, you know,
13 it's cold or rainy and there's not really many
14 lines down there. It kind of varies from
15 night-to-night. Most nights all of Five Points
16 is pretty jammed packed with college kids.

17 Q: I got you. The better the weather, the bigger
18 the game ---

19 A: Exactly.

20 Q: --- the more people. Okay. Your team, are you
21 solely dedicated to Five Points or do you move
22 all over the state?

23 A: So we do all over the state. I, myself, am
24 assigned to Richland County for alcohol
25 enforcement. So I do stuff all over Richland



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1 County. Last year or at the start of 2019 they
2 put me over Five Points. The agent that
3 previously did it moved to a new unit. So I do
4 Richland County and then I focus a little bit
5 on Five Points. And I'll have agents from
6 around the state come down and assist me with
7 it.

8 Q: And how many people are from time to time
9 around your team to assist you?

10 A: A minimum of six, but most nights we'll have
11 probably eight to ten. I think the most we've
12 had down there was like 12 people in one night.

13 Q: And that's just SLED, right?

14 A: That's just SLED.

15 Q: So you also have the Columbia Police
16 Department. You've got the Richland County
17 Sheriff's Department?

18 A: Richland County is not down there. It's not
19 their jurisdiction, it's Columbia's.

20 Q: Okay.

21 A: University PD, they're down there a little bit.
22 And then on busier nights, Columbia was having
23 Triple P, Probation, Pardon, and Parole, come
24 down and assist as well.

25 Q: And wait a sec, tell me a little bit about



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1 that. I'm not -- what's that about?

2 A: I'm not 100 percent sure. This is not my realm
3 of expertise. But something to the effect of
4 people on probation, they were trying to see if
5 anyone was breaking their probation. I think
6 they're not allowed to be in a bar district,
7 something like that.

8 Q: Okay.

9 A: But then again, I don't enforce that, so I'm
10 not sure.

11 Q: I got you. In total on the average Thursday,
12 Friday, Saturday how many sworn law enforcement
13 officers are in Five Points while the
14 University of South Carolina and other schools
15 are in session?

16 A: During football season is probably when there's
17 the most of us. I think the City will have,
18 maybe 15 to 20 people on a very busy nights.
19 And then with us, I'd probably say there's
20 about 30 or 40 law enforcement officers down
21 there during the football season. Now, that's
22 it's a little bit colder, there's a lot less.
23 We'll have about six people from SLED and then
24 they could have maybe five City of Columbia
25 officers for the whole night.



1 Q: Uh-huh. And on a typical night, let's say a
2 larger crowd night, you know, summer or spring,
3 right, would you describe for the Court how you
4 are outfitted, in terms of your equipment and
5 how your colleagues are outfitted? We heard
6 some testimony from Mr. Taneyhill about long
7 guns. And we saw on the body cam, we see some
8 of your colleagues basically in flack jackets.
9 How do you typically get ready to go down
10 there?

11 A: That's a standard SLED body armor.

12 Q: Okay.

13 A: We're not like regular police where we walk a
14 beat every day and they have concealed body
15 armor under their uniform shirt. With SLED, we
16 don't have under body armor, it's all outer
17 carriers. That's why it looks like that. On
18 a typical night in Five Points, we're not
19 required to wear uniform. I'll wear jeans and
20 a t-shirt, but I have that vest on, so that I
21 can be identified as law enforcement, with my
22 issued handgun. Assault rifle, we would never
23 carry an assault rifle in Five Points. I can
24 only imagine what that would look like on the
25 news if we pulled up with long guns.



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1 Q: If Mr. Taneyhill saw that, it was not SLED?

2 A: No. I don't think I've ever seen anyone down
3 there with a long gun or I'd start asking
4 questions.

5 Q: Let me ask you this. Do you believe that,
6 particularly on the busy nights, do you believe
7 there's an adequate law enforcement presence
8 down there to keep the public safe?

9 A: I actually think we should have more people
10 down there. And I know manpower-wise it's
11 hard, especially with the City of Columbia.
12 The officers that they have down there aren't
13 assigned just to Five Points. They work all
14 the south region, which goes all the way down
15 Garner's Ferry to a point. So I know they're
16 stretched thin. And I know they're having some
17 hard time getting more people. I think
18 actually more officers would be better.

19 Q: And your mandate at SLED is not general police
20 activity, is it?

21 A: It's not. SLED is an assisting agency. We
22 come down on request of other agencies. The
23 reason we're in Five Points as much as we are
24 is because the City of Columbia requests us to
25 assist them.



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1 Q: Okay. Is there anything else you want to share
2 with the Court about the atmosphere in Five
3 Points or about Group Therapy in particular?

4 A: Just Five Points in general I think is a
5 problem, especially when it comes to underage
6 and over intoxication. By the end of the night
7 I see so many people staggering home, you know,
8 I'm afraid they're not going to get home okay,
9 you know. Every person I ticket, if I'm, you
10 know, letting them go and they appear to be
11 intoxicated at all, before I let them go, I
12 make sure they've got a safe way home. And I
13 think a lot of attention has recently been
14 called to Five Points because of issues like
15 that. But I would say the whole of Five
16 Points, you know, not just Group Therapy is a
17 problem, especially when it comes to underage.

18 Q: Do you have an opinion, based on what you're
19 seeing in Five Points about whether that has an
20 impact on the surrounding neighborhoods, Martin
21 Luther King on the east, Shandon on the south
22 ---

23 A: Yeah, I'm not as sure as much about those,
24 other than what I've read in the news. We
25 typically tend to stay in that couple-block



1 radius.

2 Q: I got you. Than you, Special Agent Jordan.
3 Appreciate it.

4 MR. ALPHIN: Your Honor, may I have two minutes to
5 consult with our client, prior to cross
6 examining this witness?

7 THE COURT: Yes.

8 MR. ALPHIN: Thank you, Your Honor. I'm going to
9 step out.

10 THE COURT: That's fine.

11 MR. ALPHIN: Thank you, Your Honor.

12 THE COURT: We're going to take a quick five while
13 Mr. Alphin is consulting with his client.

14 (Off the Record at 3:00 p.m.)

15 THE COURT: Thank you. Please sit. You can
16 proceed.

17 **AGENT JORDAN - CROSS-EXAMINATION BY MR. ALPHIN:**

18 Q: Good afternoon, Special Agent Jordan. How many
19 times have you been in Group Therapy?

20 A: Oh, gosh. Maybe 40 times. I'm not sure.

21 Q: And how many times are you aware of people that
22 work for you going into Group Therapy at SLED?

23 A: Probably anytime we do a detail. We split up
24 into two groups. One takes the 600 block, the
25 other takes the 700 block. I primarily work on



1 the 600 end, unless I switch over for some
2 reason. So I'm sure when I'm working the 600,
3 my other team is probably going in.

4 Q: As a supervisor over the Five Points area, you
5 would be aware of any violations that took at
6 Group Therapy though; is that fair to say?

7 A: Yes, sir.

8 Q: And to your knowledge, this is the only
9 violation that has occurred, correct?

10 A: That I have written, yes, sir.

11 Q: And that anyone in your team has written?

12 A: Well, I only started doing the Five Points
13 stuff myself within this past year.

14 Q: And how long is that?

15 A: What do you mean?

16 Q: How long have you been doing that?

17 A: In Five Points for a year.

18 Q: Except for the last year, this is the only
19 violation that you're aware of?

20 A: That I've written to Group. Yes, sir.

21 **MR. ALPHIN:** Okay. I'm going to show her the
22 statute.

23 **MR. KENNEY:** Yeah.

24 **MR. ALPHIN:** May I approach, Your Honor?

25 **THE COURT:** Yes.



1 Q: My understanding is you wrote a citation -- or
2 administrative violation for a violation of 61-
3 4-580(a) and then (5); is that correct?

4 A: I'm not sure if (5) is the right one. Yes,
5 sir.

6 Q: Okay. What evidence can you point the Court to
7 that an employee knowingly allowed Mr. Outing
8 to smoke marijuana in ---

9 A: The surveillance footage, which it shows a
10 member of Group Therapy letting him into the
11 office.

12 Q: And did they explain that to you in that he was
13 back there to get his book bag?

14 A: The night I did the surveillance footage, yes,
15 sir.

16 Q: Okay. Do you have any other reason to believe
17 during your investigation that he was back
18 there for any other reason that they knew
19 about?

20 A: That they knew about?

21 Q: Correct.

22 A: No, sir.

23 Q: So you have no reason to believe that they
24 knowingly allowed him to do this?

25 A: I suppose not.



1 Q: You testified about a number of incidences that
2 took place in Five Points for Mr. Kenney; is
3 that correct?

4 A: Yes, sir.

5 Q: Do you have evidence that would attribute any
6 of those actions to service at Group Therapy?

7 A: No, sir. I don't ask where they come from.

8 Q: Okay. And you said that sometimes there are
9 lines outside the facility; is that correct?

10 A: Yes, sir.

11 Q: Okay. Wouldn't that be because they're trying
12 to make sure that they don't exceed their
13 capacity?

14 A: Yes, sir.

15 Q: So they're trying to be safe and make sure they
16 have only the defined amount of people in
17 their facility that they're allowed to have?

18 A: Yes, sir.

19 MR. ALPHIN: Okay. No further questions, Your
20 Honor.

21 MR. MCCABE: Just briefly.

22 **AGENT JORDAN - REDIRECT EXAMINATION BY MR. MCCABE:**

23 Q: Special Agent Jordan, you said that when you
24 walked into the back area there was a strong
25 smell of marijuana; is that correct?



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1 A: That is.

2 Q: All right. Do you think it would have been
3 possible for anyone who walked in that back
4 area to not notice the smell of marijuana?

5 A: No. There's no way.

6 Q: All right. So the two individuals that are
7 shown on the body -- on the security footage
8 that walked past the room, walked into the
9 room, walked out of the room, and walked past
10 the room right before SLED walks in, is there
11 any way in your mind that they could have been
12 unaware that there was -- that someone was
13 smoking marijuana in that room?

14 **MR. ALPHIN:** Objection. Calls for speculation, Your
15 Honor. She has no way to know what they know
16 or not know.

17 **THE COURT:** Sustained.

18 **MR. MCCABE:** No further questions, Your Honor.

19 **THE COURT:** Mr. Kenney, did you have anything
20 further?

21 **AGENT JORDAN - RECROSS-EXAMINATION BY MR. KENNEY:**

22 Q: It was obvious to you somebody was smoking
23 marijuana back there?

24 A: Yes.

25 **MR. KENNEY:** Your Honor, those are all the questions



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1 I have. I do just want to correct the record,
2 because Special Agent Jordan mentioned her
3 experience is limited to one year. And I know
4 Mr. Alphin wasn't suggesting otherwise, but
5 there was another violation that they
6 identified in response to their discovery. It
7 was not Special Agent Jordan's violation. I
8 just wanted to make that clear for the record.

9 **THE COURT:** Okay. Thank you.

10 **MR. ALPHIN:** And I did not mean to suggest
11 otherwise. I was just asking about her
12 personally knowledge.

13 **MR. KENNEY:** I think he just misspoke.

14 **THE COURT:** Yes. Okay. Thank you. I don't have
15 any questions for you, Agent Jordan, but thank
16 you so much for coming.

17 **AGENT JORDAN:** Yes, ma'am. Thank you.

18 **MR. MCCABE:** Your Honor, with the Court's
19 permission, we'd ask to release Special Agent
20 Jordan.

21 **THE COURT:** Thank you for coming. If they are no
22 objections.

23 **MR. KENNEY:** No objection.

24 **MR. ALPHIN:** No objection, Your Honor.

25 **THE COURT:** No objections. Okay. Thank you for



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1 coming.

2 **MR. MCCABE:** Your Honor, that's all the witnesses
3 that the Department has.

4 **THE COURT:** And Mr. Kenney, you're going to pick up
5 your witnesses tomorrow morning.

6 **MR. KENNEY:** We would be delighted to 9:00 o'clock.

7 **THE COURT:** 9:00 o'clock.

8 **MR. KENNEY:** Yes, ma'am.

9 **THE COURT:** Very good.

10 **MR. ALPHIN:** Thank you, Your Honor.

11 **MR. KENNEY:** Thank you, Your Honor.

12 **MR. MCCABE:** Thank you, Your Honor.

13 **THE COURT:** Okay. We're going to adjourn for the
14 day.

15 (The Hearing was adjourned at 3:10 p.m. on Tuesday,
16 February 11th, 2020 and reconvened at 9:12 a.m. on
17 Wednesday, February 12th, 2020.)

18 **DAY TWO:**

19 **THE COURT:** Mr. Sellers, you made it back.

20 **MR. SELLERS:** Of course, Your Honor. Good morning.

21 **THE COURT:** Good morning. Okay. Are we ready. Mr.
22 Kenney, I think you're up.

23 **MR. KENNEY:** Yes, Your Honor. May it please the
24 Court. The Intervenors call Chief Skip
25 Holbrook.



1 **THE COURT:** Chief Holbrook, if you'll come to the
2 witness stand. And before taking your seat, if
3 you will face the court reporter, she'll swear
4 you.

5 **COURT REPORTER:** Please state and spell your first
6 and last name.

7 **CHIEF HOLBROOK:** William, W-I-L-L-I-A-M, Holbrook, H-
8 O-L-B-R-O-O-K.

9 **CHIEF WILLIAM HOLBROOK,** having been duly sworn,
10 testifies as follows:

11 **CHIEF HOLBROOK - DIRECT EXAMINATION BY MR. KENNY:**

12 Q: Morning, Chief.

13 A: Morning.

14 Q: Would you just restate your full name for the
15 record?

16 A: William Holbrook.

17 Q: And you're the Chief of the Columbia Police
18 Department?

19 A: Yes.

20 Q: Would you give the court a thumbnail sketch of
21 your professional background in policing and
22 your time with the Columbia Police?

23 A: I've been a police officer for 28 and a half
24 years, in April will be my sixth year in
25 Columbia. I've got a bachelor's degree in



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1 criminal justice, a MBA, and graduate of FBI
2 National Academy, and a number of other
3 executive leadership programs. The last 13 and
4 a half years has been at the executive level as
5 a Police Chief.

6 Q: How many sworn law enforcement officer's are
7 under your command?

8 A: We have an authorized strength of 435 sworn and
9 another 120 civilian.

10 Q: Okay. Chief, I want to turn your attention to
11 the reason we're here. Did you file a protest
12 with respect to Group Therapy's application for
13 a re-licensure for a beer and wine permit and
14 a liquor license?

15 A: Yes.

16 Q: Chief, let me show you this document.

17 **MR. KENNEY:** Ms. Smith? Thank you.

18 Q: Do you recognize this document, Chief?

19 A: Yes, sir.

20 Q: What is it?

21 A: It's the Notice of Application, Law Enforcement
22 Protest that we received from the State Law
23 Enforcement Division, Department of Revenue.

24 Q: Okay. And who's the signatory on this protest?

25 A: I am.



1 Q: Now, as I understand it -- just to sort of kind
2 of cut to the chase. As I understand it, State
3 Law Enforcement Division will reach out to
4 local law enforcement when they receive an
5 application for a -- license renewal or a
6 permit renewal; is that right?

7 A: Yes, sir.

8 Q: Does your department receive that information
9 from SLED?

10 A: Yes.

11 Q: What do you do when you receive that?

12 A: We proceed to conduct an analysis of the
13 establishment to see if it would warrant a
14 protest.

15 Q: Okay. And what specifically do you do with
16 respect to that analysis, what does it entail?

17 A: Essentially it reviews calls for service and
18 nature of calls at that establishment.

19 Q: Okay. Now, let's sort of break that down.
20 First of all, tell the Court what a call for
21 service is.

22 A: It would be when an officer is dispatched to a
23 specific location to address an issue.

24 Q: Could that be for instance, a 911 call?

25 A: It could be.



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1 Q: Could it also be an officer on the beat
2 requesting assistance?

3 A: Self initiated, yes.

4 Q: Could it be somebody calling the main hotline
5 at Columbia Police saying I saw something, come
6 check it out?

7 A: Yes.

8 Q: Any other way that y'all get a call for
9 service?

10 A: That would -- the citizen initiated and the
11 officer initiated would be the two types of
12 calls for service.

13 Q: Okay. And not every call for service leads to
14 an arrest?

15 A: Correct.

16 Q: Okay. What does the police department do with
17 respect to memorializing calls for service, if
18 anything?

19 A: Well, if a crime has been alleged, they would
20 document that through an incident report. If
21 it's a situation that would not merit an
22 incident report, it would be documented through
23 the CAD System, the dispatch -- Computer Aided
24 Dispatch system. There would just be some
25 electronic record of the officer's presence at



1 that call and maybe some notes as to the nature
2 of the call.

3 Q: Okay. And then when an arrest is made, how is
4 that memorialized, if at all?

5 A: In an arrest report or an arrest citation.

6 Q: Does that go into a system?

7 A: It does.

8 Q: Okay. And what is that system?

9 A: It's our Report Management System.

10 Q: Okay. Now, let's turn back to your protest
11 here. The police department is asking the
12 Court to deny the application for the license
13 and permit, correct?

14 A: Yes, sir.

15 Q: Why?

16 A: Based on the amount of calls for service and
17 the nature of the calls for service.

18 Q: Let me direct your attention to page 62 of your
19 protest.

20 **MR. KENNEY:** And, Your Honor, this has been -- this
21 document's been filed with the Court. The
22 Department of Revenue filed it and furnished it
23 to the parties.

24 Q: I'm -- Chief, I'm going to use the Bates
25 numbers at the bottom right-hand corner. If



1 you go to Page 62. What ---

2 **MR. SELLERS:** Your Honor, objection.

3 **THE COURT:** Yes?

4 **MR. SELLERS:** Your Honor, he's going through and
5 about to go through calls for service and
6 incident reports that are attached to this,
7 Your Honor. I believe Your Honor is aware of
8 this, like everyone else, that these are
9 inadmissable, they're out-of-court statements
10 offered for the truth of the matter asserted.
11 There is no way that the Chief can talk about
12 these incidents, calls for service or these
13 incident reports. Not only are the reports
14 themselves inadmissable, which I believe Mr.
15 Kenney himself is aware of, but unless he was
16 the one who took the call or he was the officer
17 who dealt with it, then there is no way that he
18 can actually verify that or talk to those
19 matters, Your Honor. It's clearly hearsay and
20 incident reports are clearly hearsay. The
21 State Court has already been after that, the
22 state law had already been established on that
23 numerous times, Your Honor.

24 **MR. KENNEY:** Your Honor, could I ask the Chief two
25 questions and then respond to Mr. Sellers'



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1 objection?

2 **THE COURT:** Yes.

3 Q: Chief, these incident reports, these people are
4 all presumed innocent until proven guilty,
5 correct?

6 A: Correct.

7 Q: Now, is the incident reports attached to your
8 protest, are those the documents that your
9 department uses to track the activity of your
10 police force in Columbia?

11 A: Yes.

12 **MR. KENNEY:** Your Honor, we're not offering these
13 records to establish that any one of these
14 individuals is guilty of the allegations. We
15 are offering these to demonstrate that this is
16 the activity of the Columbia Police Department,
17 which goes directly to the suitability issue in
18 terms of the burden placed on local law
19 enforcement. These reports is what the police
20 department uses to determine what is going on
21 and to track the incidents and the locations in
22 the City where they deploy the police force.
23 It's a business record for the Department ---

24 **MR. SELLERS:** It's ---

25 **MR. KENNEY:** --- and it is not being offered for the



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1 truth of the allegations in the incident
2 report. Those individuals will have their day
3 in court. It's being offered so that Chief
4 Holbrook can explain to the Court how many
5 calls for service, how many arrests, how many
6 officers, and why they've been called out to
7 Group Therapy a certain number of times within
8 a given period. And so it goes to the burden
9 on the police force, not the guilt or innocence
10 of any one individual in one of these police
11 reports.

12 **MR. SELLERS:** Your Honor, this has already been
13 established and Mr. Kinney knows he's trying
14 to do an end-around with police reports and the
15 such. This is not following the business
16 records exemption. That's already clearly
17 established. If, Your Honor, would like to ask
18 the Chief of Police how many of these calls he
19 took and how many of the incident reports he
20 actually took and he actually can verify that
21 he took one call or that he actually wrote one
22 incident report, then he can speak to that.
23 But, Your Honor, this plainly hearsay. He was
24 not there for any of these reports. He was not
25 there for any of these calls. How can he



1 testify to a record that's an out-of-court
2 statement that he has no knowledge of because
3 he simply was not there. He can not verify
4 that or do -- that is the definition of
5 hearsay, Your Honor.

6 **THE COURT:** No, go ahead.

7 **MR. KENNEY:** Just two points about that, Your Honor.

8 First of all, you -- the same issue was raised
9 in the Cover 3 Case that we tried before Your
10 Honor and you ruled that it was admissible for
11 the purpose of establishing the police activity
12 not for the truth of the matter, it was -- it
13 went to the conduct of the police department.
14 Second of all, what Mr. Sellers is suggesting
15 we do is that we bring the ---

16 **MR. SELLERS:** Correct.

17 **MR. KENNEY:** --- 30 or 40 police officers with the
18 Columbia Police Department, we bring them into
19 this courtroom and put them up on the stand one
20 by one so that they can tell you about every
21 incident that they've encountered here in Five
22 Points. That is not what the law requires,
23 it's not what the Rules of Evidence require,
24 and it's not what is typically done in these
25 ABL Protest case. Typically a representative



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1 of the police department testifies as to the
2 burden placed on their department. The Chief
3 is the person who can do that better than any
4 other witness with the Columbia Police. So we
5 think we've laid a sufficient foundation, it is
6 a business record, it is not being offered for
7 the truth of the matter asserted, it's being
8 offered so that the Chief can explain to the
9 Court how his department operates and the
10 burden placed on them.

11 **MR. SELLERS:** Your Honor, if I may, just ---

12 **THE COURT:** Uh-huh.

13 **MR. SELLERS:** --- one last argument. I mean, we
14 will clearly stipulate that there's ample
15 evidence that the Five Points area generally
16 presents law enforcement challenges and are
17 requires significant law enforcement attention
18 and resources. We'll stipulate to that. We
19 have no problem stipulating to that, if that is
20 what this purpose is for. But to allow the
21 Chief -- we'll stipulate that it requires ample
22 resources ---

23 **MR. KENNEY:** And Group Therapy?

24 **MR. SELLERS:** I said the Five Points area. We will
25 stipulate to that. But to allow evidence in,



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1 Your Honor," and to allow him to talk about
2 evidence that he clearly was not a part of
3 taking, he clearly didn't take any of these
4 calls, he clearly didn't write any of these
5 reports, is the definition of hearsay.

6 **THE COURT:** But what he's asking him to testify
7 about is the number of reports that --
8 incidents that have been filed with his agency
9 and the number of times his officers have been
10 dispatched there. I'm going to allow those
11 reports to come in for the limited purpose --
12 not to prove the truth of anything that's being
13 asserted within those reports. But ---

14 **MR. SELLERS:** And so, Your Honor, just to clarify.
15 So he can testify, but not to -- to the
16 voluminous number or whatever, but he can't
17 testify to what's in the reports? Because, I
18 mean, what he -- what they're trying to -- what
19 the Intervenors are trying to end-round, which
20 is why there is this hearsay rule, is they want
21 the Chief to testify to what's in the report.
22 They want him to testify that they were called
23 to 1017 Greene Street or Group Therapy. It's
24 highly impossible for him to be able to testify
25 to that because he did not show up for one of



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1 these calls, if he did, if there's one report
2 that he can testify to, so be it, let him do
3 that, but that's -- he -- he can't testify to
4 what's in the report. That is hearsay.

5 **THE COURT:** All right. Exactly what are your
6 questions, the questions that you're going to
7 be posing ...

8 **MR. KENNEY:** Yes, Your Honor. And with a couple
9 additional questions, I think we could
10 establish that these reports result in codes,
11 they go into this system, they analyze this
12 data. He uses the data to deploy the force, he
13 uses the data to adjust the force and respond
14 to needs there. And I think the nature of the
15 calls, the nature of the calls, fights,
16 underage drinking, disorderly conduct, those
17 types of things is what the Chief and the
18 Department use to figure out how many officers
19 are needed and the types of problems they have
20 down there. That data is pulled from these
21 reports and is in the Department's electronic
22 system. That is what a command officer looks
23 at to determine how to deploy the force.

24 **MR. SELLERS:** And that's the truth of the matter
25 asserted, Your Honor. They are -- he's



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1 literally trying to offer this evidence. It's
2 an out-of-court statement. And he just said he
3 wasn't, but then he testified that they're
4 going to ask him what was in the record;
5 fights, underage drinking, where it was, et
6 cetera. And, Your Honor, the reason we have a
7 hearsay rule is because we have to have someone
8 who can actually testify as to them taking that
9 record. With all due respect to the Chief,
10 who's an awesome Chief, we're lucky to have him
11 in Columbia, he wasn't there for any of this,
12 he didn't take any of these records, so how is
13 he going to testify as to the truth of the
14 matter asserted on these out of court
15 documents? He cannot. He was not a part of
16 taking any of them. That's why it's hearsay.
17 And he said he wasn't offering for truth of the
18 matter asserted and then he went and told you
19 he's offering it for the truth of the matter,
20 what type of incident and where it was.

21 **THE COURT:** Okay. Mr. Sellers, you're objection is
22 noted, but I'm going to allow him ---

23 **MR. SELLERS:** Thank you, Your Honor.

24 **THE COURT:** --- to resume his questioning and ---

25 **MR. KENNEY:** Thank you, Your Honor.



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1 Q: Chief, let's just back up and make sure that
2 we're clear on what happens here. An officer
3 gets deployed and an incident report can be
4 generated, correct?

5 A: Dispatched and then an incident report. Yes,
6 sir.

7 Q: Yes, sir. Thank you. And then those -- the
8 data from that report goes where?

9 A: To our Report Management System, our records
10 department.

11 Q: Do you use that information in any capacity?

12 A: We do.

13 Q: How?

14 A: We analyze the nature of the calls for service,
15 the severity, just the activity that would go
16 on at that specific location or locations in
17 general. And we would make decisions on how we
18 may address or mitigate a problem that's going
19 on there or proactively deploy resources to
20 prevent, you know, further disorder.

21 Q: Let's take a very specific example. On a
22 Thursday, Friday, or Saturday night when the
23 University of South Carolina is in session, on
24 average how many police officers does the
25 Columbia Police Department have in the area



1 known as Five Points?

2 A: It -- so it's not a short-and-easy answer. So
3 a lot depends on exactly what's going on at
4 those particular times, ball games,
5 entertainment events, campus events. It's very
6 unpredictable. We do know with certainty that
7 Thursday, you know, through Sunday morning,
8 that that is when we see the bulk of activity
9 in Five Points. So we would deploy with as
10 little as 12 to 15 with as -- and up to in
11 excess of 40 officers. And also we would
12 engage with -- and leverage our other partners
13 we have in law enforcement in the Midlands to
14 help augment some of our services in that area.

15 Q: Those other partners could include SLED?

16 A: Yes.

17 Q: The University of South Carolina Police
18 Department?

19 A: Yes.

20 Q: How about -- we heard yesterday Probation,
21 Pardon and Parole?

22 A: Correct.

23 Q: Tell the Court, what is Probation, Pardon and
24 Parole doing in Five Points?

25 A: Well, we -- you know, through our investigators



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1 and officers, they have, you know, realtime
2 intelligence or knowledge of prolific
3 offenders, people that we know are ones that
4 have previously committed, you know, violent
5 crimes or property crimes, so these are folks
6 that are known to our officers. Many of them
7 are on probation or parole, so we engage the
8 services of Triple P to assist us with
9 identifying further and in taking some type of
10 action if it's warranted.

11 Q: Okay. And let's turn back just to the Columbia
12 Police Department for a second. At the same
13 time you have that level of force in Five
14 Points those Thursday, Friday, Saturday nights,
15 what is the range of officers you might have in
16 the area of Columbia known as the Vista?

17 A: It would be a -- it would be a less number.

18 Q: Give approximately how many, between what?

19 A: Two to four.

20 Q: Okay. Now, describe for the Court -- how would
21 you describe the Vista in Columbia?

22 A: It's a mixture of restaurants and bars, mainly
23 restaurants. It tends to cater to an older,
24 mature crowd.

25 Q: A lot of liquor licenses?



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1 A: Yes.

2 Q: A lot of beer and wine permits?

3 A: Yes.

4 Q: So, there's plenty of alcohol in the Vista.
5 How far is the Vista from Five Points?

6 A: Just a couple of miles.

7 Q: And in terms of allocating the resources, as
8 you've just described, are you the guy who
9 makes that decision?

10 A: Yes, and consultation with Region Commanders.

11 Q: Okay. And you're doing that based on what?

12 A: Well, we look at historically what has occurred
13 in certain geographic areas, when it occurs,
14 the frequency, and what also occurs in other
15 places in the City, and we make very tough
16 deployment decisions based on that information.

17 Q: Okay. Are you using the data that we were
18 discussing a couple of minutes ago to help you
19 make those judgements?

20 A: Yes.

21 Q: All right. Now, let's turn back to Group
22 Therapy. The Columbia Police Department has
23 protested this establishment from getting a re-
24 license and permit. Tell the Court why.
25 Specifically, what did your investigation find



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1 that caused you to file this permit -- or this
2 objection.

3 A: What we consider to be a high volume of calls
4 for service.

5 Q: All right. Let me direct you to page 62 and
6 see if we can't put some specifics behind this.
7 So, Chief, do you see where it says have the
8 police been summoned to this location on prior
9 occasions?

10 A: Yes.

11 Q: What did the Columbia Police Department find
12 with respect to Group Therapy?

13 A: We responded to the location 43 times in 12
14 months and 38 of those were directly associated
15 with the business.

16 Q: What does that mean, directly associated with
17 the business?

18 A: Part of the analysis that is done by the Region
19 Commander, which is the South Region Commander,
20 when we review calls for service as a -- with
21 respect to the license application review, is
22 oftentimes a call for service could be specific
23 to the address, but, as an example in this
24 situation, you could also find a call for
25 service as a general block number, like the



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1 2100 block. So we take great strides to be
2 fair and objective so the Commander and his
3 team will review the narratives of the
4 incidents to determine if there is a true nexus
5 to the bar.

6 Q: All right. So, you're looking for incidents
7 that flow from a specific address?

8 A: Yes.

9 Q: All right. So is -- in terms of the number of
10 incidents that you've identified in the protest
11 and just described, is that high relative to
12 other establishments?

13 **MR. SELLERS:** Your Honor, objection. I'm just going
14 put it on the record, because I believe ruled
15 on something quite similar, because this case
16 may wind it's way through our court system for
17 a period of time. This documents actually
18 drafted by the reviewer, was Captain J.P.
19 Williams, he's the person who actually did
20 this. And in order for someone to testify --
21 I would make another hearsay argument, in order
22 for somebody to testify about it, you know,
23 they would have to be the person who actually
24 drafted it or reviewed it. I know you've
25 already ruled on a similar matter, but I do



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1 have to preserve the record for my client. It
2 would actually be appropriate under the law
3 that, if he wanted somebody to talk about this
4 document, he would actually have the person who
5 did the document, Your Honor. So we would
6 raise an objection on hearsay.

7 **MR. KENNEY:** Basically the same response, which is
8 the Police Chief is the individual who
9 supervises the team, understands the data, can
10 describe the process by which the data is
11 generated, and makes the decisions about force
12 deployment, including this protest and why he's
13 protesting here. So I think he's more than --
14 there's more than sufficient foundation. And
15 this is -- again, this is not -- we're not
16 saying that these incidents, that anybody is
17 guilty of any crime. What we're saying is,
18 this is how the Department evaluates what is
19 going on in the City of Columbia and how they
20 deploy their force.

21 **THE COURT:** Yeah. If you're talking in
22 generalities, yes. But what I'm hearing Chief
23 Holbrook talk about is specific to this
24 location.

25 **MR. KENNEY:** Yes, ma'am.



1 **THE COURT:** And if we're getting into those
2 analyses, shouldn't the Regional Commander be
3 the one that -- he's the one that actually ---

4 **MR. KENNEY:** No, Your Honor. He -- we do not have
5 to have the Regional Commander here, because
6 what -- the issue for the Court is the burden
7 placed on the Columbia Police Department. And
8 what the Chief has explained is that they look
9 at where is call for service coming from. And
10 part of that analysis is what is the specific
11 location. That is -- again, that's part of the
12 data in the incident reports, it's part of the
13 data that goes into the RMS system, and it's
14 the data that goes to the Chief, so he can make
15 a command decision.

16 **MR. SELLERS:** And, Your Honor, Mr. Kinney keeps
17 saying that we're not offering it to say that
18 anybody in the document is guilty, but they
19 are. They're offering it to say that these
20 incidents actually happened and they are
21 guilty. And the only person he's saying is
22 guilty is Group Therapy. So he is. Although
23 it's not the individual, he is the
24 establishment. And it's an end-run. If they
25 want -- I mean, I understand that they don't



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1 want to bring all 30 officers down here, which
2 I believe to appropriate to talk about those
3 incidents. But to have the Chief of Police,
4 who didn't even write a document, talk about a
5 document, again, Your Honor is the definition
6 of hearsay. And I wanted to make sure the
7 record was extremely clear, especially if
8 you're going to talk about the particular
9 incidents. And generalities, so be it.

10 **MR. KENNEY:** Your Honor, I don't believe Mr. Sellers
11 has accurately characterized our position. The
12 question here -- again, the question for the
13 Court under suitability, is burden on local law
14 enforcement. And this is the best witness who
15 can testify about that and how they make those
16 decisions based on the data that his team
17 collects and provides through the Department's
18 system that he uses. I don't know how else to
19 ---

20 **THE COURT:** Now, if he wants to talk about the
21 process of how they look at the number of calls
22 and talk about process, I'm okay with that. He
23 can talk about process. But I'm with Mr.
24 Sellers, if we're going to get into specific of
25 any one incident and that kind of stuff. But



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1 if we want to just talk about how they collect
2 data, how they analyze that data, and what --
3 we can ---

4 **MR. KENNEY:** Not a problem, Your Honor. Just so I'm
5 clear on the parameters of what you're saying,
6 if we have some -- and I intend to show the
7 Chief and introduce into evidence some summary
8 level reports that are generated using this
9 process we've talked about, I intend to offer
10 those into evidence in a couple of minutes.
11 They're very similar to the reports you
12 admitted in the Group Therapy case -- or excuse
13 me, the Cover 3 case. That's where we're
14 headed, the summary level reports that Command
15 would use to make decisions like should we
16 protest, where do we deploy, what is the
17 burden. That's where we're headed with the
18 Chief here.

19 **THE COURT:** Okay. Okay.

20 **MR. KENNEY:** Yes, ma'am. Thank you.

21 **THE COURT:** Any objection is noted, Mr. Sellers.

22 **MR. SELLERS:** Your Honor, for the purpose of the
23 record, do I have to restate the objection each
24 time he does what I believe to be violative of
25 the Rules of Evidence or can my objection just



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1 kind of ...

2 **MR. KENNEY:** Your Honor, we would stipulate to a
3 continuing objection from Mr. Sellers as to all
4 matters hearsay, as to all witnesses. If he
5 wants to file something after this hearing
6 concludes, that's fine as well. But we do not
7 need to unnecessarily prolong ---

8 **THE COURT:** Right. Yeah.

9 **MR. KENNEY:** Yes, ma'am. Thank you.

10 Q: All right, Chief. So with respect to the data
11 that you looked at prior to protesting Group
12 Therapy, just briefly restate the conclusions
13 the Department came to.

14 A: It was high call volume and generally related
15 to alcohol-related offenses.

16 Q: All right. Now, is that specific to this
17 location based on the data?

18 A: Yes.

19 Q: All right. Now, are there other concerns the
20 Department has with respect to the protest of
21 Group Therapy? Let me give you an example.
22 Describe for the Court what's going on in Five
23 Points.

24 A: We have a -- at least four nights a week we
25 have a large group of young adults,



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1 predominantly underage young adults that are
2 consuming alcohol in large quantities,
3 oftentimes being over served. Creates a very
4 vulnerable population that requires
5 extraordinary police presence to protect that
6 vulnerable population. It also attracts
7 individuals that have nefarious intent to
8 victimize this vulnerable population:

9 Q: What about the population makes it vulnerable?

10 A: Again, it's young adults, primarily students
11 that are highly intoxicated, oftentimes over
12 served. And then they traverse, you know,
13 throughout the entertainment district and then
14 ultimately back to either their respective
15 campuses or to where they would reside off
16 campus nearby Five Points.

17 Q: And what sort of -- when you consider that
18 vulnerable population and the more predatory
19 element, what specifically are the concerns
20 with -- in terms of the opportunity that that
21 vulnerable population presents?

22 A: Well, certainly if you're -- if you don't have
23 all your facilities, you're not as aware of
24 your surroundings. We see -- have seen
25 examples of robberies that occur when folks are



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1 walking, you know, to and from the
2 entertainment district, vehicles that'll be
3 left unsecured, property would be left in the
4 vehicles. We'll see aggravated assaults,
5 simple assaults, you know, arguments that will
6 quickly escalate because of alcohol
7 consumption. Just general disorder.

8 Q: How about fights?

9 A: Sure.

10 Q: Gunfire?

11 A: Unfortunately occasionally we've had that.

12 Q: And give us an example of -- I mean, as I
13 understand, we've had some gunfire in Five
14 Points where innocent bystanders were struck.

15 **MR. SELLERS:** Objection, Your Honor. I mean, if
16 we're going to indict Five Points, so be it.
17 This hearing is about Group Therapy. If the
18 Chief doesn't like Five Points, okay. But
19 let's -- I mean, this hearing is about Group
20 Therapy. If we're going to talk about gunfire
21 -- if he wants to talk about gunfire associated
22 with Group Therapy in Group Therapy, that's
23 fine. But we're not going to talk about -- we
24 can't talk about random people shot on the
25 street.



1 **MR. KENNEY:** Your Honor, I'm just trying to
2 establish the types of incidents that they're
3 dealing with in Five Points. You know, he's
4 already testified about a number of other types
5 of incidents; fights, disorderly conduct,
6 gunfire.

7 **MR. SELLERS:** It's way more prejudicial than it is
8 probative, Your Honor. That's the definition
9 of prejudicial.

10 **THE COURT:** I agree.

11 **MR. SELLERS:** Yes, Your Honor. Thank you.

12 **Q:** Chief, let me turn your attention to page 64 of
13 the document you have in front of you. What
14 does this document represent? Can you just
15 walk the Court through what this represents,
16 what these numbers indicate?

17 **A:** Again, it lists the total number of calls for
18 service. And as I explained the vetting
19 process where the review of the calls for
20 service and the -- to create a nexus to the
21 establishment. And then the total number of
22 reports that were generated that specifically
23 is listed as SLED violation, SLED being one of
24 the law enforcement partners that works with us
25 on a fairly regular basis in Five Points. And



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1 it classifies -- again, some violations that
2 are attached to the Department of Revenue and
3 breaks down the calls for service to some
4 degree. It indicates six building alarms,
5 eleven fighting and civil disturbances, two
6 loud noises, nine fake identifications, five
7 possession of alcohol under 21, one extended-
8 hour permit violation, and one SLED/DOR
9 violation.

10 Q: Extended hour, that's what you call EHOP?

11 A: Yes, late night permit.

12 Q: Yes, sir. Thank you. And then if you'd turn
13 to the next page. We don't have to spend a lot
14 of time with it. Page 65 of the document.
15 What does this data represent?

16 A: The calls for service, CAD sheet.

17 Q: What is a CAD sheet?

18 A: It just -- when we would ask for a list of
19 calls for service and report numbers that had
20 been generated to a specific address, this is
21 what we would get.

22 Q: Very good. And does this data comport with the
23 summary page that we just reviewed?

24 A: Yes, sir.

25 Q: Okay. Very good. Now, Chief, we -- you



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1 received a subpoena, I believe, from our office
2 with respect to this case. Is that right?

3 A: Yes.

4 Q: And did you respond to that subpoena?

5 A: We did.

6 Q: Show you a document. Chief, do you recognize
7 this document, the one I handed you?

8 A: Yes.

9 Q: What is it?

10 A: It's a spreadsheet of the total number of
11 arrest charges for a five-year period.

12 Q: And how was this document generated?

13 A: Through our records division.

14 Q: What is the -- is that the records -- tell me
15 what the system is that generates -- that
16 allows you to generate this document.

17 A: Our Records Management System, we refer to the
18 RMS system.

19 Q: That's what you talked about before?

20 A: Yes, sir.

21 Q: So, in other words, you did a data poll in
22 order to pull in data that generated this
23 report?

24 A: Correct.

25 Q: Okay. And is this -- all of the data in it



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1 kept in the ordinary course of the Department's
2 work?

3 A: Yes.

4 **MR. KENNEY:** Your Honor, I'd like to have this
5 marked as Intervenor's Number 2 (sic) and
6 admitted into evidence.

7 **MR. MCCABE:** No objections from the Department, Your
8 Honor.

9 **MR. SELLERS:** No objection, Your Honor.

10 **THE COURT:** Okay. It's admitted.

11 **COURT REPORTER:** And, Mr. Kenney, it'll be
12 Intervenor's Number 3.

13 **MR. KENNEY:** Thank you so much.

14 **(Intervenor's Exhibit Number 3 was marked and**
15 **admitted into the record.)**

16 Q: Okay. Chief, so let's just -- let's walk
17 through this quickly. The first page of this
18 document, Intervenor's Number 3, what does this
19 tell us? What is -- what are we looking at,
20 what is the data?

21 A: It's breaking down crime categories for three
22 locations for a five-year period; the 800 block
23 of Harden, 2100 block of Greene Street, and
24 2107 Greene Street.

25 Q: All right. Now, 2107 Greene Street, what --



1 that location is Group Therapy?

2 A: Correct.

3 Q: Okay. And this is -- this is document, this
4 begins in 2014. And to just sort of cut to the
5 bottom line here, what this shows us is three
6 charges at that location in 2014; is that
7 right?

8 A: That's correct.

9 Q: Okay. Now, explain to the Court, maybe you
10 have, but charges means an arrest was actually
11 made?

12 A: That's correct.

13 Q: So we had a call for service and we had an
14 arrest?

15 A: Yes.

16 Q: Okay. Let's go -- let's move ahead to 2015.
17 Same question, how many charges did we have in
18 2015 at Group Therapy at that location?

19 A: Four.

20 Q: Let's roll to 2016, same question. How many
21 charges tied to Group Therapy in 2016?

22 A: Zero.

23 Q: All right. Let's do the same thing for 2017.
24 How many charges could you -- the Department
25 tie specifically to that address?



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- 1 A: One.
- 2 Q: All right. Now, tell me about 2018.
- 3 A: Sixteen.
- 4 Q: And what are the nature of those charges as
- 5 indicated by your report?
- 6 A: Disorderly conduct, failure to pay bill,
- 7 failure to stop on a police command, drug
- 8 possession, pedestrian in the roadway,
- 9 consumption under 21, liquor under 21.
- 10 Q: There are three of those underage consumption
- 11 charges for this location, correct?
- 12 A: Yes.
- 13 Q: Now, when you look at 16 incidents tied to
- 14 Group Therapy, there are 16 incidents for the
- 15 2100 block of Greene Street, correct?
- 16 A: Correct.
- 17 Q: Is that -- am I correct to assume that all the
- 18 incidents that happened in that year on the 21
- 19 block of -- 2100 block of Greene Street were
- 20 the same 16 incidents at Group Therapy?
- 21 A: No.
- 22 Q: Explain that to me now.
- 23 A: What's listed for Group Therapy specifically
- 24 was a call for service for 2107. The 2100
- 25 block would be an issue that occurred outside



1 of the establishment where there was -- could
2 have not been a clear nexus to the
3 establishment itself.

4 Q: So, in other words, the 2100 block data is
5 separate and in addition to the Group Therapy
6 data?

7 A: Correct.

8 Q: Okay. Same thing for the Harden Street data?

9 A: Yes.

10 Q: I understand. Now, Chief, I noticed there are
11 a whole bunch more charges tied to Group
12 Therapy in 2018 than if we looked back at 2016
13 or 2017. Do you have an understanding of why
14 that is the case?

15 **MR. SELLERS:** Objection, Your Honor. I'm not even
16 sure how he could testify to that, Your Honor.
17 If he wants to testify as to the arrests, Your
18 Honor, that -- or charges, so be it. But now
19 he's asking him to opine as to why these may
20 have taken place. I'm not sure how he could
21 even give that, Your Honor.

22 **MR. KENNEY:** I'll withdraw the question. I'll move
23 on.

24 **THE COURT:** Okay. Thank you.

25 Q: Chief, let's go to 2019, the next page. How



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1 many incidents in 2019 did your Department
2 directly tie to Group Therapy?

3 A: Eighteen.

4 Q: And how 'bout the 2100 block of Greene Street
5 for the same year?

6 A: Twenty five.

7 Q: And those are separate and in addition to the
8 Group Therapy incidents?

9 A: Correct.

10 Q: All right. And just to hit the high points
11 here, we've got, it looks like, four alcohol
12 possession under the age of 21 there?

13 A: Yes.

14 Q: And looks like there's possession of cocaine at
15 that location?

16 A: Possession of alcohol under 21, possession of
17 beer under 21, resisting arrest, altered or
18 fake IDs seven. I did not see a possession of
19 cocaine.

20 Q: Oh, I'm sorry.

21 A: That was the previous year.

22 Q: You see my finger on the screen there, Chief?

23 A: Yes, I do.

24 Q: Maybe there's one?

25 A: One incident, yes.



1 Q: Okay. And this has been admitted into
2 evidence, the data speaks for itself, but these
3 are the incidents at that location based on
4 your data pull in response to our subpoena?

5 A: Yes, sir.

6 Q: Okay. Let me show you something else that
7 y'all provided. Chief, you recognize this?

8 A: Yes.

9 Q: What is it?

10 A: This is another data table that we use to
11 analyze crime patterns and occurrences
12 throughout the city.

13 Q: How is it generated?

14 A: It's generated through our crimes analyst
15 group.

16 Q: And it was generated in response to our
17 subpoena?

18 A: Yes.

19 Q: Based on data you keep in the ordinary course
20 of business?

21 A: Yes.

22 **MR. KENNEY:** Your Honor, I'd like to have this
23 marked and introduced as Intervenor's Exhibit
24 Number 4.

25 **MR. SELLERS:** Objection, Your Honor. I mean, here



1 we are again. He -- the Chief can't even
2 testify as to one arrest that he took part in.
3 The other thing that's amazing about all of
4 these is, what if I told you that all of these
5 were found not guilty? We don't even know the
6 answer to that. So he's offering something
7 that would be an abundance of evidence that
8 would prejudice my client that will be on the
9 record. He's testifying as to cocaine use. He
10 could've been found not guilty because it was
11 baking soda. We don't even know the answer to
12 that, but yet he's -- we can't allow this to go
13 into the record because it proves to be more
14 prejudicial than probative. He's just trying
15 to load the record up with stuff he knows can
16 -- we can't even test the veracity of it. He
17 can't ask -- he cannot ask the Chief of Police
18 about one of these convictions. The Chief of
19 Police would not know about any of these
20 convictions, Your Honor. So to add these to
21 the record as if this is an incident that
22 actually occurred, Your Honor, it's irrelevant,
23 it's irrelevant and I would object on the
24 ground of relevant because of the fact that
25 it's by far more prejudicial than probative,



1 Your Honor. And the Chief can't testify to any
2 of the veracity of this.

3 **THE COURT:** Okay.

4 **MR. KENNEY:** Your Honor, this is the -- basically
5 the same objection and I thought he just had a
6 continuing objection. We're going to, you
7 know, let it move on. But, again, this
8 establishes the use of force and resources by
9 the Columbia Police Department in this
10 location. We are not saying any of these
11 individuals are guilty. What we are saying is
12 that their records show the police officers
13 responded based on calls for service at these
14 -- in these years for these purposes. That's
15 what we're trying to establish.

16 **THE COURT:** Okay.

17 **MR. SELLERS:** Your Honor, he already did it with
18 this document. I don't understand the
19 necessity of another one, Your Honor.

20 **MR. KENNEY:** This is a higher level view. And we
21 only need a minute with it. But it's a higher
22 level view. It's the 2100 block of Greene
23 Street. I'm going to show him one for the
24 block of Harden Street and then Five Points
25 more generally. So we're building out, Your



1 Honor. Group Therapy, Five -- the block
2 generally, and then Five Points at large. And
3 by the way, all of this goes to the
4 suitability. The question is, is the location
5 suitable and was -- what is its impact on all
6 the adjacent neighboring properties in the
7 business district? That's what we're here to
8 litigate. So it's absolutely relevant, it's
9 admissible for the reasons we've already
10 discussed.

11 **THE COURT:** Can I take a look at the document?

12 **MR. KENNEY:** Yes, Your Honor.

13 **THE COURT:** Thank you. Now, this is for the 2100
14 block in general not specific to this business?

15 **MR. KENNEY:** That's correct, Your Honor. And again,
16 under the suitability analysis, the question
17 is, is that location suitable -- mind you,
18 there's a bunch of cases, ABL cases where the
19 applicant was new, unlike Group Therapy, had no
20 record, but this Court and other courts have
21 denied a license or a permit because it was
22 already unsuitable for -- based on conditions
23 on the ground. So what's going on in Five
24 Points -- absolutely what's happening in Group
25 Therapy is relevant and important. But what is



1 also relevant and important is the general
2 atmosphere down there, because even if this --
3 Mr. Taneyhill was a first-time applicant, you
4 could still deny the license if there's
5 pandemonium on the ground and the applicant's
6 going to add to that.

7 **THE COURT:** I'm granting the Petitioner's objection
8 to that particular document. I'm not going to
9 allow that to come into evidence.

10 **MR. KENNEY:** Yes, Your Honor. Could I mark it as a
11 Court's Exhibit just to -- for the record?

12 **MR. SELLERS:** You can't just randomly mark documents
13 for the record that you exclude. I think Mr.
14 Sellers eluded to the fact that litigation
15 might continue after Your Honor rules. And I'm
16 trying to create a record so that, if that
17 happens, we have a complete record of what was
18 discussed.

19 **MR. SELLERS:** Your Honor, only admissible evidence
20 is allowed on the record. I've literally never
21 been in a courtroom where you strike something
22 down as inadmissible and the lawyer says, well,
23 let me tag it onto the record just because.

24 **MR. KENNEY:** Happens all time, Your Honor. Jury
25 might not -- typically we'd have a jury and so



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1 the concern would be we don't want the jury to
2 see it. All I'm trying to do is mark this as
3 Court's Exhibits, so it's included in the
4 record. I can file it after the hearing, if
5 that's easier.

6 **THE COURT:** That's fine. Let me -- what we're doing
7 here is you're just building on. I mean, what
8 that document shows is what you've already
9 shown me through ample testimony.

10 **MR. KENNEY:** Your Honor, if you're convinced with
11 ample testimony, then we can move on. That's
12 all ---

13 **THE COURT:** Yes. Yes. Yes.

14 **MR. KENNEY:** Those are the magic words to me.

15 **Q:** So, Chief, just a few more questions. Would
16 you just explain to the Court -- first of all,
17 what sort of burden does Group Therapy impose
18 on the Department?

19 **A:** I would best answer that with Group Therapy is
20 one of a number of establishments that causes
21 a high volume of calls for service to occur.
22 It requires police resources, significant
23 police resources and response. It's not the
24 only one. It is one of many. It happens to be
25 the one that we are talking about today with



1 respect to this license.

2 Q: You've participated in other protest cases in
3 Five Points, correct?

4 A: I have.

5 Q: You're not picking on Group Therapy, this is
6 part of a broader effort by the Department?

7 A: Yes.

8 Q: What is goal, what is end goal here?

9 A: The end goal is with any, I think, mission of
10 public safety law enforcement agency, is we
11 want people to follow the law. And what we
12 want to see in Five Points is -- this is not an
13 attack on Five Points. I think it's part of
14 the fabric of our city. I think it's important
15 that we have that balance. Obviously our young
16 adults need a place to go enjoy themselves.
17 But we want responsible activity on -- and
18 behavior by our young adults that are
19 frequenting this location. And we want
20 responsible management and ownership of a
21 business. And it's our job to create a safe
22 atmosphere and hold folks accountable on both
23 ends of that spectrum.

24 Q: Yesterday you weren't here, but Mr. Taneyhill
25 told us that he would welcome and thinks we



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1 ought to have more police in Five Points. Is
2 that feasible?

3 A: That's not feasible. And, you know, I sit here
4 today testifying about what I -- things that I
5 feel like are avoidable. You know, we have a
6 -- we have a serious issues in our city that
7 require police resources that are of a much
8 more serious nature than this. And we're
9 spending an extraordinary amount of time
10 because we have establishments that are in a
11 very small, defined area that follow a business
12 model that is geared towards serving underage
13 adults alcohol, lots of alcohol. And then the
14 resulting behavior creates a very vulnerable
15 population that -- you know, that has fatal
16 consequences at times, but serious consequences
17 that we are left to police.

18 Q: Is there anything else you want to tell Judge
19 Robinson about this case or what the Columbia
20 Police Department is asking the Court to do?

21 A: No.

22 **MR. KENNEY:** Your Honor, if I could just have just
23 one moment to consult my ---

24 **THE COURT:** yes.

25 Q: Just a couple of follow-ups Chief. First of



1 all, have you ever been in Group Therapy?

2 A: I have.

3 Q: Would you describe for the Court -- first of
4 all, when was the last time you were in Group
5 Therapy?

6 A: It had been before Christmas.

7 Q: And just tell the Court about what you saw and
8 what was going on and what time of night.

9 A: This would have been in -- at closing and it
10 was a night that we had a joint operation with
11 State Law Enforcement Division.

12 Q: Just tell the Court what you saw.

13 A: Well, what I saw was after the establishment
14 had let out and SLED was following up on
15 investigating a drug investigation.

16 Q: How was -- in terms of the size of the crowd in
17 the establishment, how would you describe it?

18 A: That particular night, again, the establishment
19 had dumped out, so my observations that there
20 was no crowd observation to make. Again, it
21 was just agents following up on an
22 investigation.

23 Q: And when you say dumped out, what does that
24 mean; everybody's out on the street?

25 A: Out on the street making their way out of the



1 Five Points area back to cars or, you know,
2 walking back to dorms or rental property.

3 Q: Are there any policing issues or problems with
4 the dump?

5 A: There are. Essentially we have all
6 establishments for the most part that are
7 closing and pushing people out, you know, onto
8 the sidewalks and into the streets at times.
9 And it creates -- you know, it puts even more
10 people in a confined area that are coming from
11 different establishments with different groups
12 and oftentimes it leads to words exchanging,
13 you know, pushing and shoving and escalation
14 and flighting and further disorder.

15 Q: On a typical Thursday, Friday, Saturday when
16 the dump happens, do you have an estimate of
17 how many civilians, not law enforcement,
18 patrons, whatever are down in Five Points?

19 A: Probably at the peak it could range from, you
20 know, six, 700 to a couple thousand.

21 Q: Is that a significant challenge for your
22 department?

23 A: Certainly.

24 Q: Is that a potential public safety issue?

25 A: It is.



1 Q: Have you been in Group Therapy on other
2 occasions?

3 A: I have.

4 Q: Any -- in terms of your experience and what you
5 observed, how about tell the Court about what
6 you observed inside the establishment.

7 A: I'm not really sure what you're asking.

8 Q: Was it crowded?

9 A: I would say all the establishments for the most
10 part at different times on different nights are
11 crowded. I've seen Group Therapy crowded and
12 I've seen it, you know, under capacity.

13 Q: Okay. When is it typically crowded, based on
14 your experience visiting?

15 A: Later at night.

16 Q: After 10:00 p.m?

17 A: Yes.

18 Q: Okay. And is it dark?

19 A: It is.

20 Q: Loud music?

21 A: Yes.

22 Q: A lot of people drinking?

23 A: Yes.

24 Q: You ever see anybody eating?

25 **MR. SELLERS:** Objection, Your Honor. We had a



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1 motion in limine about this already.

2 **THE COURT:** Sustained. Sustained.

3 **MR. KENNEY:** Thank you, Your Honor.

4 Q: You see -- you see any folks dancing?

5 A: Yes.

6 Q: Bumping into each other?

7 A: Just dancing.

8 Q: Just dancing? All right. One last question.

9 We've seen in the data and you've discussed it,
10 some reports or data about underage
11 consumption. Does the Columbia Police
12 Department ever ticket bars for -- when they
13 discover an underage consumption violator?

14 A: We typically would rely on State Law
15 Enforcement Division to make that citation,
16 make that charge.

17 Q: Is that typically outside of your ---

18 A: Yes.

19 Q: Okay. Thank you, Chief. If you'd answer Mr.
20 Sellers' questions and Mr. McCabe's questions.

21 **MR. SELLERS:** Your Honor, we would ask for about
22 five minutes before we cross the Chief, Your
23 Honor.

24 **THE COURT:** Okay. We'll take a ten minute.

25 (Off the Record at 10:07 a.m.)



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1 **THE COURT:** Please take your seats. Mr. Sellers,
2 are you prepared?

3 **MR. SELLERS:** Thank you, Your Honor. If it may
4 please the Court, Your Honor.

5 **CHIEF HOLBROOK - CROSS-EXAMINATION BY MR. SELLERS:**

6 **Q:** I'm not going to keep you long, Chief, thank
7 goodness. I do want to turn to, I guess, the
8 Intervenors' Exhibit 3 (sic) ---

9 **MR. SELLERS:** I believe it was, Mr. Kenney?

10 **MR. KENNEY:** I think so.

11 **Q:** --- your protest packet. Could you turn to
12 page 62, please, of that document?

13 **MR. SELLERS:** Am I using this thing right?

14 **Q:** There's a question on that document that says,
15 does the corporation, association, or applicant
16 have a reputation for peace and good order in
17 the community? You and your police department
18 answered what to that question?

19 **A:** Yes.

20 **Q:** Okay. Is it possible that you answered yes to
21 that question because of the work that Mr.
22 Taneyhill has done with, I believe, it's
23 Corporal Williams, Captain Williams?

24 **A:** Captain Williams.

25 **Q:** Yeah. Is it possible that they said that he



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1 has a reputation for good peace and -- or peace
2 and good order because of the work that he's
3 done with Captain Williams?

4 A: Yes.

5 Q: Is it possible also that he has a reputation
6 for peace and good order because of the state-
7 of-the-art ID equipment he exemplifies or
8 utilizes at the front of his building?

9 A: I thought the -- that response was directly
10 related to any time there was an issue, the
11 Region Commander would address that with the
12 establishment and they would indicate their
13 willingness to take steps to correct the
14 problem or, you know, mitigate certain things
15 going on.

16 Q: And if I'm not mistaken, when you testified a
17 minute ago, you actually testified that you
18 wanted corporate citizens and people down there
19 who would take the steps necessary to make sure
20 people were safe, correct?

21 A: Yes, sir.

22 Q: And what you're testifying to now is Mr.
23 Taneyhill has done those things with Captain
24 Williams, hence you all's response to this
25 question.



1 A: Well, I think he's also speaking specifically
2 to Mr. Taneyhill or ownership. How that
3 translates to operational practices is probably
4 what we're talking about. I think the
5 relationship that the region has had with him,
6 individually, since the acquired ownership has
7 been positive and always ---

8 Q: And he's taken all the steps necessary. When
9 law enforcement asked him to do something, to
10 mitigate or do something, he's taken all those
11 steps necessary?

12 A: Yes. With the explanation, again, yes, he has,
13 but we see inconsistencies that -- with the
14 application of those steps. If that makes
15 sense.

16 Q: Not really, but I'm going to move on.

17 A: Okay.

18 Q: You testified to, I believe it's -- I want to
19 say defense exhibit -- in Intervenor's Exhibit
20 4 (sic), which was the City of Columbia
21 arrests.

22 **(Intervenor's Exhibit Number 3 was referenced.)**

23 Q: Did you make any of these arrests?

24 A: No, sir.

25 Q: Can you -- were you the individual who looked



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1 at these arrests and could attribute these
2 arrests to 2107 Greene Street?

3 A: I was not.

4 Q: Do you know if any of these persons were found
5 guilty of the charges that they were arrested
6 for?

7 A: No, sir.

8 Q: If you look at 2018, I want to ask you
9 something, a very practical matter about this
10 document that Mr. Kenney put forth. If you
11 look here and you see this consumption of
12 alcohol or possession of alcohol by person
13 under the age of 21. You see that's one and
14 two right there, correct? This is 2018.

15 A: Yes, sir.

16 Q: Isn't it highly likely as well that that person
17 also got cited for use of another's ID card or
18 could have been cited for the same charge?

19 A: It's possible.

20 Q: So these two numbers actually -- these lines
21 could be duplicative; isn't that correct?

22 A: It's possible.

23 Q: And so that wouldn't reflect in this number 16,
24 would it?

25 A: That number 16 represents the total number of



1 charges.

2 Q: Correct.. But I'm just saying they "could
3 actually be the same incident. So the number
4 of incidents could actually be less than this,
5 correct? If I show up to you -- let me ask a
6 better question.

7 A: All right.

8 Q: If I show up to you and you're drinking -- now,
9 mind you, you're 20, so that might have been a
10 little while ago. You're drinking a little
11 vodka-soda in this cup and you give me a fake
12 ID. That's one incident, correct?

13 A: Yes.

14 Q: But that's two charges.

15 A: Possibly, yes.

16 Q: Okay. The possession of cocaine was something
17 that as highlighted here. And I stated it in
18 an objection, but I want to make sure that I
19 got it right. Here, 2019 possession of cocaine
20 powder, it was one incident. Did that person
21 have cocaine or did he have baking soda or can
22 you testify here that you don't know?

23 A: I do not know that.

24 Q: Thank you. Recently, the City of Columbia was
25 ranked to be the 25th most violent city in the



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- 1 United States; isn't that correct?
- 2 A: I haven't seen that ranking.
- 3 Q: You have?
- 4 A: I have not.
- 5 Q: Do you ascribe to the FBI crime report?
- 6 A: Yes.
- 7 Q: Did you see where the FBI crime report ranked
- 8 you as the 25th most violent city or you didn't
- 9 pay attention to that?
- 10 A: I didn't see that.
- 11 Q: Okay. Hasn't there -- how long have you been
- 12 chief of police here?
- 13 A: Six years in April.
- 14 Q: Six years in April. And hasn't there, except
- 15 but one year, been a steady increase in violent
- 16 crime in this city?
- 17 A: We have, for the last decade, been about twice
- 18 the national average in violent crime.
- 19 Q: Hasn't there in the last six years you've been
- 20 police chief, except for one year, been a
- 21 steady increase in the rates of violent crime
- 22 in this city?
- 23 A: We have not seen steady increase. We saw an
- 24 increase in homicides last year. We've seen
- 25 our aggravated assaults, which are non-fatals,



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1 remain flat. We've seen property crime reduce
2 a couple percent.

3 Q: Violent crime over the last six years, hasn't
4 there been an increase in violent crime in the
5 city of Columbia except for one year since
6 you've been chief of police?

7 A: Yes.

8 Q: Okay. In the FBI crime report, if they stated
9 that, in like many of the cities, most of the
10 violence is limited to poor, historically
11 disadvantaged neighborhoods that lack
12 significant resources, would that -- would
13 that, Chief Holbrook, actually justify where
14 their violent crime would be?

15 **MR. KENNEY:** Objection, Your Honor. If Mr. Sellers
16 is asking about a document, I think he could
17 show the Chief. It appeared he was reading
18 from a document. I think he show the Chief ---

19 **MR. SELLERS:** I'm actually just asking him about the
20 reason why the crime rate went up. I'm saying
21 the FBI said this and maybe ---

22 **MR. KENNEY:** Object. Well, he says the FBI says
23 this. I think he has to show the Chief what
24 he's referring to, show him the document or ask
25 him a different question.



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1 Q: Why would violent crime be going up in this
2 city?

3 THE COURT: Thank you.

4 MR. SELLERS: I'm sorry. I can change the question,
5 Your Honor. I apologize.

6 Q: Why would violent crime be going up in this
7 city?

8 A: I don't believe there's one particular
9 causation for a violent crime to go up. Would
10 you like me to go down a list of reasons I
11 think it is?

12 Q: Sure.

13 A: We have no consequences for those that are
14 found in possession of firearms, illegal
15 possession of firearms; we have a ridiculous
16 amount of firearms that are on our streets that
17 are recovered; firearms are left unsecured in
18 vehicles; we have high property crime because
19 folks know that weapons are stored unsecured in
20 vehicles; we have great diversity and inclusion
21 in our city, but we still have tremendous
22 economic divide along the racial lines.

23 Q: Correct.

24 A: Some of our most marginalized neighborhoods are
25 ones that -- where we have the greatest



1 distrust with law enforcement and I would argue
2 those are the areas that need us the most.

3 Q: And let me also say that those are the areas
4 where you tend to have more incidents of
5 violent crime, correct?

6 A: Absolutely.

7 Q: Those areas are not Five Points, though.

8 A: No, they're not.

9 Q: Thank you. Now, one of the things that I've
10 been made aware of, and I wanted to see if you
11 would say this is true, is that there's been a
12 rise in the number of house parties associated
13 with college students in the City of Columbia.

14 A: My perception would be just the opposite of
15 that.

16 Q: Tell me -- your perception is just the opposite
17 of that. So you're saying that there's been a
18 reduction of house parties. Why is that?

19 A: We -- a couple things. We -- our Council
20 enacted a rental ordinance and a nuisance
21 ordinance. And we established a response
22 protocol to reports of house parties.

23 Q: That's amazing work. I'm glad you all did that
24 in collaboration with the Council. Let me ask
25 you a better -- let me ask you another question



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1 along the same lines. Would you prefer to have
2 house parties throughout the city or would you
3 prefer to be able to patrol where you know
4 young people will be and you can put in place
5 the necessary precautions and safety
6 regulations?

7 A: (No response).

8 Q: Was that a bad question?

9 A: Yeah. Say that again?

10 Q: It was so bad, I can't even repeat it. Would
11 you prefer to have an increase in house parties
12 or would you prefer to know where young people
13 were, so that you can patrol and put in place
14 the necessary safety protocols?

15 A: That's a hypothetical. I would prefer for
16 there to be greater order in Five Points and
17 responsible ownership and operation of alcohol
18 establishments. And I would also expect there
19 to be responsible ownership of rental property
20 and holding our young adults accountable for
21 good behavior in those rental properties, so --

22 -

23 Q: So in Five Points you would want people to have
24 reputations for good peace and order?

25 A: Sure.



1 Q: Thank you. Are you aware of -- this is -- I
2 actually stipulate in this case that there is
3 a lot of police presence historically -- been
4 a lot of police presence in Five Points, you
5 know, and historically been a nuisance. I
6 don't really dispute that. But are you
7 familiar with the one percent sales tax that
8 business owners in Five Points pay?

9 A: No.

10 Q: Are you -- would you be surprised to hear that
11 they pay an extra one percent sales tax?

12 A: (No verbal response).

13 Q: Do you know why that one percent is important?

14 A: No.

15 Q: Because that one -- would you be surprised to
16 know that I would tell you that that one
17 percent sales tax they pay ...

18 **MR. KENNEY:** Go ahead.

19 **MR. SELLERS:** I am.

20 Q: Would you surprised to know that that one
21 percent sales tax they pay goes to the City to
22 make sure that they can actually supply the
23 resources necessary to patrol the area?

24 A: That would be your characterization. They --
25 so that one percent, you're saying, goes



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1 specific to public safety?

2 Q: I'm saying that it goes to the City, so -- I'm
3 asking you did you know that it goes to the
4 City so that they can actually do things like
5 provide public safety; did you know that?

6 A: I know all taxes would go to the City for them
7 to ---

8 Q: I'm saying that -- did you know that the
9 business owners in Five Points pay an extra
10 percent for those services that you provide?

11 A: No.

12 **MR. SELLERS:** Beg the Court's indulgence one second,
13 Your Honor.

14 **THE COURT:** Okay.

15 **MR. SELLERS:** I don't have any further questions,
16 Your Honor.

17 **THE COURT:** I'm sorry, Mr. McCabe, I overlooked you.
18 Did you have any questions for Chief Holbrook?

19 **MR. MCCABE:** No questions from the Department, Your
20 Honor.

21 **THE COURT:** Okay. I have got a question for the
22 Chief.

23 **CHIEF HOLBROOK:** Yes, ma'am.

24 **CHIEF HOLBROOK - EXAMINATION BY THE COURT:**

25 **THE COURT:** Does your Department have any type of



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1 input when it comes to the late night permits
2 that the City can issue to these -- for late
3 night sale of alcohol that allows them to sell
4 it?

5 A: Yes, yes, ma'am, we do. We vet that as well.
6 We vet and would approve that permitting
7 process.

8 **THE COURT:** Okay. Has the problem in Five Points
9 increased since you all have been allowing
10 later sales of alcohol?

11 A: Well, I -- so, in my tenure here, that at the
12 late night permitting was already underway.
13 And a little over two years ago, ordinance was
14 -- an ordinance was drafted and enacted that
15 made the permitting process more stringent and
16 required further review. And they put that
17 review under the purview of the Police
18 Department. Since that has occurred, overall
19 late night permitting has went from, I believe,
20 26 city-wide. And in Five Points, initially we
21 had 12 late-night operations. We're now
22 currently down to four. So that has diminished
23 over time. And what I have seen in Five
24 Points, with the exception of the few very
25 tragic outlying violent crimes events that have



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1 such notoriety -- and I'm referring to some
2 non-fatal shootings, a serious rape, and, of
3 course, an abduction and a murder -- we have
4 seen crime decrease at Five Points across the
5 board in terms of, you know, some of our
6 quality of life offenses. I attribute that to
7 good collaboration with our business owners in
8 Five Points, the neighborhood associations; our
9 guardian approach in policing, and our
10 partnerships with our other area law
11 enforcement agencies to, again, create an
12 atmosphere of safety, strike that balance. We,
13 you know, don't put necessarily emphasis on
14 some of the minor offenses, the underage
15 drinking and fake IDs, but we address those as
16 we've come across -- you know, as we encounter
17 those. We really put great emphasis on the
18 vetting of the late-night permits, the
19 prevention and education that we do on campuses
20 with the students as they come in. The work we
21 do with the business owners in terms of best
22 practices, we provide a guide, a go-by, to all
23 of our businesses on responsible nightlife. We
24 work with the University to establish
25 transportation plans, pick-up plans, again, to

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1 increase safety of the patrons. We do traffic
2 pattern alterations now to cut down on
3 pedestrians being struck. So it's really a
4 combination of all those things, because, yes,
5 Five Points has been there for years. It's
6 been part of this City and the fabric of this
7 City, as I stated early -- earlier, but we have
8 also seen tremendous change in the types of
9 crime we're dealing with today. We've seen the
10 University grow significantly. Five Point is
11 surrounded by about 2500 rental properties.
12 That is not -- the Five Points today and these
13 other influencers and circumstances is not what
14 Five Points was, you know, 10, 15, 20, 30 years
15 ago. It's different. So as we have had to
16 adjust how we police in general, we've learned
17 from a lot of mistakes and -- but we've had to
18 change how we police and everybody has to
19 change. But the bottom line is, we have a
20 culture in Five Points of underage young adults
21 that frequent there. But then we have
22 businesses that have a business model of
23 serving underage and over-serving and it
24 creates an incredibly vulnerable population
25 that we're left to police, defend, protect,



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1 investigate. And we have -- those resources --
2 if we had better assistance from our business
3 owners collectively and we did not have to
4 provide the resources, we had more responsible
5 behavior and more responsible management of the
6 businesses, we could direct those resources to
7 other places that are in much greater need of
8 those police resources to protect and preserve
9 life.

10 **THE COURT:** Okay. Thank you.

11 **MR. SELLERS:** Your Honor, in light of that question,
12 I don't know if -- because I don't think I can
13 do a cross-rebuttal. In light of his answer,
14 may I have just a -- may the Court grant me the
15 privilege of asking two or three follow-ups to
16 that?

17 **THE COURT:** Okay. Let me -- Mr. Kenney.

18 **MR. SELLERS:** He may want to go after me, though, to
19 clear ---

20 **MR. KENNEY:** I'd be happy to let Mr. Sellers go
21 first.

22 **THE COURT:** Okay. I'm going to ---

23 **MR. SELLERS:** Yeah, just some brief questions.

24 **CHIEF HOLBROOK - RECROSS-EXAMINATION BY MR. SELLERS:**

25 **Q:** What's the process, the vetting process, to get



1 one of these after-hour permits?

2 A: They are business licensing review. The fire
3 department does a safety review, police
4 department meets with the ownership. We look
5 at calls for service and incidents that have
6 occurred there.

7 Q: And would it surprise you that Group Therapy
8 was approved in being one of the four after-
9 hour establishment licensees as recent as last
10 summer? Would that surprise you to know?

11 A: No, it wouldn't.

12 **MR. SELLERS:** No further questions.

13 **THE COURT:** Mr. Kenney.

14 **MR. KENNEY:** Very briefly, Your Honor.

15 **CHIEF HOLBROOK - REDIRECT EXAMINATION BY MR. KENNEY:**

16 Q: Chief, if given what Mr. Sellers said about
17 them receiving an after-hours permit, how do
18 you reconcile that with why you're here today,
19 the Department's protests? Explain that for
20 us.

21 A: So we've been asked to provide essentially
22 three different formats of data. The extended
23 hours operating permitting process looks at
24 data from a fiscal year, July 1 through June
25 30. What we provided to DOR was from that



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1 batch of information. What was -- what we were
2 asked to provide for Group Therapy's was two
3 years of data based on calendar year. And then
4 what Mr. Harpootlian's team requested was five
5 years of data based on calendar year. The --
6 we use a -- in the late night permitting
7 review, again, we look at the data that we
8 talked about today and what that means to us
9 and we also look at how that compares to other
10 establishments. I can say when we did the
11 analysis with Group Therapy, it was not the
12 highest. It was on par with some other
13 establishments within Five Points. There was
14 a couple other establishments that had some
15 additional call volume and issues at the bar
16 that cause us to deny those late-night permits.
17 And, again, out of fairness, we -- the standard
18 we applied to Group Therapy is the same
19 standard we apply to everybody.

20 Q: Okay.

21 **THE COURT:** Now, when you are doing the vetting and
22 you're looking at the data, is it data that's
23 specific to the location that is applying for
24 the late-night permit?

25 **CHIEF HOLBROOK:** Yes, ma'am.



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1 Q: And, Chief, to follow up on the Court's
2 question, is the data you looked at prior to
3 pursuing this protest also specific to the
4 location?

5 A: Yes. Some of it was, yes.

6 Q: Okay. One other thing. Mr. Sellers had asked
7 you about the Department's interaction with Mr.
8 Taneyhill and you had discussed some of the ID
9 equipment that he is using, and I wrote this --
10 you said, quote, inconsistencies with
11 application of those steps, and Mr. Sellers
12 didn't follow up with you. I just wanted to
13 give you an opportunity to explain what you
14 meant by that.

15 A: Simply would be -- simply put it would be,
16 investment. That they made investment in the
17 software, the technology that allows you to
18 scan an ID and it'd tell you if it's a valid ID
19 or fictitious. And, just with any technology,
20 it's only as good as how often you choose to
21 use it. And, you know, there have been
22 examples where it's not consistently used.

23 Q: Can you give us -- be more specific?

24 A: Meaning if it's not being used, then someone
25 would gain entry with a fake ID.



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1 Q: How are you aware of that?

2 A: Because we would find -- have found people in
3 the establishment with fake IDs.

4 Q: And this goes back to your data analysis?

5 A: Yes.

6 **MR. SELLERS:** Objection, Your Honor. He actually
7 laid out when I asked him the question had he
8 actually made any of those arrests. So, I
9 mean, he can't testify to the arrest that was
10 made, Your Honor. We already went through the
11 documents, but he can't testify to that. I
12 would ask -- I would also ask that that be
13 stricken from the record, Your Honor.

14 **MR. KENNEY:** To the extent there was not an
15 opportunity -- and I think he can testify about
16 the data and you've allowed that, Your Honor,
17 but certainly Mr. Sellers opened the door with
18 his cross-examination on that very limited
19 issue about the inconsistencies and the Chief
20 was answering that.

21 **MR. SELLERS:** I literally didn't open the door,
22 that's why I didn't follow up, Your Honor.

23 **THE COURT:** Okay.

24 **MR. KENNEY:** Thank you.

25 **THE COURT:** The objection is sustained.



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1 **MR. SELLERS:** Thank you.

2 **MR. KENNEY:** Thank you, Your Honor. I don't have
3 anything further for Chief Holbrook. I'd ask
4 he be released when the Court's done.

5 **THE COURT:** Okay. I've got one other question for
6 you, Chief.

7 **CHIEF HOLBROOK - EXAMINATION BY THE COURT:**

8 **THE COURT:** From a law enforcement perspective, what
9 could -- an owner of a facility like Group
10 Therapy, what could they do to help alleviate
11 some of the problems that you all are
12 encountering in Five Points in general?

13 A: Do not allow entry of underage folks and don't
14 serve underage and don't over-serve, in
15 general, to anybody of any age.

16 **THE COURT:** Okay. So most of the problems, then,
17 you're encountering with the young people in
18 Five Points is alcohol related?

19 A: Absolutely, yes, ma'am.

20 **THE COURT:** Okay. Thank you, Chief. And if there's
21 no objection from any, I'm going to release ---

22 **MR. SELLERS:** None.

23 **THE COURT:** Okay. Thank you for coming.

24 **CHIEF HOLBROOK:** Yes, ma'am.

25 **MR. KENNEY:** Thank you, Your Honor.



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1 THE COURT: Mr. Kenney.

2 MR. KENNEY: Your Honor, if it please the Court,
3 Intervenor would call Rob Perry to the stand.

4 THE COURT: Okay.

5 COURT REPORTER: Please state and spell you first
6 and last name. I'm sorry, Your Honor.

7 THE COURT: I'm sorry.

8 COURT REPORTER: Never mind. Would you please state
9 and spell your first and last name?

10 MR. PERRY: R-O-B P-E-R-R-Y.

11 ROB PERRY, P.E., having been duly sworn, testifies
12 as follows:

13 MR. PERRY - DIRECT EXAMINATION BY MR. KENNEY:

14 Q: Good morning, Mr. Perry.

15 A: Good morning.

16 Q: Would you -- first of all, where are you
17 employed?

18 A: South Carolina Department of Transportation.

19 Q: And what do you do there?

20 A: Director of Traffic Engineering.

21 Q: All right. And just give the Court a thumbnail
22 sketch of what the Director of Traffic
23 Engineering does at the Department of
24 Transportation.

25 A: Sure. We've got around 100 employees, annual



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1 budget of 150 million for -- into traffic
2 design, traffic operations, traffic management,
3 traffic safety. Of our annual budget, 115
4 million goes to traffic safety programs and
5 projects to try and reduce fatal and serious
6 injury crashes in our state.

7 Q: All right. And how long have you been in that
8 position?

9 A: Two years.

10 Q: Okay. Now, are you familiar with a road safety
11 assessment program at the Department of
12 Transportation?

13 A: Yes, I am.

14 Q: What is that?

15 A: It's one of the vehicles we use for non-
16 motorized safety projects, bicycle/pedestrian
17 related, to develop countermeasures to try and
18 reduce the crashes. It's consistent with how
19 other states go about developing the
20 countermeasures. And it includes stakeholders
21 from federal highways, engineers from the
22 Department of Transportation, local
23 stakeholders like bicycling and pedestrian
24 advocacy groups, as well as local government,
25 like law enforcement, fire, and local



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1 engineers.

2 Q: What is the goal of the program?

3 A: The goal is to perform an audit of selected
4 project routes and to study things like signal
5 timings, the speed study, are they adequate
6 when it comes to bike/ped projects or adequate
7 accommodations like crosswalks, lighting,
8 sidewalks, and of that nature. And if there
9 aren't and those are the causations for some of
10 the crashes that are being exhibited, then the
11 recommendation would be to add those.

12 Q: So in other words, you're trying to identify
13 potential safety projects for the Department of
14 Transportation.

15 A: Yes, we identify and then we study them to
16 figure out what we need to do to reduce the
17 fatal and serious injury crashes.

18 Q: Did the -- and you're specifically talking
19 about non-motorized.

20 A: That's correct.

21 Q: So pedestrians ...

22 A: And bicyclists.

23 Q: And bicyclists. Okay. Did the General
24 Assembly appropriate some money to help you all
25 do this?



1 A: They appropriated money through the new gas tax
2 for a number of things. Safety was one of
3 them. But the bicycle/pedestrian projects that
4 we're talking about are funded in federal
5 highway safety improvement funds.

6 Q: Okay. And remind us, when did this project
7 begin?

8 A: It was approved by the Commission the summer of
9 2018, I believe, along with numerous other
10 projects.

11 Q: Have y'all have been working on it?

12 A: Yes, we have.

13 Q: And did you receive a subpoena from our office
14 for documents?

15 A: Yes, you did.

16 Q: Did you bring those documents?

17 A: Yes, I did.

18 Q: And how about ---

19 A: Well, they're marked up, though.

20 Q: Well, let me give you my copy.

21 A: Okay.

22 Q: How about take a minute, look at those. Let me
23 know if you recognize those documents and when
24 you're ready to talk about them.

25 A: Yes, I do. I'm ready.



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1 Q: So what is that packet generally? Is that what
2 you responded to in the subpoena?

3 A: That's correct. This is the list of the
4 projects that the SCDOT Commission approved,
5 again, in the summer of 2018 so we could start
6 preliminary engineering and studies on them.

7 Q: All right. Now, I want to specifically talk
8 about -- let's sort of just cut to the chase
9 here. Did you identify -- walk us through the
10 methodology that was used to identify the
11 places that potentially we need a Department of
12 Transportation safety project. What is the
13 methodology?

14 A: Absolutely. Well, the General Assembly, in the
15 passage of Act 114, which I believe was '06,
16 required the Department of Transportation to
17 provide a data-driven approach to identifying
18 projects. So with that, when it comes to our
19 safety projects, we do a network screening of
20 routes -- and the approach to identify these
21 ten was total bike/ped crashes per mile. So as
22 you'll see, the number one on the list,
23 Richland S10, is Harden Street ---

24 Q: Now, hold on one second.

25 A: Okay.



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1 Q: Let me slow down just a second. Are you
2 referring to this page right here that we're
3 looking at on the screen?

4 A: Yes, sir.

5 Q: Okay. Tell the Court what this is.

6 A: This is the actual project list that was
7 presented to the SCDOT Commission to approve
8 before we began project development on these
9 projects.

10 Q: So these are the conclusions?

11 A: It's just the data used to select the projects.

12 Q: I understand. Now, get me from -- how do you
13 put this together; how do you make that happen?

14 A: The Department of Transportation receives the
15 crash reports from the Department of Public
16 Safety every quarter and we have a software
17 system that will let us query it in a number of
18 ways; by route, by county, by route type. It
19 also will quantify the severity of the crashes,
20 whether it be a fatality, a serious injury, or
21 just a crash. And it also let's us break it
22 down by segments of road. So the first thing
23 we do on a safety project is we run a network
24 screening to try and come up with a candidate
25 list. And from that we produce the final list



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1 that goes to the SCDOT Commission for
2 consideration.

3 Q: So this is based on a data poll of specific
4 incidents pulled by the Department of Public
5 Safety?

6 A: Yes. And those are from 2013 to 2017. We pull
7 five years worth of data, typically, for
8 traffic safety program or projects.

9 Q: And now let's go back to what you were starting
10 to explain. This list of ten projects
11 represents what?

12 A: Ten non-motorized safety projects that we plan
13 to develop and construct within a two to three-
14 year period. We have around five million a
15 year for the non-motorized safety programs.

16 Q: Okay. Now, the very first one. This is in
17 Richland County, this is the route S10. And am
18 I correct that it's about .44 miles of road?

19 A: Yes, sir.

20 Q: Project number one, where is that located?

21 A: It's on Harden Street from Blossom Street to
22 Pendleton, but we extended it another block to
23 Gervais.

24 Q: Okay. So Harden Street from Blossom to
25 Gervais. Do you live in Columbia?



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1 A: Yes, I do.

2 Q: You familiar with the area we know as Five
3 Points?

4 A: Yes, sir.

5 Q: Is this the strip of road that runs right
6 through the center of Five Points?

7 A: Yes, sir.

8 Q: Okay. Now ---

9 **MR. SELLERS:** Objection, Your Honor. I'm really
10 taken aback by the science and methodology. I
11 would ask the relevance of this. Where is he
12 going, what does this have to do with the
13 alcohol application or liquor license
14 application for my client? We're definitely
15 not responsible for nearly half a mile of
16 corridor. If you ---

17 **THE COURT:** I'm sure that Mr. Kenney is going to
18 establish some relevancy.

19 **MR. SELLERS:** Eventually. All right. Maybe we'll -
20 --

21 **MR. KENNEY:** We're very close, Your Honor.

22 **THE COURT:** Okay. Thank you.

23 **MR. KENNEY:** Very close.

24 Q: Now, Mr. Perry, this column right here, the
25 second to last column, total bike/ped crashes,



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1 it indicates 12 for project number one.

2 A: Yes, sir.

3 Q: All right. Now, what is the last column, total
4 bike/ped crashes per mile, what does that
5 indicate?

6 A: Well, to make it an apples-to-apples comparison
7 of all the routes since they were different in
8 length, we divided the total bike/ped crashes
9 by the length of that route to give essentially
10 a rate, which was the total bike/ped crashes
11 per mile.

12 Q: Okay. So for y'all's data poll to do this
13 analysis, you found 12 incidents divided by .44
14 miles and that's how you get this number, the
15 27.3 bike/ped incidents per mile with respect
16 to project number one, Harden Street, that's
17 Blossom to Gervais?

18 A: That's correct.

19 Q: All right. Now, in terms of the bike/ped
20 collisions, are these, you know, fender benders
21 or somebody, you know, sort of like stubs their
22 toe on, you know, a vehicle or what is the
23 nature of these 12 right here?

24 A: We really didn't classify that in the
25 selection. It was any crash that was -- there



1 was a crash report for a bicyclist or a
2 pedestrian, over that five-year period.

3 Q: I understand. This indicates that, in terms of
4 the number per mile, that Harden Street is the
5 number one priority for the Department of
6 Transportation.

7 A: It had the highest bike/ped crashes per mile of
8 the ten we presented for approval.

9 Q: Okay. Let me show you another document that's
10 in the packet there. Do you recognize that?

11 A: Yes.

12 Q: What is that?

13 A: We contracted Kimley-Horn to produce our road
14 safety audit for this project and that's a map
15 depicting the crashes with the crash locations.

16 Q: All right. And is this -- orient us in
17 relation to -- what are we looking at here?

18 A: Well, it's got -- it's just showing where the
19 crashes are on the road, on Blossom Street ---

20 Q: Let me ask you a different question. Is this
21 an example of how you pulled data in to do the
22 analysis we just looked at?

23 A: Yes.

24 Q: Okay. There we go. Now, there's a number of
25 other maps that you produced in response to our



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1 subpoena. Let me show you one more.

2 **MR. KENNEY:** Beg the Court's indulgence.

3 Q: So this was in the response to the subpoena.
4 Do you recognize this document?

5 A: Yes. It's, again, another map depicting where
6 the crashes are along that same road, based on
7 the crash reports received from Highway Patrol
8 or DPS.

9 Q: Yes, sir. Now, I just want to be clear about
10 this. This shows Devine Street running left to
11 right and then it shows Harden Street running,
12 sort of, north to south here. But the
13 incidents plotted on the Devine Street map, are
14 they included in the incidents -- the 12
15 incidents on project number one?

16 A: No, those are actually included in project
17 number ten of the original table. We also have
18 a road safety audit, a non-motorized safety
19 project for Blossom Street as well that runs up
20 Devine.

21 Q: Okay. So number one is Harden Street, Blossom
22 to Gervais, number ten is Devine Street and the
23 portion of the map we just looked at

24 A: Uh-huh. Yes.

25 Q: I understand. Same analysis, same conclusions



1 with respect to how the Department is pulling
2 in data and analyzing it?

3 A: Yes.

4 Q: Okay. What, if anything, is the Department of
5 Transportation going to do with this
6 information?

7 A: Well, the intent for the road safety audits is
8 to, again, produce -- we're recommending
9 improvements to reduce the non-motorized
10 crashes. So once we finish the road safety
11 audit, at the very end of the report we'll say
12 add sidewalks, add crosswalks, re-time signals.
13 And from there we'll move into design for
14 actual countermeasures to try and reduce these
15 crashes.

16 Q: And the goal is to improve the safety of these
17 specific locations?

18 A: Yes, sir.

19 Q: I just want to -- I just want to make sure this
20 is clear. We see a number of other counties on
21 this list of ten. We see Richland County on
22 this list twice, correct?

23 A: Yes, sir.

24 Q: And are you familiar with Devine Street?

25 A: Yes, sir.



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1 Q: Is that also in the area we know as Five
2 Points?

3 A: A portion of it.

4 Q: Okay.

5 **MR. KENNEY:** Beg the Court's indulgence for one
6 minute. Your Honor, I'd like to have this
7 document right here, which has a Bates number
8 Intervenors' SCDOT 00001, marked and entered
9 into evidence.

10 **MR. SELLERS:** Your Honor, objection. With all due
11 respect to Your Honor's previous ruling and Mr.
12 Kenney, he really never got to relevance. I'm
13 not sure what any of this has to do with Greene
14 Street. I'm not sure what any of this has to
15 do with Group Therapy. In fact, in the
16 testimony trying to lay out foundation, I would
17 ask the Court to look at the record, because he
18 absolutely said Group Therapy zero times. This
19 is highly irrelevant. And if he wants to talk
20 about crashes throughout Five Points, I will
21 stipulate again to the fact that there has been
22 a historical nuisance problem in Five Points.
23 However, he hasn't testified to anything that
24 has to do with Group Therapy. It's high
25 prejudicial and it outweighs any probative



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1 value there is. He literally never even said
2 Group Therapy. I'm not even sure he can point
3 it out.

4 **MR. KENNEY:** I think there were several objections
5 in there. Let me try to unpack them all.

6 The first one with respect to relevance:
7 One of the suitability factors is traffic,
8 pedestrian safety, whether sidewalks are
9 crowded, whether young people congregate and
10 loiter, those types of issues. This goes
11 directly to that. This is the most dangerous
12 strip of road in the state of South Carolina
13 for pedestrians and bicyclists, based on the
14 Department of Transportation's data. So it
15 goes to the suitability.

16 Now, with respect to Group Therapy. This
17 is Harden Street that runs right by Group
18 Therapy. Group Therapy is on the block of
19 Harden and Greene Street. And, you know, this
20 is -- they -- it abuts Harden Street, Group
21 Therapy does. The front part of the building
22 is on Harden Street. So the idea that -- Your
23 Honor, when the Chief was talking about bars
24 dumping and Group Therapy dumps on the Greene
25 Street side, they are less than half a block



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1 away from Harden Street where these pedestrian
2 and bicycle collisions are happening. So it's
3 relevant, Mr. Perry's laid the foundation, this
4 is admissible data that the Department has
5 compiled and uses for safety purposes, for
6 safety planning, and, you know, the fact that
7 he hasn't said some magic word is -- has no
8 bearing on whether it's relevant.

9 **MR. SELLERS:** Your Honor, I just -- I mean, just for
10 the purpose of my objection, I'm not sure how
11 Group Therapy or any business is responsible
12 for the traffic pattern for half a mile. I
13 mean, that's patently absurd. And he's trying
14 to get into evidence half a mile worth of
15 traffic pattern and they sit on a block. How
16 is he responsible for something that happened
17 half a mile down the road with a pedestrian?
18 I mean, that doesn't make sense.

19 **THE COURT:** Mr. Kenney, Mr. Sellers has raised some
20 relevant points in his objection, but here's
21 what I'm going to do.

22 **MR. KENNEY:** Yes, Your Honor.

23 **THE COURT:** It's only me sitting here.

24 **MR. KENNEY:** Yes, Your Honor.

25 **THE COURT:** I make this call. I determined the



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1 weight that is given to any evidence that's
2 presented, so I'm going to allow you to enter
3 this into evidence, keeping in mind Mr.
4 Sellers' objections and the points he raised.

5 **MR. SELLERS:** Thank you, Your Honor.

6 **MR. KENNEY:** Thank you, Your Honor. And I'm sure
7 we'll have a later -- a discussion at a later
8 time about how you balance and weigh all of
9 this data, but thank you very much. It would
10 be marked as Intervenor ---

11 **COURT REPORTER:** This is going to be Intervenor's 4.
12 There's a little confusion on the numbering of
13 them, but this is Intervenor's 4.

14 **MR. KENNEY:** Super.

15 **COURT REPORTER:** I think y'all think -- I think --
16 there's another one in there that y'all think
17 is marked, but it's not.

18 **MR. KENNEY:** Oh, it's not. That's fine. It's not a
19 problem.

20 **(Intervenors' Exhibit Number 4 was marked and**
21 **admitted into the record.)**

22 **Q:** Mr. Perry, would you answer any questions that
23 Mr. McCabe or Mr. Sellers has?

24 **A:** Absolutely.

25 **Q:** Thank you.



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1 **MR. MCCABE:** No questions from the Department of
2 Revenue, Your Honor.

3 **MR. ALPHIN:** May we take a brief two-minute recess,
4 so I can cross this witness? Go ahead?

5 **MR. SELLERS:** Yeah. We don't need a recess, Your
6 Honor, we got this.

7 **MR. ALPHIN:** I'm happy to go ahead.

8 **THE COURT:** Okay.

9 **MR. ALPHIN:** May it please the Court.

10 **MR. PERRY - CROSS-EXAMINATION BY MR. ALPHIN:**

11 Q: Looking at -- on the bottom right corner there
12 seems to be some Bates numbers on the exhibit;
13 do you see those?

14 A: Are referring to this or the table?

15 Q: On the bottom of every page, sir.

16 A: Okay.

17 Q: The bottom right corner, do you see where it
18 says, like on the first page Intervenors' SCDOT
19 0001? You see those?

20 A: I see, yes, I do.

21 Q: Okay. And if you turn over starting looks like
22 on page ten, looks like where it starts
23 segments. Do you see that?

24 A: Referring to this?

25 Q: Yes, sir.



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1 A: Okay.

2 Q: Are you familiar with the hours of operation of
3 Group Therapy?

4 A: No, I'm not.

5 Q: Okay. And it looks like you've broken down
6 incidents between day and night; is that
7 correct?

8 A: That's correct.

9 Q: Okay, let's go through these one-by-one.

10 **MR. KENNEY:** I'm sorry, John, which page are you on?

11 **MR. MCCABE:** We're starting on Intervenors! number
12 ten.

13 **MR. KENNEY:** Thank you.

14 **THE COURT:** Do you mind putting it on the Elmo, so
15 that I can see what you're ---

16 **MR. ALPHIN:** I'm happy to. Yes, ma'am. I'm sorry.
17 Thank you.

18 **THE COURT:** Okay. Thank you.

19 Q: In looking at this, is there more incidents
20 that have occurred during the day or at night?

21 A: Sure. Based on this document, it's day.

22 Q: Okay. How about the next one?

23 A: Based on this document, it's day.

24 Q: How about the next one?

25 A: Number 12. Based on that, it's day.



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- 1 Q: How about the next one?
- 2 A: Day.
- 3 Q: How about the next one?
- 4 A: Day.
- 5 Q: How about the next one?
- 6 A: Day.
- 7 Q: How about the next one?
- 8 A: Day.
- 9 Q: Next one.
- 10 A: Day.
- 11 Q: Next one.
- 12 A: Day.
- 13 Q: Next one.
- 14 A: Day.
- 15 Q: Next one.
- 16 A: Day.
- 17 Q: So in all the ones we looked at, there was not
- 18 a single one where the night was more than the
- 19 day; is that correct?
- 20 A: Are you asking about total crashes or non-
- 21 motorized crashes?
- 22 Q: Talking about non-motorized crashes, which
- 23 you're presenting evidence here about today.
- 24 A: No, these are not just non-motorized. These
- 25 are all crashes to include vehicular.



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1 Q: Okay. So all the crashes -- so based on the
2 data that you provided, there's more incidents
3 that take place during the day than at night;
4 correct?

5 A: There are more total crashes, which include
6 vehicular, during the day, yes.

7 **MR. ALPHIN:** No further questions, Your Honor.

8 **MR. KENNEY:** I have a brief follow-up, if I may.

9 **THE COURT:** Okay.

10 **MR. PERRY - REDIRECT EXAMINATION BY MR. KENNEY:**

11 Q: Mr. Perry, turn to Intervenor's' 27 in your
12 packet.

13 A: Okay.

14 Q: Let me put it up on the screen so we're all
15 looking at it. Now, first of all, does the
16 Department of Transportation -- they're going
17 to try to make the roads safe regardless of
18 what time of day; is that correct?

19 A: That is correct.

20 Q: Do you know -- based on this data, do you know
21 whether, like, day would be 5:00 or 8:00 or
22 what -- I mean, what is the cutoff, do we know?

23 A: It depends on how the time -- depends on the
24 trooper or the law enforcement officer. So
25 Daylight Savings Time might be different.



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1 They're the ones that code it, so day could be
2 before dusk.

3 Q: Okay. Yes, sir. Now, going to Intervenors'
4 SCDOT number 27 and it's up on the screen here.
5 What is the road that this image depicts?

6 A: Depicts Harden Street between Pendleton Street
7 and just east of College Street.

8 Q: Okay. And -- orient in here, is this -- are we
9 south of Gervais Street?

10 A: (No response).

11 Q: Let me ask a better question.

12 A: Okay.

13 Q: Is this image and the data on it included in
14 the summary chart that's been admitted into
15 evidence?

16 A: Yes.

17 Q: Okay. Now, for this chart, for this image, how
18 many are indicated light conditions, night
19 versus day?

20 A: Thirty are considered night, 43 are considered
21 day.

22 Q: Explain to me what that represents, that 30
23 night, 40 day.

24 A: Night, again, it could be dusk or it could be
25 complete darkness. So either, depending on how



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1 the law enforcement agency coded it on the
2 crash report.

3 Q: And you're looking at this bottom one where it
4 says crash type ---

5 A: Uh-huh.

6 Q: --- light conditions, night and day, right?

7 A: That's correct.

8 Q: Explain the difference between the bottom ---

9 A: Oh, sorry.

10 Q: --- data and the top data.

11 A: You're right. The bottom is the total. Again,
12 that includes vehicular crashes. The top is
13 the one that's the bike/ped crash summary. So
14 it's what the project was chosen on was the
15 bike/ped crashes.

16 Q: How many are at night based on ---

17 A: Six are at night, three are at day.

18 Q: I see. And then what does this mean over here,
19 severity?

20 A: Severity, the PDO is property damage only. So
21 if somebody's bike was damaged, something of
22 that nature. And then injury and fatal. And
23 again, we pull that from the crash reports.

24 Q: Great. Thank you so much.

25 **MR. KENNEY:** Your Honor, unless you have anything,



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1 I'd ask that Mr. Perry be released. He's here
2 pursuant to a subpoena.

3 **THE COURT:** Okay. Does anyone have any ---

4 **MR. ALPHIN:** No objection, Your Honor.

5 **THE COURT:** --- objection?

6 **MR. MCCABE:** No objection, Your Honor.

7 **THE COURT:** Thank you for coming, Mr. Perry, and
8 you're excused.

9 **COURT REPORTER:** Your Honor, could I clarify
10 something really quick?

11 **THE COURT:** Yes.

12 **COURT REPORTER:** For Intervenors' Number 4, I just
13 got one page.

14 **MR. KENNEY:** Yes, ma'am.

15 **COURT REPORTER:** Is it a packet?

16 **MR. KENNEY:** Just the one page is fine.

17 **COURT REPORTER:** Okay.

18 **MR. KENNEY:** I believe that's all that Your Honor
19 has allowed in. Unless you want the whole
20 packet.

21 **MR. SELLERS:** I mean, Your Honor, we were assuming
22 that he was putting the evidence in -- the
23 report in. And I don't think you can just put
24 in a part of the report. The outline of
25 questioning actually focused on something that



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1 we believe to be important, but whatever Your
2 Honor so chooses.

3 **MR. KENNEY:** I'm fine with putting the whole packet
4 in, Your Honor. Got no objection to that, be
5 happy to do it.

6 **THE COURT:** Well, just go ahead and admit the full
7 packet.

8 **MR. KENNEY:** Yes, ma'am.

9 **MR. SELLERS:** Thank you.

10 **MR. KENNEY:** Let me just clean that up. We have the
11 full packet? Your Honor, we're going to put
12 the full packet back together and on a break
13 we'll give it to the court reporter.

14 **THE COURT:** Okay.

15 **MR. KENNEY:** Thank you.

16 **THE COURT:** And that will be Exhibit Number 4, the
17 packet.

18 **MR. KENNEY:** Yes, ma'am.

19 **COURT REPORTER:** Yes, Your Honor.

20 **MR. KENNEY:** May -- Your Honor, Intervenor will
21 call Marc Shook to the stand.

22 **THE COURT:** And, Mr. Shook, before you take your
23 seat, if you'll face the court reporter, raise
24 your right hand, spell your name for her and
25 she will swear you.



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1 **MR. SHOOK:** Name is Marc, M-A-R-C, last name is
2 Shook, S-H-O-O-K.

3 **DEAN MARC SHOOK,** having been duly sworn, testifies
4 as follows:

5 **DEAN SHOOK - DIRECT EXAMINATION BY MR. KENNEY:**

6 Q: Dean Shook, correct?

7 A: That's correct.

8 Q: Dean Shook, would you tell the Court who you're
9 employed by and what you do with that
10 organization?

11 A: I'm currently the Dean of Students and Deputy
12 Title IX Coordinator at the University of South
13 Carolina, Columbia Campus.

14 Q: And what does that mean? What do you do?

15 A: In the scope of my duties, I oversee several
16 offices. I oversee our Office of Student
17 Conduct and Academic Integrity, I oversee our
18 Behavioral Intervention team, I directly
19 oversee our Student Disability and Resource
20 Center. Perhaps most germane to this, I
21 oversee our Substance Abuse Prevention and
22 Education Office. In my individual capacity as
23 Dean, I also chair the Trauma Response Team,
24 which implements our student death protocol.
25 I also chair our Hardship Withdrawal Committee.



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1 I also serve on our Emergency Management team.

2 Q: Just a few things.

3 A: One or two.

4 Q: Okay. And how long have you been in that
5 capacity?

6 A: I've been at USC for a year and a half.

7 Q: What did you do before that?

8 A: I've been in higher education for 20 years.

9 Directly before coming to UofSC, I was the Vice
10 President for Student Engagement, Dean of

11 Students, and Deputy Title IX Coordinator at

12 LaGrange College in LaGrange, Georgia. My

13 higher education experience ranges from small

14 schools like LaGrange and state flagships. I

15 previously worked with University of Texas at

16 Austin and the University of Alabama and the

17 University of Virginia.

18 Q: Now, let's start with Group Therapy. The

19 University of South Carolina has protested

20 Group Therapy's re-permit and licensing,
21 correct?

22 A: That's correct. We joined the protest in
23 December.

24 Q: And are you the individual, the representative
25 of the University here to speak on behalf of



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1 that objection?

2 A: I am.

3 Q: Would you just give the Court a thumbnail
4 sketch of why the University has protested this
5 license and permit?

6 A: In an open meeting on campus in December, mid-
7 December, with administrative officials,
8 representatives of the Department of Justice,
9 as well as Columbia Police Department, it was
10 questioned why the University was not a
11 participant in the hearing against Group
12 Therapy based on our previous application
13 submitted in 2018. During that open meeting,
14 data was shared by both administrative
15 departments with our senior administrative
16 leadership indicating that there were safety
17 concerns for our students, that there was a
18 pattern of criminal behavior in those
19 establishments. Following that meeting, I
20 received an email from the USC Chief of Police,
21 Chris Wuchenich, asking me in my individual
22 capacity if I would ---

23 **MR. SELLERS:** Objection, Your Honor, that's hearsay,
24 Your Honor.

25 **MR. KENNEY:** He's just trying to explain why they're



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1 protesting. It's an institution ---

2 **THE COURT:** Overruled.

3 **MR. KENNEY:** Thank you, Your Honor.

4 **Q:** Go ahead.

5 **A:** Sure. Following that meeting, which I wasn't
6 a member at, Chief Wuchenich did email me
7 outlining the concerns that he heard at that
8 meeting, outlining that the University will be
9 supplied with CPD's protest, asking me to
10 review our initial criteria to determine if it
11 would be my recommendation of senior leadership
12 that the University participate in the protest.
13 Following my review of those data, following
14 some research online, finding an article in The
15 State, also communicating with our Fraternity
16 and Sorority Life Office, it was my
17 recommendation that we consider. A meeting was
18 held with senior leadership consisting of
19 Student Affairs leadership, police, media
20 communications, senior executive office.
21 Following that meeting, the decision was made
22 to formally file this protest.

23 **Q:** I gotcha. And the specific reasons the
24 University is protesting here are what?

25 **A:** The first and foremost reason are the concerns



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1 outlined earlier by Chief Holbrook regarding
2 threat to student safety.

3 Q: Okay. Now, I want to back up just a little bit
4 and make sure we understand the University's
5 interest in this proceeding. This is not your
6 first bar protest?

7 A: That's correct. This would be our fourth.

8 Q: Your fourth. Okay. And ---

9 A: This would be our fourth time to be at an
10 administrative hearing. We filed more formal
11 written protests.

12 Q: Okay. And you eluded to the safety issues with
13 respect to students, but describe for the Court
14 what specifically is the issue that -- with
15 respect to your students at the University of
16 South Carolina, I mean, what specifically is
17 the concern?

18 A: I think it's important to outline when the
19 University chooses to participate in a protest
20 and when we don't. The University has made it
21 clear that we don't object to all
22 establishments in the Five Point areas. As a
23 matter of fact, in 2018 the Carolina Community
24 Coalition outlined four criteria that we use.
25 The first is based on what we call our last



1 drink data, as may come up here. In 2016, the
2 University experienced a almost doubling of the
3 number of students transported to the hospital
4 due to alcohol intoxication. Surveys from
5 those ---

6 Q: Let me stop you right there. That's 2016, a
7 doubling.

8 A: Yes.

9 Q: Now, how does the University know if a
10 student's been transported to the hospital?

11 A: It's on data received back from either the EMT
12 driver, police involvement at the scene, or
13 sometimes, if rarely, information received from
14 the healthcare provider.

15 Q: And that information ultimately makes its way
16 to what office in the University?

17 A: So, now, following 2016 we created an extra
18 protocol in our Substance Abuse Prevention and
19 Education Office. We use a program called
20 BASICS, Brief Alcohol College and Screening --
21 Intervention Screening for College Students,
22 which is national best practice in terms of
23 motivational interviewing. Students that go to
24 the hospital due to alcohol intoxication are
25 required to complete the BASICS program. It's



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1 typically three different sessions at least
2 focused on motivational interviewing. One of
3 the things that we do at this point in time is
4 survey those individuals coming into that
5 program. One of those questions is asking them
6 where do you remember having your last drink
7 before you went to the hospital.

8 Q: Gotcha. Okay. So that is part of the first
9 criteria that y'all are evaluating to decide
10 whether to protest?

11 A: That's correct.

12 Q: What's the second criteria?

13 A: The second criteria, we're looking at are they
14 a restaurant or a bar. We're looking at
15 percentage of food services. The third
16 criteria, we're looking at are there active
17 social media campaigns that are targeting
18 students and promoting the over-consumption of
19 alcohol. And the fourth, and I believe most
20 important, is law enforcement and citations in
21 -- regarding that particular establishment or
22 area.

23 Q: I understand. And it's based on the
24 information you gather under those four
25 criteria the University comes to a decision



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1 with respect to a particular bar?

2 A: That's correct.

3 Q: Okay. Give the Court, just at a high level,
4 how many undergraduate students are there at
5 the University of South Carolina?

6 A: We've got about 35,000 total students, a little
7 under 25,000 undergrads, about half of those
8 are under the age of 21.

9 Q: Okay. I mean, your typical freshman is how
10 old?

11 A: Eighteen to 19.

12 Q: All right. And I think you heard Chief
13 Holbrook say it this morning, but I want to
14 make sure you agree, has the student population
15 at the University of South Carolina grown? Is
16 it larger this year than last year?

17 A: That's correct.

18 Q: Was it larger last year than the year before
19 that?

20 A: That's correct.

21 Q: And how about the year before that?

22 A: That's correct.

23 Q: So how far back does that trend extend in terms
24 of the student body getting larger and larger
25 and larger?



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1 A: I wouldn't know the exact data, but I know it's
2 been over the past five years we've seen a
3 substantial increase in our traditional
4 undergraduate population. We've seen a
5 decrease in our graduate population, which
6 makes our total number of students, if you --
7 just to look at that, look somewhat flat or
8 increasing a little bit, when in fact it's been
9 the undergraduate population that's due to our
10 growth.

11 Q: Do you have any understanding of where your
12 students live when they're attending the
13 University of South Carolina?

14 A: So we are bringing in roughly 6,000 freshmen.
15 We have roughly 6,000 residential spaces on
16 campus. We find our self at the moment at a
17 time where we can't house the -- almost
18 entirely of our entering freshmen class,
19 excluding transfers, in our on-campus housing.
20 That requires sophomores, juniors, seniors,
21 graduate students to find living accommodations
22 off-campus.

23 Q: All right. Now, would you -- let's unpack the
24 reasons why the University is protesting Group
25 Therapy. Apply the four criteria with respect



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1 to this case for me.

2 A: Sure. I am happy to do that and talk about
3 2018 versus 2020.

4 Q: Please do.

5 A: When we looked at the first category, which was
6 last call, our alcohol transports, in 2018
7 Group Therapy did have two. At that point in
8 time when we were looking at who we chose to
9 protest, we were looking at almost the very
10 worst offenders. For example, at that point in
11 time, another establishment that we did protest
12 had seven.

13 Q: I'm sorry?

14 A: Had seven.

15 Q: Seven, okay. So just to be clear, in '18, your
16 last call data -- and those are just the people
17 who can remember where they had their ---

18 A: That's correct.

19 Q: Okay. You had two for Group Therapy in '18,
20 you found others who had more.

21 A: That's correct.

22 Q: All right. Go ahead.

23 A: Secondly, we looked at food at the ---

24 **MR. SELLERS:** Objection, Your Honor.

25 **MR. KENNEY:** It's -- we'll move along.



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1 Q: You looked at food ---

2 A: As this Court has already stipulated, we have
3 no issues with that in 2018.

4 Q: Okay. Well, what's the next thing you looked
5 at?

6 A: The next thing we looked at was media. At that
7 point in time social media was very sparse, if
8 at all. A couple of Facebook posts, very
9 little Twitter activity. We did find some
10 specials, \$2 beers, nothing rough in comparison
11 to others. There were advertisements for food
12 on their social media at that point in time.

13 Q: Let me stop you with respect to social media
14 and just focus on alcohol for a minute. What
15 are you looking for?

16 A: We're looking for active solicitation of
17 undergraduate students for, you know, excessive
18 drinking or particularly those that are
19 targeting undergraduate students. So, for
20 example, there was one other establishment in
21 Five Point areas that ran an ad that if a
22 female were to bring her sorority bid card to
23 the bar, that they would receive a free drink.

24 Q: Okay. Not -- that's not at Group Therapy?

25 A: That is not.



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1 Q: All right.

2 A: That is as egregious as they could potentially

3 ---

4 Q: But that's the sort of thing you're looking
5 for?

6 A: Correct.

7 Q: Targeting students with advertising?

8 A: Yes.

9 Q: Got it. What else? You're walking us through
10 the analysis with respect to Group and
11 Eighteen.

12 A: Sure. The last prong of that was law
13 enforcement action.

14 Q: Right.

15 A: And as I think as the data Chief Holbrook
16 presented this Court today, when that analysis
17 this run, it was limited at that time.
18 Compared to what we see today, we went back
19 through, we will say that the last call or the
20 last transport, they are still low for Group
21 Therapy. They are still establishing a regular
22 menu, so food is not an issue for the
23 University. In terms of their drink specials,
24 we did -- we've always known about the Nerd.
25 The Nerd ---



1 Q: I'm sorry, the what?

2 A: So one of the things that Group Therapy is
3 famous for and has presented itself in open
4 media as something that it offers their patrons
5 that other institutions in that vicinity don't,
6 is the Nerd, which is a mixed drink concoction
7 with multiple alcohols that includes Nerds, the
8 childhood candy, to make it sweeter and more
9 digestible, likely easier to consume high
10 levels of alcohol due to the addition of the
11 children's candy.

12 Q: Okay.

13 A: One of the articles that we ran across was an
14 article from The State explaining that in 2018
15 Nerds drinks were -- let me find the highlight
16 titling that. Nerd-soaked revelers jam Group
17 Therapy for new student happy hour in Five
18 Points. Within that article it's noted that
19 going into 2018, an anonymous fraternity male
20 worked with the owner of the bar to create ---

21 **MR. SELLERS:** Objection, Your Honor. This is my
22 favorite objection today. I never make this
23 objection in Court, but hearsay, he's now going
24 to anonymous this and anonymous that and ---

25 **MR. KENNEY:** We can probably just move along.



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1 **MR. SELLERS:** I think that would be appropriate.

2 **THE COURT:** Thank you.

3 **Q:** Dean Shook, let's move forward just a little
4 bit.

5 **A:** Sure.

6 **Q:** I understand you looked at '18; you looked at
7 social media. Get me to '20. What -- how did
8 the analysis change? Explain that to us.

9 **A:** The analysis changed primarily due to the data
10 provided us by CPD ---

11 **Q:** Okay.

12 **A:** --- and ...

13 **Q:** All right. And is that the same sort of data
14 that you heard the Chief talked about this
15 morning?

16 **A:** Yes, sir.

17 **Q:** All right. Now, I don't think you were here
18 yesterday, but are you just the fun police?
19 What's the -- what is the problem? You have --
20 I mean, you would concede you have
21 undergraduate students that are of age; is that
22 correct?

23 **A:** That is correct.

24 **Q:** And you have undergraduate students who are
25 underage.



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1 A: That's correct.

2 Q: All right. Why is the University in the
3 business of worrying about student drinking?

4 A: I did read the comment about the fun police.
5 And with all respect to Mr. Sellers, I would
6 say that that is a comment that's probably
7 going to require a public apology to different
8 constituents at a point in time. It reflects
9 the lack of understanding of the real issues at
10 heart in Five Points. The issues for the four
11 groups that are here today to protest Group
12 Therapy, you know, they do relate to the
13 changing nature of Five Points that Chief
14 Holbrook eluded to. It's not the same Five
15 Points that was around ten years ago. Our
16 student population is not near the same
17 population that existed five years ago, ten
18 years ago. What we're seeing on campus and
19 nationally in terms of the rise in student
20 anxiety and the rise in student depression, the
21 rise in student suicidal ideation and those
22 ties to some of those characteristics tied to
23 high risk and high binged drinking. The idea
24 that we're the fun police and are doing this
25 just because we have some personal endeavor or



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1 don't want our students to have fun is a
2 complete mischaracterization and reflects a
3 lack of understanding of the complexity of this
4 nature. As a matter of fact, to refer to that
5 combined unit as the fun police, is to de-
6 credit the parents of students that have
7 suffered assaults in the area, the parents of
8 students that have suffered sexual assaults as
9 a result of being in the area, the parents of
10 students that have suffered violent crime, and
11 even the parents that have experienced worse
12 than that.

13 Q: You used a term binge drinking. What does that
14 mean to the University of South Carolina?

15 A: Binge drinking we break down into kind of
16 heavy, problematic drinking. When we're
17 looking at the definition, heavy drinking would
18 be four drinks for a female over a course of
19 two hours, five drinks for a male. Heavy,
20 you're getting up in the eight-to-ten, six-to-
21 eight range.

22 Q: What, if anything, does the University of South
23 Carolina know about the prevalence or scope of
24 binge or problematic drinking among its
25 undergraduate population?



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1 A: The best data point that we have comes from our
2 AlcoholEdu survey.

3 Q: Just briefly explain to the Court that process,
4 how it works, and how you get that data.

5 A: Sure. So the University contracts with a
6 company called Everfi for its use of our
7 alcohol prevention and education programs as
8 well as the University's sexual assault and
9 interpersonal violent education programs. We
10 do these not only to be in compliance with a
11 number of federal laws that mandate that we
12 provide such education, but we particularly use
13 Everfi. It's -- we'll talk about alcohol. We
14 use AlcoholEdu. We're one of over 550 schools
15 that use this particular program, because it's
16 been demonstrated to be effective. Can cite to
17 nine empirical studies, published and peer
18 review publications about its effectiveness.
19 So we take every incoming student, whether it
20 be a new freshman, whether it be a transfer
21 student, and we require them to take both the
22 AlcoholEdu as well as the sexual assault model
23 SAPU. The students log into the program ---

24 Q: Let me just stop you. This is before they
25 arrive at the University of South Carolina?



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1 A: Correct. Yes.

2 Q: Okay. And they do what? They log in and then
3 what?

4 A: Well they log in through their self-service
5 Carolina portal. So they're actually being
6 verified through our records. They're required
7 to go online and complete approximately three
8 hours of training for, what we call, part one.
9 Those are interactive models, they're given
10 education, they're given hypothetical
11 scenarios, they're given tests to make sure
12 they have mastery of the knowledge. When
13 they're complete with that program, there will
14 be a period of weeks, they'll be sent a survey,
15 which is called part two. They're not deemed
16 completed with the program until they complete
17 part two. And part of that is looking to see
18 if there have been changes in student attitudes
19 or behaviors based on their completion of the
20 program. But this is also -- part two is
21 typically administered in October, when they've
22 been here for a set period of time. So now we
23 can look at have there been changes in
24 behaviors from coming to college to arriving
25 onto college, have there been changes in



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1 attitudes. It also allows us to generate some
2 data that we can use in terms of targeting our
3 prevention and education programs.

4 Q: I see. And what does that data show you? How
5 long have you been doing the program, the
6 education -- AlcoholEdu program?

7 A: At least until 2012, that's the data that I
8 have going back to.

9 Q: Okay. So you've been doing it since '12 to the
10 present. What does it show you in terms of the
11 impact of attending a university -- well, this
12 university, the University of South Carolina,
13 what does your data indicate about student
14 drinking after they come into the University?

15 A: Sure. One of the benefits of the AlcoholEdu
16 program and one of the reasons why so many
17 institutions of higher education use the
18 program, is it does enable us to benchmark
19 against our peers in the SEC for us as well as
20 the national average. In general, what you see
21 is that South Carolina has traditionally, over
22 the range of the program, had more heavy and
23 problematic drinking amongst our first-year
24 students. Now, I think it's also important,
25 when I'm reporting this data -- there is a



1 safeguard in the program. So when I'm
2 reporting data on heavy and problematic
3 drinking, the data that's being reflected does
4 not encounter the people that say I don't
5 drink. It's just looking at students that say
6 they drink within the past two weeks. So in
7 terms of the general trends, we're seeing that
8 the University of South Carolina compared to
9 our peers are having our first-year students --

10

11 Q: Let me stop you right there. Who are the
12 peers?

13

A: SEC institutions and the national average.

14

Q: These are big schools?

15

A: Yes.

16

Q: Okay. Go ahead.

17

A: And as a matter of fact, we're significantly
18 higher when you're looking at heavy and
19 problematic drinking. In fact, we're twice the
20 national stat in terms of your problematic
21 drinking, which is eight or ten-plus drinks in
22 a two week period for men -- ten or plus drinks
23 for men, eight or plus for women.

24

Q: Is this right you're relying on right here to

25



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1 A: Yes.

2 Q: Can I just see that right there?

3 A: Yeah.

4 **MR. KENNEY:** You got another copy? Let's just put
5 this up on the screen so everybody can see it.

6 Q: So, Dean Shook, this graph right here?

7 A: Yes.

8 Q: Is this what you're relying on to walk us
9 through your analysis?

10 A: Yes. So this graph was compiled by our
11 Substance Abuse Prevention and Education Office
12 based on individual impact reports that
13 encounter each year's data. This is a way to
14 easily look at longitudinal trends based on
15 year as well as comparison with most recent
16 data set. So if you look left to right, you're
17 looking at, within each column, 2012
18 progressing to 2018 with the last column on
19 your right per set being that national average.
20 So just looking at this very briefly, we have
21 less abstainers and non-drinkers and
22 significantly higher heavy and problematic
23 drinkers.

24 Q: So the last column for each data set is the
25 national average and we, the University of



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1 South Carolina, from '12 to '18 is everything
2 else?

3 A: That's correct.

4 Q: Okay... And I don't want to spend a lot of time
5 on this; but I do want you to just briefly
6 touch on this behavior, the types of behavior
7 that your students report through the survey.

8 A: Sure..

9 Q: Things -- just describe for the Court, what's
10 the issue; pre-gaming, multiple drinks; shots,
11 chugging alcohol? Explain the concern.

12 A: One of the things that you're looking at with
13 high-risk drinking are the behaviors that come
14 about it. And what we're particularly looking
15 at for us, as the University as we develop
16 educational programming and interventions, are
17 where are those areas where we can make an
18 impact and how can we positively influence the
19 negative influences? So the next chart you're
20 looking at is what we call the high-risk
21 drinking behavior. It goes from pre-gaming, to
22 choosing a drink with more alcohol, to doing
23 shots, to chugging alcohol. If we look at it
24 again, although more closely in line with
25 national averages, our UofSC freshman students



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1 are engaging in more high-risk behaviors than
2 our peers.

3 Q: And y'all tried consequences like blackout,
4 hangover, and academic impact?

5 A: We do. These are, again, self-reported data.
6 I think that's important to note. You know,
7 one of the things for us as an institution of
8 higher education, we're particularly concerned
9 with the academic impact. And that's missing
10 a class, missing an assignment, doing things
11 that you didn't go to college to do, that
12 you're not paying your tuition to do. And as
13 you can see, those vary by year, but again
14 consistently we're above the national average.

15 Q: Okay. Here's where I want to come back to Five
16 Points and Group Therapy with. We understand
17 there's consequences, we understand what the
18 behavior is. Where do your students drink?

19 A: This is probably the more interesting slide.
20 So this is, again, noting where have you drank
21 in past two weeks. As you notice, the first
22 column is bar/nightlife, the second is off-
23 campus residence, the third is athletic event,
24 the fourth, again, going left to right is an
25 on-campus residence, and then the final



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1 category is all other locations, and that
2 includes fraternity/sorority house, my own
3 home, outdoor setting, restaurant, car. The
4 fascinating point comes in when looking at that
5 very first bar graph, which is drinking at a
6 bar or nightclub. And I particularly want to
7 call you to that at 2017, which would be the
8 2017-'18 year where you see this kind of ---

9 Q: That's this one right here?

10 A: That's correct. Topping out at 42 percent.
11 That's the same year when Chief Holbrook was
12 listing the Columbia Police Department's data
13 of when they saw a dramatic increase in crime
14 at Group Therapy. Now, again, I want to be
15 clear and I don't want to generalize, we're not
16 saying that this bar graph is reflective of
17 Group Therapy alone. We would be wrong and
18 ignorant to do that. But it is pointing out
19 that, when we're seeing problems escalate,
20 we're seeing some of those changes start to
21 tilt in the overall culture and problems within
22 the Five Point area, it's there. The students
23 -- that's where our first-year students are
24 drinking. They're drinking in bars and
25 nightclubs when their peers are drinking at



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1 off-campus or they're drinking at other
2 locations, such as fraternity and sorority
3 houses. Ours are drinking in Five Points and
4 they're drinking in Five Points because there
5 are a number of bad actors who are willing to
6 take profit for minuscule ID procedures,
7 abundant drink specials. Our students know
8 that they can get in with crappy IDs and they
9 can take a ten dollar bill down there and get
10 substantive amounts of alcohol.

11 Q: I gotcha. I gotcha. And just to emphasize,
12 when we're looking at this bar and nightclub
13 drinking, these respondents are -- these are
14 incoming and then freshmen who have been here
15 from August to October?

16 A: That's correct.

17 Q: What percentage of the freshmen -- incoming
18 freshmen class is under the age of 21?

19 A: Ninety five. And, again, that's approximation.
20 But based on what I know from USC and the
21 career and higher education, even though across
22 higher ed we're seeing more students enter in
23 their later years of capacity, our freshmen
24 crowd at USC, while still diverse, welcoming a
25 robust transfer class, are still the vast



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1 majority of traditional age college students.

2 Q: I see. Is there anything else you want to tell
3 the Court about why the University believes
4 that this license and permit should be denied?

5 A: I think it's important, again, to go back to
6 our involvement here is not because we want to
7 pick on any one bar. Our involvement here is
8 not because we want to shut down every bar in
9 Five Points. As a matter of fact, no one at
10 USC is going to be happy if Group Therapy goes
11 out of business. We have no intent to pick on
12 a notable alumnus of our institution. What we
13 are saddened to see is, based on the data
14 supplied by the police and the testimony I
15 overheard by Lieutenant Holbrook, is this is an
16 entity that is engaging in unsafe business
17 practices and it's not a safe entity for our
18 students.

19 **MR. KENNEY:** Your Honor, I'd like to have the packet
20 of slides that Dean Shook has used to
21 illustrate his testimony marked and admitted as
22 Intervenor Number 5.

23 **MR. SELLERS:** Objection, Your Honor, to the
24 relevance of it. He testified himself that he
25 can't even attribute any of these to Group



1 Therapy. It's just random percentages about
2 Five Points. He talked about it, we'll go
3 through it, it's on the record, but I don't
4 believe this is relevant and can be allowed
5 into evidence, Your Honor.

6 **THE COURT:** Mr. McCabe?

7 **MR. MCCABE:** No objection from the Department, Your
8 Honor.

9 **THE COURT:** Okay.

10 **MR. KENNEY:** The alternative, Your Honor, would be
11 for me to ask Dean Shook to read into the
12 record everything that is ---

13 **THE COURT:** The objection is overruled ---

14 **MR. KENNEY:** Yes, ma'am.

15 **THE COURT:** --- and I'm allowing it into ---

16 **MR. KENNEY:** Thank you, Your Honor. Appreciate it.

17 **THE COURT:** And it's in.

18 **(Intervenors' Exhibit Number 5 was marked and**
19 **admitted into the record.)**

20 **MR. SELLERS:** Are you done, Chris? I didn't want to
21 ...

22 **MR. KENNEY:** I'm done. If you'd answer Mr. Sellers'
23 questions ---

24 **THE COURT:** I'm sorry.

25 **MR. KENNEY:** --- and Mr. McCabe's.



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1 MR. SELLERS: Do I go before Mr. McCabe?

2 THE COURT: No.

3 MR. SELLERS: Oh, that's what I thought.

4 MR. MCCABE: No questions for the Department, Your
5 Honor.

6 THE COURT: Okay. Mr. Sellers.

7 MR. SELLERS: Thank you so much.

8 DEAN SHOOK - CROSS-EXAMINATION BY MR. SELLERS:

9 Q: Dean Shook, how long have you been at the
10 University?

11 A: A year and a half.

12 Q: So you're new around these parts, aren't you?

13 A: That's correct.

14 Q: Are you familiar with Mr. Taneyhill?

15 A: I am through reputation.

16 Q: What reputation? His mullet? You know he
17 played with a mullet.

18 A: I'm jealous of that. For obvious reasons.

19 Q: Did you know he used to throw those deep bombs
20 to Corey Bridges? Do you know Corey Bridges?

21 A: Familiar with the name.

22 Q: Zola Davis was his star wide receiver. Did you
23 know any of that?

24 A: I did not.

25 Q: You a Georgia fan?



1 A: No, sir.

2 Q: Didn't you come from LaGrange?

3 A: I did.

4 Q: Okay. Or would you be surprised to know that
5 -- and you were quoting the testimony of Chief
6 Holbrook. Would you be surprised to know that
7 my client here is known by the law enforcement
8 to have a reputation for peace and good order
9 in the community?

10 A: I know I heard Chief Holbrook's testimony.

11 Q: You ever heard of Cleveland Sellers?

12 A: I have not.

13 Q: He's a professor at the University nearly 20
14 years and helped start the African American
15 Studies Department. I happen to know him
16 pretty well. I grew up on that campus. Took
17 umbrage at a few of things you were saying.
18 But I want to ask some questions. You went
19 through four protocols. I'm going to skip one
20 because that's already been dismissed. You
21 talked about the social media campaign in 2018
22 and 2020 and you stated that my client actually
23 didn't have a social media campaign that was
24 targeted to kids, right?

25 A: That's correct.



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1 Q: Or young people. In fact, you did last call
2 and you said in 2018 there were only two people
3 who stated that their last call and last drink
4 was at Group Therapy, correct?

5 A: That's correct.

6 Q: And then you said in 2020, there were only two.
7 So that number didn't rise, correct?

8 A: That's correct.

9 Q: All right. This thingamajiggy here that you
10 put into evidence ...

11 A: Which is the top?

12 Q: But as you see this ---

13 A: Which is the top of -- sorry.

14 Q: Oh, yeah, that's a good question. Where first
15 year students drink.

16 A: Okay.

17 Q: And you see these go up and we were talking
18 about that number two. But throughout all of
19 these increases right here that you see at bar
20 and nightclubs -- and I'm assuming this is
21 2018. Out of all these increases you see, but
22 I want to make sure that we understand that
23 2018 and 2020, the last call, the only evidence
24 you have of people actually drinking at Group
25 Therapy was two people; correct?



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1 A: That's correct.

2 Q: I mean, I thoroughly enjoyed your testimony.
3 It seems as if the University of South Carolina
4 is taking drinking seriously; are they not?

5 A: We are, sir.

6 Q: It's a priority for you.

7 A: Yes, sir.

8 Q: And you don't like an actual culture of college
9 students being around liquor and drinking, do
10 you?

11 A: We don't encourage high-risk behaviors in any
12 way. We don't allow or permit students to
13 break the law. And drinking under the age of
14 21 is against the law.

15 Q: What's high-risk behavior?

16 A: High-risk behavior would be the binge drinking,
17 the taking shots, the drinking drinks that
18 contain multiple sources of liquor ---

19 Q: Chugging ---

20 A: Yeah.

21 Q: --- too. You drink beer?

22 A: No, sir.

23 Q: Would it be -- I drink beer. Would you be
24 surprised to know that a lot of people drink
25 beer and they chug them; did you know that?



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1 Have you ever heard that, chugging a beer?

2 A: I have. Do you go into blackout a lot?

3 Q: I'm asking the questions.

4 A: Good enough.

5 Q: But I'm glad you asked that. I haven't
6 recently. I have twins. I'm trying to stay
7 away from that. But one of the things that I
8 wanted to ask you is, are you a Gamecock fan?

9 A: I am.

10 Q: Where were you on Monday night, February 10th?

11 A: Monday night, February 10th? Probably in the
12 office. Was that the date that we beat the
13 women's basketball team ---

14 Q: Correct.

15 A: --- at UConn?

16 Q: Uh-huh. And isn't it true that there were
17 18,000 people in the gymnasium to see Dawn
18 Staley and the University of South Carolina
19 women's Gamecock basketball team beat UConn?

20 A: Capacity.

21 Q: Isn't it -- capacity? 18,000. All 18,000 of
22 these people dumped out on the street at the
23 same time; did they not?

24 A: I would assume so.

25 Q: And those 18,000 people dumping out on the



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1 street at the same time, don't you think that
2 that would cause some type of major impact on
3 law enforcement?

4 A: Yes.

5 Q: Because they would have to be there to cover
6 it; correct?

7 A: Correct.

8 Q: What's also the new policy at the University of
9 South Carolina regarding liquor sales that you
10 care so much about?

11 A: We do allow them for individuals that are over
12 21.

13 Q: Correct. So now at the University of South
14 Carolina --

15 **MR. SELLERS:** -- Your Honor --

16 Q: -- you actually sell beer in the arena for
17 people to drink and chug and then let out on
18 the street at the same time?

19 A: We have more safeguards and procedures. If
20 institutions in Five Points would follow those
21 procedures that we've established, we ---

22 Q: That's not really what I asked you.

23 **MR. KENNEY:** Objection. Your Honor, I'd like him to
24 finish his answer.

25 **THE COURT:** Yes.



1 MR. SELLERS: Okay.

2 THE COURT: Let him finish his answer, Mr. Sellers.

3 MR. SELLERS: Sure.

4 A: You know, at this point in time, we have
5 safeguards. A, we have an abundance of food at
6 every game, we have an abundance of security,
7 we spend a lot of money on our security, we
8 only sell beer, seltzer and wine, we don't sell
9 any Nerd buckets, we have scanners, we check
10 every ID. We put in procedural safeguards to
11 oversee the safe and responsible consumption of
12 alcohol at those events.

13 Q: Your testimony earlier, though -- it's driving
14 me crazy and I'm trying to figure out why.
15 Your testimony earlier -- and this goes to the
16 credibility of you and the University joining
17 this protest. But your testimony earlier was
18 that you wanted to make sure that first-year
19 students and college students didn't have
20 access to alcohol all around them. So I'm
21 trying to figure out why for the life of me
22 does the University of South Carolina have beer
23 serving at games where they have people there
24 consolidated in one region.

25 A: Again, we entered this protest based on threat



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1 to campus -- the threat to safety by CPD. We
2 have never said that we object to any
3 institution serving alcohol. We object to
4 those that break the law and serve it in an
5 irresponsible manner.

6 Q: Why does the University of South Carolina serve
7 beer to students?

8 A: If they're over 21.

9 Q: Why does the University of South Carolina serve
10 beer to students?

11 A: We have guidelines to -- to anybody who's of
12 legal age.

13 Q: Why does the University of South Carolina serve
14 beer to students? Beer that you can chug, why
15 do they serve it?

16 MR. KENNEY: Objection, Your Honor. I think he's
17 answered the question and ---

18 MR. SELLERS: I will re- ---

19 MR. KENNEY: --- he does not need to berate the
20 witness.

21 Q: Isn't it true that the University of South
22 Carolina expects to make one million dollars a
23 year in alcohol sales? Isn't it true they
24 expect to generate that much?

25 A: I do not know that number.



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1 Q: Would it surprise you if The State newspaper,
2 the AP, ESPN, everywhere that you all marketed
3 beer to children and young people, would state
4 that the University stated, Ray Tanner in his
5 wisdom, Robert Caslen in his wisdom, stated
6 that they want to make a million dollars a
7 year; would that surprise you?

8 A: No, sir.

9 Q: So you have a profit motive for selling beer to
10 students.

11 A: We have a profit motive to sell beer to patrons
12 at athletic events that are of legal age.

13 Q: Now, this hasn't happened yet. How many people
14 fit in Williams Brice stadium?

15 A: 80,000-ish.

16 Q: 80,000-ish. What happens outside of Williams
17 Brice stadium?

18 A: Tailgating.

19 Q: Pre-gaming.

20 A: Correct.

21 Q: So in your infinite wisdom, isn't it possible
22 that students outside, students who are going
23 to the University of South Carolina could pre-
24 game?

25 **MR. KENNEY:** Objection. Speculation and relevance.



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1 **MR. SELLERS:** Your Honor, it's not speculation
2 because the Dean of Students would know the
3 answer to this. I'm asking about pre-gaming,
4 what he called risky behavior. And I'm just --
5 if I get a little runway here, I'm trying to
6 show that they are now serving beer to 90,000
7 people, many of which are students, and they
8 even have a student section.

9 **MR. KENNEY:** Your Honor, we would stipulate that the
10 University of South Carolina has applied for
11 and received alcohol licenses. And if Mr.
12 Sellers and Mr. Taneyhill want to join us in
13 looking at whether that should be protested in
14 another matter, in a unrelated matter to this
15 one, that's a conversation for another day.

16 **MR. SELLERS:** This goes straight to ---

17 **MR. KENNEY:** Speculation and relevance.

18 **MR. SELLERS:** Goes straight to the heart of the
19 credibility of the witness. The University has
20 come in here holier than thou with -- saying
21 that they care about students and their
22 drinking, putting forth all of these
23 parameters. And all I'm doing is going down a
24 path, Your Honor, that shows that they're
25 actually marketing beer to students. They're



1 actually selling beer to students and doing the
2 same thing that he's testifying that he doesn't
3 want to do.

4 **THE COURT:** Okay. But get to the point.

5 **MR. SELLERS:** Yes, ma'am.

6 **THE COURT:** Don't -- you're getting to the point
7 where you're badgering.

8 **MR. SELLERS:** I don't want to badger.

9 **MR. KENNEY:** Thank you, Your Honor.

10 Q: But I do want to ask you, will Williams Brice
11 stadium have 90,000 people in it, many of which
12 are students, and you'll be selling beer?

13 A: I would ask, but also put a caveat in that
14 there will be no alcohol sales in the student
15 section. If there are students, who are in
16 general admission seats, considered patrons,
17 who are of legal drinking age and who can
18 present a valid ID to someone selling, then,
19 yes, that individual, like any other patron,
20 would be allowed to purchase alcohol at the
21 game.

22 Q: And all of this is done for a profit motive,
23 correct?

24 A: And fan enjoyment.

25 Q: You said that media communications was involved



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1 in your decision to be a part of this, correct?

2 A: Correct.

3 Q: Why was media communications a part of this?

4 A: They're involved in almost every executive
5 level decision.

6 Q: Was the president involved in this?

7 A: Yes, sir. Yes, sir.

8 Q: The new president was involved in this?

9 A: Yes, sir.

10 Q: And the new president has had -- I will
11 characterize it as such, you don't have to --
12 but has had a rough media relation since his
13 arrival here; isn't that true?

14 **MR. KENNEY:** Objection. Relevance.

15 **MR. SELLERS:** The relevance of this, Your Honor, is
16 I'm saying that the reason that they're joining
17 this protest is not substantive, Your Honor.
18 It's a media campaign.

19 **MR. KENNEY:** Your Honor, I think Mr. -- Dean Shook
20 has testified that they protested four bars
21 prior to this one all of which proceeded
22 President Caslen.

23 **THE COURT:** Your objection is sustained.

24 **MR. KENNEY:** Thank you, Your Honor.

25 **THE COURT:** Move on, Mr. Sellers.



1 MR. SELLERS: No further questions, Your Honor.

2 MR. KENNEY: Very briefly, Your Honor.

3 DEAN SHOOK - REDIRECT EXAMINATION BY MR. KENNEY:

4 Q: Dean Shook, to your knowledge, has the
5 University of South Carolina been cited for any
6 ABL violations?

7 A: Not to my knowledge.

8 Q: Okay. An athletic event, you've been to
9 athletic events at the University?

10 A: I have.

11 Q: You've been in Williams Brice stadium?

12 A: I have.

13 Q: Would you just describe for the Court the age
14 range of the crowd?

15 A: The age range varies from toddlers dressed as
16 Gamecocks to individuals past the retirement
17 age. I can speak particularly to the student
18 section. There are -- there's an individual
19 student section, an individual gate.
20 Individuals have to have a verified student
21 ticket through their phone to access that. And
22 they're given a wristband. Individuals without
23 wristbands are not allowed in the student
24 section.

25 Q: Outside the student section, would you -- do



1 you have a estimate of how many patrons, fans
2 in the stadium are over the age of 21?

3 A: I would not be able to estimate that in any way
4 because of the age range, so. But there are a
5 lot.

6 Q: You were asked about the women's basketball
7 game. They play where?

8 A: Colonial Life Arena.

9 Q: And that is sort of in the Vista area, correct?

10 A: Somewhat. It's outside Founder's Park.

11 Q: At that event, would you have a -- see a
12 similar mix in terms of the age range of the
13 fans?

14 A: Yes.

15 Q: Similar to football is what I'm ---

16 A: Yes.

17 Q: Okay.

18 A: I mean, multi.

19 Q: What, if anything, is done in terms of
20 stopping, blocking, and controlling traffic
21 outside of either Williams Brice stadium or the
22 basketball arena.

23 A: Colonial Life Arena was designed with a plaza
24 outside to be able to be controlled by police
25 or pedestrian traffic, ease to parking garages.



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1 The Williams Brice stadium employs a massive
2 amount of police officers from all branches of
3 service on game days. Very complicated systems
4 of navigating student entrance, egress,
5 pedestrian traffic, vehicular traffic.

6 Q: In both cases, streets are closed?

7 A: Yes, in certain designated areas.

8 Q: Controlled by law enforcement?

9 A: That's correct.

10 Q: And it's a discreet event?

11 A: Correct.

12 Q: Last thing. You -- Mr. Sellers asked you about
13 this. I think the way he characterized it, the
14 only evidence you have with respect to Group
15 Therapy are these two students who woke up in
16 a hospital and reported to the University that
17 they took their last drink at Group Therapy; is
18 that accurate? We have two reports.

19 A: Yes.

20 Q: Those students were in the hospital?

21 A: Yes.

22 Q: Were they of age?

23 A: I cannot remember that, based on the report.

24 Q: Okay. Thank you very much.

25 **THE COURT:** Thank you, Dean, for coming. And Dean



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1 Shook, is he being excused?

2 **MR. KENNEY:** I believe he's here pursuant to
3 subpoena.

4 **THE COURT:** Right.

5 **MR. KENNEY:** We would like to have him released.

6 **MR. MCCABE:** No objection from the Department, Your
7 Honor.

8 **THE COURT:** On this side?

9 **MR. SELLERS:** No objection.

10 **THE COURT:** No objection? Okay. Thank you for
11 coming.

12 **MR. KENNEY:** Your Honor, I don't know what the
13 Court's plan is in terms of schedule, if you
14 intended to break for lunch or you want us to
15 just push through, I'm happy to go either way.

16 **THE COURT:** No. We're going to take a break for
17 lunch. If you would be back at, let's say,
18 1:15.

19 **MR. KENNEY:** Yes, Your Honor. Thank you.

20 **THE COURT:** Thank you all.

21 (Off the record at 11:55 a.m.)

22 **THE COURT:** Thank you. Please take your seats.
23 Okay, Mr. Kenney, we can -- we're back on the
24 record. You can proceed.

25 **MR. KENNEY:** Thank you, Your Honor. Please the



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1 Court. The Inventors* would call Vivian Clark
2 Armstead to the stand.

3 **MS. ARMSTEAD:** Good afternoon.

4 **THE COURT:** Good afternoon. And if you'll face the
5 court reporter, raise your right hand and she
6 will swear you.

7 **COURT REPORTER:** Please state and spell your first
8 and last name.

9 **MS. ARMSTEAD:** First name Vivian, V-I-V-I-A-N, last
10 name Armstead, A-R-M-S-T-E-A-D.

11 **COURT REPORTER:** All right. And is Clark, C-L-A-R-
12 K?

13 **MS. ARMSTEAD:** Yes.

14 **VIVIAN CLARK ARMSTEAD,** having been duly sworn,
15 testifies as follows:

16 **MS. ARMSTEAD - DIRECT EXAMINATION BY MR. KENNEY:**

17 Q: Good afternoon, Ms. Armstead.

18 A: Good afternoon.

19 Q: Would you tell the Court where you live?

20 A: I live in the Martin Luther King Lower Waverly
21 neighborhood, [REDACTED] [REDACTED] [REDACTED].

22 Q: And explain where your home is in conjunction
23 to first Five Points generally and then Group
24 Therapy specifically.

25 A: I am one, two, three, four blocks away, two



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1 blocks down and two blocks up the hill from
2 Five Points. And from Group Therapy, it is the
3 second establishment to our neighborhood going
4 toward Five Points. The first one is Nicky's
5 Pizzeria and the next one being Group Therapy.

6 Q: So if you're walking from your home to Five
7 Points, first you see Nicky's on Greene Street
8 on the right?

9 A: Uh-huh (affirmative response).

10 Q: And then you see Group Therapy?

11 A: Uh-huh (affirmative response).

12 Q: Is that ---

13 A: Well, there's a building in between that's
14 vacant. It used to be the sun tanning place,
15 then Group Therapy.

16 Q: Yes, ma'am. Thank you. You are a protestant?

17 A: Yes.

18 Q: You're a protestant in this matter, correct?

19 A: Yes.

20 Q: Would you tell the Court why you filed a
21 protest with respect to Group Therapy?

22 A: Well, for the Martin Luther King Lower Waverly
23 Neighborhood Association, I'm the neighborhood
24 association president. And I am protesting on
25 behalf of myself and the neighborhood



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1 association as a group. I am the first call
2 when there is any type of issue within the
3 neighborhood. And so the neighborhood
4 association agreed that we were having issues
5 from Five Points into our neighborhood,
6 overflow of walking traffic, of drunk students,
7 of trash being thrown. And I would get the
8 calls to come down here and look what's
9 happening in the park. You know, I have a
10 drunk student on my porch, would you come down?
11 And usually, the first place that they will
12 park, once Five Points is filled up, is then
13 they flow over into our community. So there's
14 a lot of walking traffic of students that have
15 been in Five Points drinking. Usually the ones
16 that go to Group Therapy are more likely the
17 ones that park in the MLK community because
18 it's the closest to be able to walk and find
19 parking that's free.

20 Q: Now, tell me, how do you know that? You see
21 these folks?

22 A: Oh, yes. Uh-huh (affirmative response).

23 Q: I mean ---

24 A: I'm the one's that's called. I also do a lot
25 of walk-throughs and drive-throughs of the



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1 community, trying to keep a handle on what's
2 happening, to see what's going on. So I have
3 witnessed students with not being able to find
4 their cars. Particularly on Sunday mornings we
5 have a lot that come back looking for their
6 cars, seeing them walking from -- because when
7 they leave Group Therapy, they walk back toward
8 the park. Seeing them in the parking ---

9 Q: Let me stop you right there. When you say the
10 park, which park are we talking about?

11 A: MLK Park.

12 Q: Okay. Go ahead.

13 A: And so, when anything happens, especially the
14 people that live in front of the park, the
15 first person that they call is the neighborhood
16 association president. You know, they're out
17 here again, the students. What are you going
18 to do? Call code enforcement. Do something.
19 And so, I'm usually the one that they call to
20 witness whatever it is that the complaint might
21 be. And we also have neighborhood watches
22 where we actually -- especially if there's
23 like a game night or something really going on,
24 we try to pay attention to what's going on in
25 the neighborhood.



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1 Q: Why do you do that?

2 A: Well, there's been a few occasions where we've
3 seen young coeds walking alone and inebriated.
4 And notice someone following them or guys
5 trying to talk to them, do you need a ride or
6 you -- and, you know, and seeing us sometimes
7 deters that. They'll keep going or they'll be
8 driving slow and they'll go ahead because they
9 see that somebody's watching this young lady or
10 watching. Or we'll see the aftermath the next
11 morning in the park. There might be a student
12 that's on a bench drunk. They also walk. Our
13 neighborhood has been having an influx of
14 rental properties to students. So a lot of the
15 students walk. We see them walking. And when
16 they walk, then they stop at the first
17 establishments and work their way on down. So
18 they're first stop is usually Group Therapy and
19 then they continue on down. And then they have
20 to come back. And that's when the issue occurs
21 is on their way back a lot of the time.

22 Q: I see. I may have asked you this, but how long
23 have you been in your home in the Martin Luther
24 King neighborhood?

25 A: Fifteen years.



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1 Q: All right. And how long have you served as the
2 neighborhood president?

3 A: Two years.

4 Q: And these experiences that you're describing in
5 terms of your service as the neighborhood
6 president, is that sporadic, consistent,
7 intermittent? How would you describe the
8 frequency at which you as president get these
9 complaints?

10 A: Oh, they're constant because particularly from
11 the people that live directly in front of the
12 park, directly on Greene Street, which is the
13 same street that Group Therapy is that leads
14 into Harden. And so, there are times when we
15 actually sit on the porch and watch the
16 activity that's going on, so that we can then
17 bring it back to our neighborhood association
18 meeting and discuss it. We have voiced these
19 issues to our city councilman, Mr. McDowell.
20 A matter of fact, we had a meeting last night.
21 And we tell him about these issues. We have
22 also voiced them to our code enforcement
23 officer. We made a complaint last night that
24 our -- every neighborhood is assigned a police
25 officer. And so we want more presence from the



1 south region' officer that's assigned so that --
2 we tried to address the students parking and
3 walking and being drunk on some of the streets.
4 Like on Oak Street, my street, and on Greene
5 Street, part of it, we've had parking by permit
6 put in only parking because of the influx of
7 students walking, being drunk.

8 Q: That basically allows them to be towed if they
9 don't have permit.

10 A: If they don't have a permit.

11 Q: Yes, ma'am.

12 A: Sometimes the loud noises when they're coming
13 late at night, disturbing people. I've had to

14 ---

15 Q: Let me stop you there. What -- specifically
16 what loud noises are you talking about?

17 A: I've gotten calls to go down in front of the
18 park. It's loud because they're drunk and it's
19 a group. Not loud noises that they're doing
20 anything, they're just drunk, so they're
21 talking loud and they're laughing and they're
22 -- and people are in their homes and they hear
23 this and they call the neighborhood president.

24 Q: Are these young people that you've observed or
25 what -- I mean, how do you know that they're



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1 coming from Five Points?

2 A: We watch them.

3 Q: You mentioned a porch. Does your home have a
4 porch?

5 A: Yes.

6 Q: You sit out on that porch a good bit?

7 A: Yes. Yes.

8 Q: Tell the Court some specific examples of some
9 things you've observed sitting on your porch?

10 A: Students losing their cars, not remembering
11 where they were parked. Coming back on Sunday
12 mornings trying to find their cars. Throwing
13 up. You know, they've gotten sick because
14 they've drank too much. I've seen them fall
15 all the way back down the hill once they get up
16 the top. Ms. Glennie Scott, who lives right on
17 Greene Street in front of the park, and she has
18 one of those porches that sit up high. So we
19 use her porch, as we call it our perch, where
20 we can sit and watch and see what happens. A
21 lot of them, like I said, the first stop is
22 Group Therapy because it's the closest to our
23 neighborhood. But they're going to other
24 establishments in Five Points. That might be
25 just their starting point or they last point on



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1 their way back into the community.

2 Q: I understand. I understand. I want to ask you
3 about a couple of other things. How about do
4 you ever see any litter?

5 A: Oh, it's gotten really bad... I walk in the
6 mornings around 6:30, depends on daylight
7 savings time, around the park. And after --
8 usually starting Thursday through the weekend,
9 if there's a game, if there's a concert, then
10 there's trash from beer cans to red cups to
11 Styrofoam containers. At that end of the park
12 down by the Fountain of Hope, that end of the
13 park gets the most of the litter.

14 Q: And how far do you estimate the park is from
15 Group Therapy, less than half a mile?

16 A: Across the street, may on one corner... You
17 know, diagonally across.

18 Q: What else have you seen in the park when you
19 take your morning walks?

20 A: Students that have been there all night and got
21 on a bench ---

22 Q: Explain that to the ---

23 A: --- that are still there in the morning. One
24 morning a young man was half dressed in the
25 park, had slept in the park all night long.



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1 We've seen students jumping the ditch. You
2 know, there's a ditch that runs through the
3 park. And there's a fence, a barrier, but not
4 high. You can still get over it if you're in
5 your twenties. I couldn't. But, you know,
6 that they go and -- I don't know if it's a
7 challenge or what the reason is that -- you
8 know, that they're doing it. But, like I said,
9 Group Therapy is not the only watering hole
10 that they're aspiring to reach. It just it is
11 the closest one to the MLK neighborhood where
12 we can actually see them coming in and out or
13 see them on the sidewalks as they come out and
14 come toward the neighborhood.

15 Q: Yes, ma'am. Any other things that you've
16 observed in the park that you think the Court
17 should know about?

18 A: Basically, it's the students that are -- or
19 young people. I don't know if they're all
20 students or not. But young people that tend to
21 get too drunk to get up the hill or to find
22 their cars that end up in the park late at
23 night. Which the park can be kind of dangerous
24 also, because you also have homeless people
25 that are in the park, you know, at night and



1 sometimes in the mornings. So that really
2 concerns me when I see a young person that
3 appears to be a college student or something of
4 that type in the park and then you know that
5 there are other types of people that also are
6 in that park, so it gives you room for concern.
7 And we've called code enforcement to go and see
8 and check. Stacey Harris is our code
9 enforcement officer.

10 Q: Yes, ma'am.

11 A: So we've called him, we've complain about noise
12 and about, you know, them partying on the
13 sidewalk as they come by in the night.

14 Q: Talk to me about noise for just a second from
15 either your home or from the park. Can you --
16 what sort of noises do you hear? Is it just
17 the conversation or is there other noise
18 emanating?

19 A: Sometimes it's a conversation, sometimes it's
20 an argument, a girlfriend trying to get away
21 from a boyfriend. I don't know if they're
22 boyfriend or girlfriend, but arguing of that
23 type. And obvious both of them are drunk
24 obviously. And for some reason on my street,
25 on my porch, they can't see me sitting up on my



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1 porch, so I hear the whole argument. By that
2 time, though, they've gotten off of Greene
3 Street and they're now headed up Oak Street.
4 To actually see them, as they come from Group
5 Therapy in the Five Points areas is the times
6 when we go, what we call, sit on the which is
7 Ms. Scott's porch and we actually watch.
8 Because we spend some time trying to observe
9 exactly what was going on so that we could
10 explain it when we had our meetings in a way
11 that would get us some type of reprieve.

12 Q: Have you gotten any reprieve?

13 A: No, not as of yet. But we discussed that last
14 night.

15 Q: Yes, ma'am. Talk to me -- you've mentioned a
16 couple of times you've talked about both Group
17 Therapy, but made the point that they're not
18 the only game in town.

19 A: Uh-huh.

20 Q: You've been down in Five Points?

21 A: Uh-huh (affirmative response).

22 Q: What would you -- how would you describe the
23 nature of the establishments in Five Points and
24 specifically the number of establishments --
25 bars? How many bars are down in Five Points,



1 based on your experience?

2 A: Matter of fact, I looked yesterday because I
3 knew I was coming today. I said, let me see
4 what's still open. There were some that are
5 now closed and are for lease. One next to
6 Group Therapy, the Roost on the corner was
7 closed. But in that block between Devine and
8 Blossom, they still have quite a few that are
9 open. It's a watering hole for a younger
10 crowd. The most annoyance is when there's a
11 game or when there's something big going on
12 there's a lot of students that are down there.
13 Now when there's school breaks, when it's
14 Christmas time, even in the summertime
15 sometimes, it's totally different, you know,
16 less people. I go more to the Vista. I'm a
17 little bit -- you past 25, so I go more to the
18 Vista, because the crowd is younger down there,
19 they don't know how to handle their alcohol
20 down there. There have been some incidents of
21 things happening, shootings and stuff, so I
22 don't frequent Five Points as much as I did at
23 one time.

24 Q: So you're saying you choose not to go down and
25 enjoy the hospitality district that is walking



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1 distance from your house?

2 A: Yes.

3 Q: Okay. Talk to me a little bit about in terms
4 of the traffic, the foot traffic, the size of
5 these crowds. Are these small groups, large
6 groups? What have you personally seen?

7 A: Well, they have increased. The Greene Street
8 area and the rest of the community, we have
9 been in conversation about code enforcement of
10 the ordinance of three or more people not
11 related by marriage or blood staying in one
12 facility, because its caused parking issues.
13 It's caused partying issues. It's caused a lot
14 -- because a lot of times once the bars do
15 close, they walk back into the community and
16 party at houses that students are occupying
17 within our community.

18 Q: Yes, ma'am. And the ordinance you're referring
19 to is a Columbia City ordinance that limits the
20 number of unrelated persons in the home?

21 A: Yes.

22 Q: Okay.

23 A: That is not being enforced.

24 Q: Generally what has the trend been? I mean,
25 you've mentioned the students living in your



1 neighborhood a couple of times. What is the
2 trend, based on your 15 years in the community?
3 Is this more students that you've seen in
4 Martin Luther King neighborhood or what?

5 A: More students. It's a historical community
6 that used to be families and children. Now,
7 it's more students. We have -- because I tell
8 you we're the closest to walking to Five
9 Points, Group Therapy, other bars down in that
10 area, so we've had an increase in foot traffic,
11 which causes some concern of people walking
12 through your community and you don't know who
13 they are or what their purpose might be or
14 their mindset might be as they walk through the
15 community. So the increase in walking traffic,
16 because a lot of students prefer to park in MLK
17 and walk because they're drunk and they don't
18 want the DUI, they don't want -- and the
19 parking is free and so they park -- we get a
20 lot of the parking from Group Therapy on the
21 Greene Street and the Pine Street because they
22 can walk right back down and not pay for
23 parking.

24 Q: What about vehicle traffic, what is that like
25 in your neighborhood?



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1 A: Well, we're asking for speed bumps on Greene
2 Street because they come down there like a bat
3 out of, you know what.

4 Q: They drive very fast?

5 A: Yes. And there's a parking -- there is a stop
6 sign right in front of the park. And there are
7 kids that -- and the park is open until around
8 9:00 o'clock at night, so in the summer -- in
9 the winter time it's dark at 6:00 o'clock.

10 Q: Yes.

11 A: So you have young people that aren't paying
12 attention, they've been in the park playing
13 basketball and double Dutch jumping. And the
14 traffic has totally increased. People not
15 adhering to the speed limits. People being
16 intoxicated, particularly, like I said, if
17 there's event, if there's a game. Like the
18 other night after the UConn game, Five Points
19 got really crowded. It got really loud and we
20 had a lot of traffic through the community.

21 Q: How does that make you feel? Like the night
22 after the game, for example, the observations
23 that you see in your neighborhood, how do you
24 feel about living there when you have those
25 sorts of nights?



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1 A: Well, you -- it used to be very quiet and
2 peaceful, you know. So now, you have these
3 noises that you're coming to the front door to
4 see how -- like I said, as neighborhood
5 president, I'm getting these calls to where I
6 now have to come down to the park to see what
7 the complaint is, to see -- and some of the
8 students are very respectful. When we tell
9 them to pipe down, they pipe down. If we tell
10 them you have to disburse, they're too many of
11 y'all. Why you just hanging out in front of
12 this particular house? Move it along. Then,
13 you know, you get cursed out occasionally, but
14 in general they listen. They yes, ma'am and
15 keep it moving.

16 Q: Yeah.

17 A: You know, looking for their car. They're
18 trying to remember where they came from or
19 where they're going.

20 MR. KENNEY: I'll apologize for one second, Your
21 Honor.

22 (Off the Record)

23 Q: Ms. Armstead, have you witnessed anything else
24 -- start with Group Therapy? Have you ever
25 been in Group Therapy?



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1 A: Yes.

2 Q: How many times?

3 A: It's been a long time.

4 Q: A long time?

5 A: It's been a long time. I have granddaughters
6 that go to Group Therapy when they come to my
7 house and walk down to Five Points and go in
8 Group Therapy. Group Therapy has been a staple
9 in the community for a long time. I don't have
10 any direct complaints on Group Therapy that
11 this is where the fight happened or this is
12 where this happened. The most annoyance from
13 Group Therapy is sometimes the congregating of
14 people outside of the door.

15 Q: Sure.

16 A: You know, but other than that, they have not
17 created any havoc in the community.

18 Q: Am I correct -- I want to make sure I'm clear
19 on what you said earlier -- that you personally
20 have observed the drunk young people coming
21 from Group Therapy into Martin Luther King
22 neighborhood?

23 A: Uh-huh (affirmative response).

24 Q: Is that a yes?

25 A: Yes.



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1 Q: Okay. And on how many occasions do you think
2 you've been sitting on the porch and saw
3 something like that?

4 A: I don't get the calls as much as I used to. I
5 think people sort of gotten numb to it or they
6 wanted it known that this was happening, so
7 they -- particularly when I first took over,
8 we've had one neighborhood president, Mr.
9 Durham Carter, for years. And he constantly
10 walked and drove the neighborhood. After he
11 got older and couldn't walk it anymore. So
12 when I first became president, there were
13 numerous calls on a regular basis. And then I
14 got to the point where I've already -- you
15 know, I've seen it, I understand what your
16 problem is. We'll bring it before the group.
17 We'll try to get some reprieve from our
18 councilman or our code enforcement people will
19 relay the message on. And so the calls are not
20 as frequent anymore as they were in the
21 beginning because now we've already established
22 that we have this problem.

23 Q: Uh-huh. You've participated in other bar
24 protest cases?

25 A: Have I ---



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1 Q: Have you participated, have you filed a protest
2 in other bar protest cases like this one?

3 A: No. I filed a protest -- there's a liquor
4 store that's coming to our community. I filed
5 them -- you know, we're talking about
6 curtailling the alcohol consumption in Five
7 Points, at the same time we're going to put a
8 liquor store in front of the dorm.

9 Q: Yes, ma'am.

10 A: On Harden and Gervais. So we're trying to
11 alleviate that.

12 Q: I understand. Is there anything else you think
13 the Court needs to know in terms of the impact
14 that these bars are having on your
15 neighborhood?

16 A: The patrons of the bars are having an impact on
17 the peace and tranquility of our community.
18 It's having an impact on how people feel safe,
19 you know, with knowing who is roaming around in
20 the community. Same people that you know are
21 obviously drunk to the point of them throwing
22 up or falling down. Those types of concerns.
23 And being concerned about the young people.
24 Like I said, there have been nights that we've
25 sat out there because we watched a young girl



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1 -- you know, a young lady walking, you know, by
2 herself or with friends who got mad and left
3 her and she has no idea where she's at and
4 there some guys trying to say they're helping
5 her, you know, or do you want a ride. So it's
6 caused more concern from the community about
7 what our community looks like and feels like.

8 Q: Yes, ma'am.

9 **MR. KENNEY:** Beg the Court's indulgence for one
10 minute.

11 Q: Oh, Ms. Armstead, I forgot to ask you at the
12 beginning, would you tell the Court what you do
13 for a living?

14 A: I work for the South Carolina HIV/AIDS Council.

15 Q: How long you been doing that?

16 A: I've been there 20 years November 1st.

17 Q: Yes, ma'am. And I just want to say, I've
18 enjoyed the time I've spent with you and
19 learning about the program. Unless there's
20 anything else you want to tell the Court, I'd
21 ask that you answer Mr. Sellers questions or
22 Mr. McCabe's questions. Thank you, ma'am.

23 **THE COURT:** Mr. McCabe, do you have anything?

24 **MR. MCCABE:** No questions from the Department, Your
25 Honor.



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1 **THE COURT:** Okay, Mr. Sellers?

2 **MR. SELLERS:** I'm going to be brief.

3 **MS. ARMSTEAD - CROSS-EXAMINATION BY MR. SELLERS:**

4 **Q:** We go way back. Thank you. I wasn't expecting
5 to see you today. I have so much respect for
6 you and everything you do.

7 **A:** You've been a supporter. Thank you very much.

8 **Q:** Always. I still am. I still am. You stated
9 that Group Therapy hasn't created any havoc in
10 the community and so you're not surprised to
11 learn that even law enforcement says that my
12 client and his establishment are -- I want to
13 get the word right here -- have a reputation
14 for peace and good order, are you?

15 **A:** Yeah, no. No, sir.

16 **Q:** And you were talking about the noises you hear,
17 but you don't ever hear any loud noises from
18 the bar itself, do you?

19 **A:** Only when they're congregating outside on the
20 sidewalks, which is -- our complaint is not
21 necessarily with the owner or knowing the
22 owner. It is the patrons that are actually
23 coming out of the establishment.

24 **Q:** But it's not music -- I'm just trying to
25 establish. You're not hearing music or a DJ



1 play loudly for anything like that?

2 A: No. Only when there's a band at the fountain.

3 Q: At the fountain. Like a big one on which ---

4 A: You can hear it all over the neighborhood.

5 Q: And you said that you witness these individuals
6 come from Group Therapy. But do you witness
7 them come from Group Therapy or just come from
8 Five Points passing Group Therapy?

9 A: Well, usually they're -- when we see them
10 coming from Five Points, but we also see them
11 coming from Group Therapy because that's the
12 closest to us and we can actually see it.

13 Q: Right there. Because you guys -- you guys are
14 ---

15 A: I'll see them. And what the -- I think the
16 chief of police called the dumping when it's
17 closing time.

18 Q: Oh, and they let out. The let out, yeah.

19 A: You see the let-out as they start to look for
20 their cars.

21 Q: Let me ask you a question about that. The
22 parking, you said that there's permitting
23 parking now?

24 A: In certain blocks, yeah.

25 Q: And so you were working to get more permitted



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1 parking put --

2 A: Through the community.

3 Q: Do you think that that permitted parking will
4 help alleviate some of the issues that you're
5 having?

6 A: Yes.

7 Q: Because people then -- can then can towed,
8 correct?

9 A: Yes.

10 Q: Are you familiar with the Five Points
11 Association Clean & Safe Team?

12 A: Yes.

13 Q: And do they clean up in your area?

14 A: No, we do -- as a matter of fact, we have a
15 clean up March 28th. We do a clean up from our
16 neighborhood association, not in conjunction
17 with Five Points.

18 Q: But the Five Points Association ---

19 A: But the Five Points cleans up like after St.
20 Patty's day, after things like that.

21 Q: It's my understanding that the Five Points
22 Association has a Clean & Safe Team and they go
23 around and clean up Five Points in the morning.
24 Are you familiar with that at all?

25 A: No.



1 Q: Would it please you to know that that happened
2 and have you had communications with the Five
3 Points Association at all?

4 A: Yes, we do collaborate with them and have. But
5 their clean up does not include our community.

6 Q: And so -- I'm getting to this communication.
7 Have you ever had a conversation or has anyone
8 from the Martin Luther King Neighborhood
9 Association reached out to Mr. Taneyhill?

10 A: No, we have not.

11 Q: And I know you haven't reached out to me.
12 Would you be attainable to having a
13 conversation with Mr. Taneyhill about ways in
14 which you can collaborate and work together to
15 alleviate some of these problems?

16 A: Oh, I always believe in open communications.

17 Q: And so if the Five Points Association has a
18 place that cleans up and goes around and cleans
19 up in the morning, but you all are actually
20 getting some trash from Five Points and its
21 patrons, it would make sense that would extend
22 to you, correct?

23 A: It would.

24 Q: It would. And so you would be open to that
25 collaboration with Mr. Taneyhill and the Five



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1 Points Association, wouldn't you?

2 A: Yes.

3 Q: Have you ever heard of the Safe and Sound
4 Program?

5 A: (No verbal response).

6 Q: No? Would you be surprised to know that the
7 Safe and Sound Program is a collection of bars
8 in Five Points and what they do is when they
9 have extra staff, they walk ---

10 **MR. KENNEY:** Objection, Your Honor. Ms. Armstead
11 says she doesn't know what this is.

12 **MR. SELLERS:** I know. That's why I'm asking her
13 would she be surprised to know.

14 **MR. KENNEY:** Maybe she would, maybe she wouldn't.
15 But nobody's established that as a fact, other
16 than you asking the question.

17 **MR. SELLERS:** All right. How about this?

18 **THE COURT:** You're going to rephrase your question?

19 **MR. SELLERS:** Yes, ma'am.

20 **THE COURT:** Okay. Very good.

21 Q: Ms. Armstead, in Five Points, you may not be
22 aware, but there is a Safe and Sound Program.

23 **MR. KENNEY:** Same objection, Your Honor. Mr.
24 Sellers can't educate the witness about
25 something she doesn't know anything about and



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1 then ask her about it."

2 **MR. SELLERS:** I mean, he did the same thing for the
3 morning.

4 **THE COURT:** Now, the objection is overruled.

5 **MR. KENNEY:** Thank you, Your Honor.

6 **THE COURT:** You may proceed.

7 **MR. SELLERS:** You know -- thank you so much.

8 **Q:** We're not -- this doesn't have to do with you.

9 This is what's good for the goose. Do you
10 believe that it would be helpful if bars in
11 Five Points actually walked patrons back to
12 their cars? One of the issues you had was
13 about co-eds walking alone, correct?

14 **A:** (Nods head affirmatively).

15 **Q:** And do you believe that this may alleviate some
16 of those issues?

17 **A:** That could alleviate some of them, if they had
18 golf carts that would, you know ...

19 **Q:** Just some safety measures to make sure --

20 **A:** Safety measures, yeah.

21 **Q:** And if you were to actually have a sit down
22 with Mr. Taneyhill and your neighborhood
23 association, whether or not the Five Points
24 Association wants to be a part of that
25 conversation or not, would this be something



1 that you all talked about to ensure the safety
2 of co-eds as they walked backed to their cars?

3 A: Yes. We would be open to that along with maybe
4 amending the after 2:00 o'clock late -- 3:00,
5 4:00 o'clock in the morning. I sort of put a
6 curve on those types of calls from the
7 neighborhood residents, that they'll call me at
8 3:00 or 4:00 o'clock in the morning because
9 they're letting out of the bar and you hear
10 noises outside. So that has an impact on the
11 people that live directly on Greene Street.

12 Q: Let me ask you two personal questions, if you
13 don't mind. Would you tell your granddaughters
14 not to go to Group Therapy?

15 A: No.

16 Q: Because you don't have any questions about
17 their safety or security at Group Therapy, do
18 you?

19 A: No, we've had no incidents.

20 Q: Okay.

21 A: Pretty responsible. That's why they park at my
22 house and walk.

23 Q: But that's very responsible, that's good. My
24 last little round of questions is, you talked
25 about you protesting the liquor store that



1 they're trying to put in front of the dorm.
2 And there was a line of questioning about the
3 UConn basketball game that Mr. Kenney asked
4 you. You recall that round of questioning?

5 A: Uh-huh (affirmative response).

6 Q: Does it surprise you that many of the students,
7 after that game come to Five Points, isn't that
8 usually how it works?

9 A: Yes. Even more during football season.

10 Q: Well, would it surprise you that the University
11 sells beer to these students that they can chug
12 or do whatever and then they come to Five
13 Points and drink more? Would that surprise you
14 that the University quote unquote condones
15 that?

16 **MR. KENNEY:** Objection, pitting, Your Honor. He's
17 trying to pit this witness against Dean Shook.

18 **THE COURT:** Sustained.

19 **MR. KENNEY:** Thank you, Your Honor.

20 Q: Are you surprised to know the University of
21 South Carolina now sells alcohol as of June 1st
22 at basketball and football and sporting events?

23 A: No, not surprised. I did hear about that. I
24 went to the University of South Carolina prior
25 to your birth.



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1 Q: But I would have never guessed that. You only
2 look about 27, 28.

3 A: Yeah. And we didn't have that issue.

4 Q: And that wasn't allowed then, was it?

5 A: No.

6 Q: No. But it's allowed now. Do you think that
7 would -- do you think that's going to
8 contribute to the issues you have in Five
9 Points?

10 A: I think -- I don't know. I can't really answer
11 that, because I don't know what shape they're
12 in by the time they leave the game. Because we
13 don't just have an issue of -- they're a lot of
14 student, like I said, housing that are now
15 renting in our community on both sides of the
16 park. So a lot of times, especially that's one
17 of the ways we can see Group Therapy, is that
18 as they walk toward Group Therapy, being their
19 first point of embarkation in the Five Points,
20 they've already been drinking. So then you add
21 drinking on top of that.

22 Q: And so you're saying, they've already been
23 drinking because they've been at their -- the
24 new rental apartments and then they go down to
25 Five Points and drink?



1 A: Because it'sst foot traffic.

2 Q: Yeah. And so you're saying that contributes to
3 the problem. And I'm asking you along those
4 same lines, if they've already been drinking,
5 as condoned by University of South Carolina,
6 and now they're entering Five Points, would
7 that exacerbate the problem as well?

8 **THE COURT:** She answered that question.

9 Q: Is there a lot of new rental houses going up
10 around -- I think I heard earlier there was
11 2,500 or so. Are there a lot in your
12 particular neighborhood or rental homes?

13 A: Not necessarily new. A lot of the people that
14 -- like I told you, it's a historic residential
15 community.

16 Q: Of course.

17 A: So a lot of the people have gotten older and
18 died and the houses have been left to their
19 children and grandchildren, who don't live in
20 the state of South Carolina and so they're
21 renting. A lot of rental properties are
22 becoming available. And then they put the 600
23 students right on a corner of Harden and
24 Gervais. And you add that to -- they -- not
25 just the University students walking, we have,



1 especially on my street, Oak Street, coming
2 from Group Therapy and the others, are students
3 that are walking back to Allen and Benedict.
4 They use Oak Street. And that's when I see
5 those students inebriated. The ones on Greene
6 Street a lot coming straight out of Group
7 Therapy are going back the other way to the
8 University. It's the Allen and the Benedict
9 students that also walk through our community.
10 And sometimes the racial tension and the young
11 testosterone with alcohol, there's been
12 arguments among the groups ---

13 Q: Sure.

14 A: --- from the schools that have spilled over
15 into the community as they go up and down our
16 streets.

17 Q: I was going to get that. That was something
18 that I jotted down here. Have you had any
19 conversations with Allen or Benedict?

20 A: Some. Not ---

21 Q: I mean about this. I don't mean -- I know you
22 -- trust me, I know you're a part of the
23 community. But about this particular issue.

24 A: About drinking with the Student Health Services
25 Nurse New about the drinking with students.



1 And how it comes in context in our conversation
2 is that it is a precursor to putting themselves
3 at risk for STDs and HIV because they are
4 drunk. And so we've had that conversation
5 about that.

6 Q: I knew you -- you're always indicating. I knew
7 where you were going with that line of
8 questioning and I ain't mad at it at all. Do
9 you think it would be helpful if the Martin
10 Luther King Association along with -- because
11 in, you know, all day of testimony we've heard
12 from everybody, but you're the first person,
13 and I love it, to mention Allen and Benedict,
14 because those students -- I mean, we have to
15 care about them as well. Do you think it would
16 be worthwhile for Group Therapy to sit down
17 with yourself and Allen and Benedict to try to
18 create some safer practices?

19 A: Of course. And the University of South
20 Carolina, all three of them because the
21 students intermingle once they get down there.
22 And so when you have alcohol in brains that
23 don't have the frontal part yet developed ---

24 Q: Well, men take us a -- it takes men a little
25 bit longer anyways so, yeah.



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1 A: Yeah, yeah. You're a little slower. Not the
2 brightest of all species.

3 Q: Last question. If Group Therapy and Mr.
4 Taneyhill made proactive steps, including
5 collaborating with yourself and doing the
6 things that, some of the things we highlighted,
7 like you said earlier, you wouldn't want to see
8 Group Therapy shut down. You would want to see
9 it there. It's a staple of the community;
10 isn't that correct?

11 A: I can't say whether -- it is a staple of the
12 community. It's been there a long time. We
13 haven't had any direct confrontations with
14 Group Therapy, itself. It's the outcome of
15 what ---

16 Q: I understand.

17 A: --- happens once, you know, the students are
18 there.

19 Q: And further ---

20 A: But we would be open to conversations.

21 Q: And for the record, I just want to clearly
22 state on record, thank you for all that you are
23 doing, have done, and everything you will do.

24 **THE COURT:** Anything further?

25 **MR. KENNEY:** Nothing further, Your Honor.



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1 **THE COURT:** Okay. Thank you, Ms. Armstead, for
2 coming.

3 **MR. KENNEY:** Your Honor, the Intervenors would call
4 Michael Drennan.

5 **THE COURT:** Okay. Mr. Drennan, if you'll face the
6 court reporter, raise your right hand, she will
7 swear you.

8 **COURT REPORTER:** Please state and spell your first
9 and last name.

10 **MR. DRENNAN:** Michael Drennan, M-I-C-H-A-E-L, capital
11 D-R-E-N-N-A-N.

12 **MICHAEL DRENNAN,** having been duly sworn, testifies as
13 follows:

14 **MR. DRENNAN - DIRECT EXAMINATION BY MR. KENNEY:**

15 Q: Mr. Drennan, would you tell the Court where you
16 live and what you do for a living?

17 A: Certainly. I live on [REDACTED] [REDACTED] [REDACTED]
18 [REDACTED]. My property also extends to [REDACTED]
19 [REDACTED]. So it fronts on [REDACTED] [REDACTED] and it
20 backs, if you will, onto Blossom Street.

21 Q: And so this is on the southern most part of the
22 area we call Five Points?

23 A: Correct. Yes.

24 Q: And what is that neighborhood called?

25 A: Shandon.



1 Q: Shandon, okay. And you're a Protestant in this
2 case?

3 A: That's correct.

4 Q: And an Intervenor in this case?

5 A: That's correct.

6 Q: All right. Would you tell the Court why you
7 filed this protest?

8 A: Certainly. And I'll just also say what I do
9 for a living.

10 Q: Oh, I'm sorry.

11 A: That's fine. Currently I'm a stay-at-home dad.

12 Q: How old are your children?

13 A: I have identical twin girls and they are 11
14 years old.

15 Q: Okay. Very good. So moving ahead, tell the
16 Court why you're protesting Group Therapy.

17 A: Where to begin in that instance. In this
18 particular case, you know, you may object, but
19 I feel like they're not fulfilling their
20 constitutional requirement to be a restaurant.

21 **MR. SELLERS:** Objection, Your Honor.

22 **MR. KENNEY:** It's one of the grounds. We understand
23 that.

24 A: Yeah. And additionally ---

25 **MR. SELLERS:** I just ---



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1 A: -- on my protest form. I cited the unsuitability
2 of the location due to the hazardous condition
3 in Five Points and the impact on the community
4 and the neighbors where I live. And in
5 addition to that, the health and safety of
6 young people.

7 Q: Okay. So three reasons. We're going to talk
8 about the second and third.

9 A: Of course, yeah.

10 Q: Okay.

11 MR. KENNEY: Good?

12 MR. SELLERS: No, but go ahead.

13 MR. KENNEY: Well, I mean, signed the form.

14 MR. SELLERS: Go ahead.

15 THE COURT: No, I understand. It's ---

16 MR. KENNEY: Thank you, Your Honor.

17 THE COURT: It was on his protest.

18 MR. KENNEY: It was on his protest, that's why he's
19 here.

20 MR. DRENNAN: That's why I said that.

21 Q: All right. Let's talk about number two and
22 number three.

23 A: All right.

24 Q: First of all, how -- you've been to Five Points
25 before?

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1 A: I have.

2 Q: How many times?

3 A: Well, what time of day are you referring to?

4 Q: Well, I'm just saying, you're familiar with the
5 area?

6 A: Oh, very familiar, yeah.

7 Q: All right. Describe the area based on your
8 experience down there.

9 A: Well, one of the reasons we purchased a home
10 where we did is because we wanted to be in
11 walking distance to a retail, commercial
12 restaurants where they have shops and
13 restaurants and things of that nature.
14 Additionally, my husband works at the
15 University and so it's within walking distance
16 of his place of work. You want to know more
17 about the Five Points area in general or ---

18 Q: Here's what I'd like to know.

19 A: Yeah.

20 Q: How would you characterize the number of
21 establishments that sell alcohol in Five
22 Points?

23 A: Oh, egregiously high.

24 Q: In terms of density, a large number for a small
25 area?



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1 A: Oh, yeah. Concentrated in a small area. You
2 know, I've tried to educate myself through this
3 process and I've read a number of academic
4 articles that talk about problems that arise in
5 entertainment districts. And what they say is
6 primarily two things. One is the density of
7 the establishments, the clientele, and I guess
8 the third would be the hours of operation.

9 Q: Okay. Now, what sorts of concerns have you
10 specifically observed in terms of public
11 safety, for example?

12 A: Oh, boy. Well, I've been down to Five Points
13 between the hours of, let's say, midnight and
14 2:15 on four different occasions and --

15 Q: Now, let me stop you right there.

16 A: Okay.

17 Q: Generally, what period of time, like are we
18 talking about like last week, are we're talking
19 about two months ago? Walk the Court through
20 how many times you've been down there.

21 A: Of course.

22 Q: Let me just put it this way. As a father to
23 two small children, I suspect that you're not
24 going down to Five Points after 10:00 p.m. for
25 your own personal enjoyment.



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1 A: That is correct. Absolutely not.

2 Q: Okay. So you have gone down there pursuant to
3 your involvement in this matter and others?

4 A: Yeah, because I thought it was important for me
5 to witness first hand. If I was going to
6 protest these cases, I thought it was important
7 that I have first-hand knowledge and experience
8 with the area and the district and what
9 transpires late at night.

10 Q: So you've been there four times?

11 A: Yeah.

12 Q: What time of year or we talking about?

13 A: Certainly. March 31st of 2018, April 7th of --
14 I'm sorry, 2019. April 7th of 2019, November
15 3rd of 2019, and most recently, February 9th of
16 2020.

17 Q: Okay. And when you down to Five Points on
18 those four occasions, were you by yourself or
19 were you with other people or what?

20 A: On three of the occasions, I'm by myself. On
21 one occasion, I was accompanied in the earlier
22 part with my husband, who then the home. And
23 then Mr. Tom Gottshall joined me for a portion
24 of the visit on April 7th, 2018.

25 Q: Another Five Points late night patron?



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1 A: Yeah.

2 Q: Right.

3 A: But usually, if you look at the bulk of the
4 time, I'm there by myself.

5 Q: Okay. Now, give the Court a general
6 description of what you have -- I don't think
7 we need to go through it day by day, but
8 generally the four times you went down there,
9 what did you observe? And let me start by
10 saying, you were walking from Shandon ---

11 A: Correct.

12 Q: --- on the south of Five Points north?

13 A: Yes. Right.

14 Q: Okay. On that walk, what do you see?

15 A: Right. The short answer is disorder,
16 pandemonium, overstimulation in terms of the
17 number of things occurring. So in the times
18 that I've been there I've witnessed a young
19 woman vomiting into a public trash can. I've
20 seen vomit on the ground behind police cars.
21 I've seen a woman with an actively bleeding
22 head wound, very agitated, and running around
23 and yelling. I've seen a young woman just
24 sobbing so intensely and so inconsolable that
25 I stopped. I mean, I don't want to talk to



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1 people down there, because I'm primarily there
2 just to observe. But she was so inconsolable
3 I stopped just to ask if she needed some sort
4 of assistance. Fortunately, she had another
5 young woman with her that said, okay, fine,
6 she's fine, she's fine. Most recently on
7 February 9th I went down there and I was
8 walking past the entrance of Moosehead Saloon
9 and out of the corner of my ear I heard a woman
10 ---

11 Q: Let me stop you right there. Where is
12 Moosehead in conjunction to Group Therapy?

13 A: I would say -- if I was going to walk from
14 Group Therapy to Moosehead, I would down Greene
15 Street to the intersection of Greene and Harden
16 and I would turn left and walk south down
17 Harden for a block to Devine Street and take a
18 right and go half a block and I would be at the
19 Moosehead Saloon.

20 Q: Okay. All right. Go ahead.

21 A: So, yes, I saw a woman in a black and white
22 flannel shirt sobbing, she was being hugged by
23 a young man and another young man was rubbing
24 her back as she was sobbing inconsolable. And
25 I saw a police officer holding a pad with --



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1 you know, a 'preprinted' pad filling it out. So
2 while I wasn't sure what the nature of that
3 citation was, I would assume she was being
4 cited for underage drinking. I mean ---

5 **MR. SELLERS:** Objection.

6 A: -- you want to know more that I see down there?

7 **MR. SELLERS:** Objection, Your Honor.

8 **THE COURT:** Mr. Drennan.

9 **MR. DRENNAN:** Yeah, I don't know what she was
10 getting a ticket for.

11 **THE COURT:** Okay. The objection is sustained.

12 **MR. DRENNAN:** I've observed other things, would you
13 like to hear about those?

14 Q: Well, tell me about that walk. I'm curious
15 about the walk. From Shandon to Group Therapy
16 as you're walking, what do you see on the
17 sidewalk in terms of just congestion? How many
18 people are out on the street?

19 A: Well, it varies, depending on the season, the
20 temperature outside, and the night of the week.
21 But every time that I've been down there,
22 there's been a substantial number of young
23 people out on the street. It's well into the
24 hundreds. And after the bars discharge their
25 young clients out onto the street, it could



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1 easily be into the thousands.

2 Q: Okay. Now, have you ever been inside of Group
3 Therapy?

4 A: I have.

5 Q: How many times?

6 A: I have been -- I attempted to go in three
7 times. I've been in twice.

8 Q: All right. And when was that?

9 A: Let's see. The first time that I entered Group
10 Therapy that was April 7th of 2019.

11 Q: And were you with anybody?

12 A: Yes. I was accompanied by Tom Gottshall.

13 Q: All right. And just explain the process of
14 getting into Group Therapy?

15 A: Generally. When Tom and I went that night,
16 there was a long line. I would say there was
17 probably about 40 people in front of us and all
18 substantially younger than us. And they, you
19 know, people were waiting and talking in the
20 line.

21 Q: About what time?

22 A: I would say this was about midnight. And
23 people were waiting and talking in line. And,
24 you know, sometimes they stopped letting people
25 in for a period of time. I tried to observe



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1 what the door staff are doing with the patrons
2 in front of us and also with us. That
3 particular evening they were frisking all the
4 people in front of us prior to entering the
5 bar. So when they got to us, they did not
6 frisk Tom Gottshall or myself.

7 Q: Okay.

8 A: Also, when I presented my identification to
9 them, the door staff glanced at it previously,
10 handed it back to me, and then kind of nodded
11 his head for me to go in.

12 Q: What about the people in front of you, did you
13 have an opportunity to observe whether they
14 were being carded and the manner in which they
15 were being carded?

16 A: Well, on that particular visit, what I observed
17 is that there was just a visual inspection of
18 the identification. But on other visits, I've
19 seen different things.

20 Q: Tell us about the other visits.

21 A: I went down there on November 3rd of 2019 and
22 I waited in line for -- to get in probably
23 about 40 minutes. What I observed in that time
24 is, while they were not letting in any other
25 patrons in, I observed other people arriving



1 from across Greene Street and being waved
2 directly into the bar without being carded.

3 Q: Did they -- those people wait in the line with
4 you?

5 A: No. No. It was about 20 people over a period
6 of about 20 minutes that were let into the bar.
7 None of those people were carded.

8 Q: Okay. All right. Let's go back to your first
9 visit, the one you were telling us about.

10 A: Yes.

11 Q: After you get inside the bar, what, if
12 anything, did you do?

13 A: What did I do?

14 Q: Yeah.

15 A: Well, I walked half -- well, you first come in,
16 there's kind of a long corridor with a bar on
17 the right. And so I walked past that, you
18 know, just looking at the white board they have
19 up advertising the various drinks and beverages
20 that they serve. I then proceeded with Mr.
21 Gottshall to kind of an open indoor
22 transitional area. What we were looking for,
23 were people drinking, were they eating, were
24 they sitting down, were they standing up, what
25 were they doing? So we observed that area with



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1 the back bar and then the empty tables and
2 seats in that area. And then we went out into
3 the patio, which is where the music and the DJ
4 is and where people are dancing.

5 Q: I see. And what was the music like that night?
6 What was it?

7 A: It was loud. Not any songs that I recognized.
8 I mean, it could have been, you know, hip-hop,
9 rap, that kind of genre, I guess I would say.

10 Q: How many people were in the space?

11 A: Oh, on that particular evening, it was very
12 crowded. To move about the patio, I basically
13 kind of have to turn to my side and slide
14 between people to get by. After I -- because
15 I was looking to see, is there was another bar
16 out here, which there is, where is the DJ,
17 trying to familiarize myself with the area.
18 And my concern in that instant, after I had
19 worked my way into where the patio, is how are
20 this many people going to be able to be safely
21 evacuated from the establishment if there's a
22 fire or an emergency or something of that
23 nature?

24 Q: Sure. Let me do a housekeeping item. We've
25 marked a picture earlier in this hearing. It's



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1 marked as Intervenor's' Number 1. Let me show
2 that to you. Do you recognize that?

3 A: Yes, I do.

4 Q: What is it?

5 A: That's a picture I took at the front bar in
6 Group Therapy on April 7th of 2019 at
7 approximately 12:15 a.m.

8 Q: And what does the photo depict?

9 A: The photo depicts the various drinks that
10 they're advertising for sale.

11 Q: And how did you take the photo?

12 A: I took it on my cell phone.

13 Q: Okay. Very good.

14 **MR. KENNEY:** Your Honor, we move that Intervenor
15 Number 1 be admitted into evidence.

16 **MR. MCCABE:** I have no objection from the
17 Department, Your Honor.

18 **MR. SELLERS:** No, objection, Your Honor.

19 **THE COURT:** It's entered.

20 **(Intervenors' Exhibit Number 1 was admitted into the**
21 **record.)**

22 Q: All right. Mr. Drennan, let me show you a
23 couple of other things.

24 A: Okay.

25 Q: Well, look at that.



1 A: Yes, okay. Would you like me to hold off that
2 picture?

3 Q: Hold on. Hold on. All right. Do you
4 recognize this photo?

5 A: Yes, I do.

6 Q: What is it?

7 A: This is a picture I took of the back bar in
8 Group Therapy on April 7th, 2019. And I'm
9 standing in the area where they house their
10 booths, I guess, for seating.

11 Q: All right. And what are folk -- what does this
12 photo depict? What are people doing?

13 A: Yes. Well, you see the TV screen there. Right
14 beneath that is the back bar. Just slightly
15 below into the right of the TV screen you'll
16 see an additional white board where they're
17 advertising their various drinks and specials
18 that they sell. And then I see a large group
19 of young people congregating in the bar. I am
20 standing in the least congested area of the bar
21 at this point.

22 MR. KENNEY: All right. Your Honor, I'd like to
23 have this marked and admitted into evidence.

24 MR. SELLERS: No objection.

25 THE COURT: Admitted.



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1 COURT REPORTER: This will be Intervenor's Number
2 Six.

3 (Intervenor's Exhibit Number 6 was marked and
4 admitted into the record.)

5 MR. SELLERS: Your Honor, we'll stipulate, to make
6 it go a little quicker, to all the pictures
7 that he's took.

8 MR. KENNEY: That'd be great. If you give me two
9 minutes I can ...

10 THE COURT: Yeah. Okay.

11 MR. SELLERS: That way we don't have to -- as long
12 as you stipulate that they're all April the
13 7th, we don't have a problem with it, Your
14 Honor.

15 THE COURT: Now, all the photographs are from April
16 7th.

17 MR. KENNEY: Let me get Mr. Drennan to confirm that,
18 but I believe that's right, Your Honor.

19 THE COURT: Okay.

20 MR. DRENNAN: Yeah, what's that?

21 Q: Are those all April 7th?

22 A: They are.

23 Q: Those have been marked as Intervenor --

24 A: Well, these two have been marked. I don't know
25 about ...



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1 **MR. KENNEY:** Let's take a break and let the court
2 reporter mark all those.

3 **COURT REPORTER:** You want them all separate?

4 **MR. KENNEY:** Yes, ma'am.

5 **THE COURT:** And, Mr. McCabe, I'm assuming you have
6 no objection to the photographs.

7 **MR. MCCABE:** No objection, Your Honor.

8 **THE COURT:** Okay. Thank you.

9 **COURT REPORTER:** So Intervenors' 7, 8, 9, and 10.

10 **(Intervenors' Exhibit Numbers 7, 8, 9, and 10 were**
11 **marked and admitted into the record.)**

12 **MR. KENNEY:** So, Your Honor, just as I understand
13 what we've done there, as we have admitted
14 Intervenors' Seven through 10.

15 **Q:** Okay. Mr. Drennan, let's talk about these just
16 very quickly.

17 **A:** All right.

18 **Q:** I'm going to put them on the board.
19 Intervenors' 7 ...

20 **A:** Uh-huh.

21 **Q:** Actually, hold on. Let's start inside, okay?

22 **A:** Okay.

23 **Q:** Intervenors' 9, where is this in Group Therapy?

24 **A:** Okay. So if you walk in the front door, you
25 walk down that hallway that I previously



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1 described with the bar on the left. And then
2 you open up into this kind of transitional
3 space, kind of the center of the bar here. And
4 from here to the right, what you're looking at
5 there is the doorway out to the outdoor patio
6 where the DJ and music are. And then if you're
7 looking at this picture, to the left is the
8 back bar. And kind of behind me and back to
9 the left is the seating area that I showed
10 previously.

11 Q: Got it. Intervenors' Number 10 with the Jack
12 Daniels Road over the top of the doorway, where
13 is that in relation to the other parts of the
14 ---

15 A: It's like me standing in exactly the same
16 location, but I turn to the right to look back
17 towards the entrance to the bar.

18 Q: So if you go through that door, you go out to
19 Greene Street, if you walk all the way down the
20 road?

21 A: Uh-huh (affirmative response). I go through
22 that archway and I'll pass the long bar on my
23 right and then I will, you know, get to the
24 front door at Greene Street, yes.

25 Q: Okay. Now, what about Intervenors' Number 8,



1 what is this?

2 A: Okay. So this is having gone through that
3 doorway outside to the open-air patio. And if
4 I walked out into the patio and looked to my
5 right, this is a wall that I would see with the
6 Group Therapy banner on it. If I were to turn
7 to my left, then I would see the DJ area. And
8 if I'm looking at the DJ area and if I turn
9 left again, I would see the back bar.

10 Q: I understand. And then one last one,
11 Intervenors' Number 7, what does this depict?

12 A: Okay. So this is walking through that doorway
13 to the outdoor patio. If you were to proceed
14 straight, you would see the DJ booth here. And
15 this is in the outdoor patio as well, just a
16 deck bar on that sign.

17 Q: All right. Now, you took other photos on other
18 nights that you were there, correct?

19 A: That's correct, mostly video.

20 Q: All right.

21 A: But some photos, yeah.

22 Q: In terms of the, just the general scene, folks
23 dancing?

24 A: Correct.

25 Q: Drinking. Is it consistent with what you saw



1 on this particular night?

2 A: Yes. This is very typical and indicative of
3 what I've seen on other days, yes.

4 Q: Okay. Very good. Now, I want to show one
5 video.

6 A: Okay.

7 Q: Did you take some video?

8 A: I took a number of videos. I can -- you know,
9 once you put it up, I can say, yes, that's my
10 video.

11 Q: How did you take the video?

12 A: On my cell phone camera.

13 Q: Okay. And what sorts of things did you
14 memorialize?

15 A: Inside Group Therapy.

16 Q: Well, just generally when you were on these
17 trips to Five Points, what were you -- tell the
18 Court what you were videoing?

19 A: I essentially was treating my camera kind of
20 like a body cam. And then just walking through
21 whether -- inside Group Therapy, just
22 documenting what came within view of the
23 camera. And similarly outside, kind of walking
24 throughout the Five Points district to
25 document.



1 (Interruption)

2 MR. KENNEY: One second.

3 MR. DRENNAN: You can hear it now.

4 MR. KENNEY: Sorry, Your Honor. Go ahead, Mr.
5 Drennan, finish your response.

6 A: Can you remind me of ...

7 Q: Just generally the types of things you tried to
8 capture with your phone were what?

9 A: Well, anytime I saw -- I'm trying to catch the
10 general overall happenings. But if there was
11 something that I saw that was particularly
12 worrisome, then I would walk toward that or I
13 would turn my body to observe that. So, for
14 example -- here is an example. Outside more
15 times than I can count, they've got people
16 running across the middle of Harden Street. So
17 if I observed that, I would turn to face it to
18 capture that on film. If I was walking and I
19 saw a police officer running or walking briskly
20 in a particular direction, then I would follow
21 them at a discreet distance to see if I could
22 ascertain what they were responding to.

23 Q: Are those actually specific examples you just
24 told us?

25 A: Yes. Those are all things that actually



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1 occurred.

2 Q: Very good. I'd like for you to --

3 MR. KENNEY: Ms. Smith, could we get up the video?

4 MR. DRENNAN: Drum roll on the technology.

5 MR. KENNEY: That's right. Always that moment of
6 suspense. Will it work? I apologize, Your
7 Honor.

8 (Off the Record)

9 MR. KENNEY: One minute, Your Honor.

10 THE COURT: Do you need to get the IT?

11 MR. KENNEY: No, Your Honor. Look, the testimony --
12 there's been lots of testimony about the
13 condition down there. The video would
14 memorialize what Mr. Drennan has observed and
15 testified. I think we can probably just move
16 along.

17 THE COURT: Okay.

18 Q: Mr. Drennan, so one of the things I wanted to
19 ask you about. When you came out of Group
20 Therapy --

21 A: Yeah.

22 Q: I think we're still talking about April.

23 A: Yeah, okay.

24 Q: What did you observe after you came out of the
25 establishment?



1 A: There were a large number of people clustered
2 around the door and on and along the sidewalk
3 up Greene Street there. Frequently, when I
4 walk -- like Group Therapy on any of visits, I
5 would have to walk in the street or where the
6 cars were parked in order to get by.

7 Q: And that was because of just the volume of
8 individuals?

9 A: Yes, the number of people standing in line.

10 Q: Let me show you -- see if you can identify
11 this? Do you recognize that?

12 A: That's a picture I took outside of the Five
13 Points Saloon.

14 Q: All right. Now, let me turn your attention
15 back to your neighborhood for a minute.

16 A: Sure.

17 Q: Would you tell the Court what the impact of the
18 Five Points night life has been on your
19 neighborhood?

20 A: Certainly. So I purchased the home in July of
21 2004. And at that time I had not really
22 noticed a lot of adversarial impacts from Five
23 Points. There were some students around
24 nearby, you know, litter, trash would be an
25 issue. I think probably starting around 2007,



1 2008 I really began to see a lot more negative
2 impacts. So since that time at one time or
3 another I've had the house to my left rented
4 out by a sorority. They were only there for a
5 couple of years. Then the house to my right
6 was rented out by a fraternity. And harkening
7 back to Vivian's testimony that they had six to
8 seven occupants at that home. And then the
9 property behind me at 2301 Blossom is a duplex
10 that is occupied by six occupants of the same
11 fraternity, a Sigma fraternity. And 2301
12 Blossom has been far and away the most
13 problematic and most impactful property for me.
14 To give you a recent example, I was -- my
15 bedroom is on the second floor of my home. And
16 I'm sitting in my bedroom, it's 10:00 o'clock
17 at night. I have earphones in, the kind that
18 fill up your ears, and I'm listening to a
19 video on my computer. And I can't hear what's
20 being said on the video, because there's so
21 much noise coming from an outdoor party at 2301
22 Blossom Street. So I put the headphones down,
23 I verify that it was coming from that
24 direction. I have a deck off the back of my
25 bedroom. So I open the door and then listened



1 so I can see it -- hear it. And then I can see
2 the number of cars parked in the tree line off
3 the street. I can hear people in the yard,
4 outdoors. They have a big -- frequently
5 they'll have a big screen TV out there or an
6 open fire pit. But that continues up until
7 about 11:00. And then I kind of hear an
8 elevation of the noise and I look out my window
9 and then I see kind of this mass exodus of
10 people, probably about 20 people, leaving that
11 property, walking down Blossom Street, heading
12 to Five Points.

13 Q: Have you had other experiences, in terms of --
14 like the sort of things you've heard Ms.
15 Armstead talk about, noise, litter, those sorts
16 of things?

17 A: Yes, absolutely. When the fraternity house was
18 next door to ours, they would have parties.
19 And the longer they were there, they had
20 parties with more frequency. So frequently
21 there would be red drink cups strewn all over
22 the yard.

23 **MR. SELLERS:** Your Honor, excuse me to interrupt.
24 But objection to relevance to this. I mean, we
25 started off with 20 people embossed in the



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1 street. Now we're at fraternity and sorority
2 parties in the neighborhood. You know, my
3 client's here dealing with Greene Street and
4 Group Therapy. We would say that that's
5 prejudicial, has nothing to do, and we would
6 make an objection based on the grounds of
7 relevance, Your Honor.

8 **MR. KENNEY:** This is like some of the other
9 testimony we've discussed. The question is
10 suitability and the impact that the crowds
11 coming out of Five Points are having on the
12 neighborhoods that are adjacent. We've already
13 heard from Ms. Armstead. The Shandon community
14 is south of Five Points, so it's consistent
15 with the testimony we've already heard and for
16 that purpose.

17 **THE COURT:** Yeah, but when you're dealing with this
18 license.

19 **MR. KENNEY:** Yes, ma'am. We'll move along.

20 **THE COURT:** Okay.

21 **MR. KENNEY:** Sure.

22 **MR. SELLERS:** Thank you, Your Honor.

23 **Q:** Mr. Drennan, are there other things that you
24 think the Court should know with respect to
25 Group Therapy and why you want this permit and



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1 license denied?

2 A: Yes. Two things that I want to get right off
3 is the impact in my neighborhood is -- in terms
4 of these parties and whatnot, is the results of
5 the high concentration of bars in Five Points,
6 of which Group Therapy is a contributor to. So
7 I've spoken to some of the fraternity members
8 before as to why don't you have these parties
9 at your frat house on campus? And they said
10 because ---

11 **MR. SELLERS:** Objection, Your Honor, hearsay.

12 **THE COURT:** Sustained.

13 Q: Okay. Without telling us what somebody else
14 said, go ahead.

15 A: My feeling and my belief is the reason these
16 people are renting homes near my neighborhood
17 is its proximity to Five Points and the
18 presence of the bars still.

19 Q: I understand.

20 **MR. KENNEY:** Your Honor, if I could just have one
21 minute. I'm going to return these exhibits to
22 our court reporter. If I can have one minute,
23 I may be done or close to done.

24 **THE COURT:** Okay. Thank you.

25 Q: Mr. Drennan, one more thing. Property crimes.



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1 Do you have any property crimes in your
2 neighborhood?

3 A: Yes. I've personally had my property
4 vandalized, yes.

5 Q: How so?

6 A: How did it happen?

7 Q: Yeah. Well, what specifically was the nature
8 of the vandalism?

9 A: Well, when I bought the home, the backyard was
10 very overgrown. So I was attempting to improve
11 the appearance of the backyard. One of the
12 things that I did to do that was to install a
13 cedar arbor in the backyard.

14 Q: Yes.

15 A: And, you know, I would go to bed at 11:00
16 o'clock at night, the arbor would be fine. I
17 would wake up in the morning and the arbor had
18 been -- it was leaning, consistent in a manner
19 where somebody would have had to have shaken it
20 violently at some point in the evening.

21 Q: Yes.

22 A: So I'd go out there, I'd fix it, make it stand
23 up straight again by putting the screws in.
24 The next weekend it would be shaken down again.
25 Eventually, I gave up.



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