



CITY OF SAINT PAUL
Mayor Melvin Carter

Civil Division
400 City Hall
15 West Kellogg Blvd.
Saint Paul, Minnesota 55102

Telephone: 651 266-8710
Facsimile: 651 298-5619

February 20, 2019

AMENDED NOTICE OF VIOLATION

Jeffrey C. O'Brien, Attorney
Chestnut Cambronne
Attorneys at Law
17 Washington Avenue North, Suite 300
Minneapolis, MN 55401-2048

RE: Liquor On Sale-101-180 seats, Liquor On Sale-2AM Closing, Liquor On Sale-Sunday and Gambling Location licenses held by JC & MTM, Inc., d/b/a Johnny Baby's for the premises located at 981 University Avenue West in Saint Paul
License ID #: 20040000766

Dear Mr. O'Brien:

The Department of Safety and Inspections ("Department") has recommended adverse action against the Liquor On Sale-101-180 seats, Liquor On Sale-2AM Closing, Liquor On Sale-Sunday and Gambling Location licenses held by JC & MTM, Inc. ("Licensee") for the premises known as Johnny Baby's located at 981 University Avenue West ("Licensed Premises").

The Department asserts that the following facts along with surveillance video and attachments herein constitute proof of violations of License Conditions #2, #3, #3(a) and # 5 by a preponderance of the evidence.

Violation of Condition #5 – Failure to have staff available to immediately make a copy of surveillance video when requested by SPPD.

On January 3, 2019, Saint Paul Police received a complaint of an argument between an unknown female and two males inside the bar. The report indicated that a man at the bar displayed a black handgun two times stating he was going to kill the two men after they disrespected the unknown female. Officers Xiong and May arrived at the Licensed Premises and spoke with security guard Derrick Dante Woodson at the front door about the incident. Mr. Woodson told officers he intervened and attempted to escort the male out the front door. He stated that he eventually got the male outside and that the male left towards the parking lot.

Officers Xiong and May went inside the bar with Mr. Woodson to review surveillance footage of the incident. Mr. Woodson was able to provide the surveillance footage for the officers to review but when officer May asked Mr. Woodson to provide a copy to him, Mr. Woodson stated he did not know how to make a copy of the surveillance footage and was unable to immediately provide it. Mr. Woodson did state that maybe when investigators contacted him he could provide them with a copy.

A copy of the surveillance video was eventually provided to SPPD for review. On February 8 of 2019, Sergeant Stanway reviewed the surveillance video and observed and documented numerous additional license violations. In general he observed that the bouncer wanded most patrons as they entered, but the bouncer failed to adequately and effectively wand patrons. He also noted that the bouncer missed wanding a few patrons. Sergeant Stanway observed that the wanding appeared quick and not in a slow methodical manner. For example, wanding did not start at the collar bone area and extend fully down to the ankles and the bouncer was inconsistent in how he wanded patrons.

The City alleges that these are violations of License Condition #2 failure to check all patrons (wand) for weapons prior to entry, while security is on duty and License Condition #3 failure to employ properly trained security personnel. Specifically Sergeant Stanway noted:

At 2301 hours (35 seconds) the individual who was later identified as the individual with the gun enters behind another male. The individual was wearing a black jacket with a white shirt underneath, white pants and white shoes. As he approached the bouncer, Sergeant Stanway notes that the surveillance video shows that he immediately grabs the sides of his unzipped/open jacket exposing his waist. He raises the sides of his jacket high above his waist area and above his arm pits. The bouncer is then seen wanding only the front and partial back/waist areas. The individual then passes by the bouncer and lowers the sides of his jacket back down and enters into the bar.

At 2303 hours (21 seconds) a woman wearing a white top and blue jeans enters. The bouncer with the wand is seen only wanding the front of her body/waist area. Her back side appears to be only partially checked.

At 2304 hours (19 seconds) a woman enters wearing all black and the bouncer does not wand the front of her torso. He only is seen doing a quick wanding of her rear torso and she enters. The woman behind her is only wanded on her back side as well.

At 2305 (15 seconds) a woman enters and it appears the bouncer again only wands the back side of her torso and she then walks in.

At 2306 (15 seconds) a male enters wearing a dark jacket and baseball cap and the bouncer at the door hugs this male and the male enters without being wanded. Another male enters in behind this male and the bouncer is seen only partially wanding this male on the left side of his body.

At 2308 (51 seconds) another patron walks in. The bouncer checked the front waist area and pockets of this individual's jacket, but did not wand the rear torso of this person. The other guests that follow in are also not adequately/thoroughly checked.

At 2321 hours (14 seconds) a male enters wearing a dark gray open jacket and baseball hat. This male walks directly into the bar and no bouncer was there to check/wand him.

At 2324 hours (25 seconds) a male customer walks in with a Chicago Bears jersey and a white hood. The bouncer at the entry fails to wand this individual and he walks past the bouncer and into the bar. A female with a dark jacket is behind this male and the bouncer just wands the back part of her torso and not her front and she walks into the bar.

At 2324 hours (46 seconds) a male enters wearing a jacket with a Minnesota Vikings logo on the left chest. The bouncer does not adequately wand this male and completely misses wanding his rear torso. The male then walks into the bar.

Sergeant Stanway also noted times that the doors were left unattended:

At 2320 (38 seconds) the bouncer is seen leaving and going outside. It is unknown where the second bouncer was and the interior of the entry door was uncovered.

At 2321 hours (58 seconds) the bouncer is seen re-entering and goes into the restroom.

At 2347 hours (10 seconds) customers are seen entering the bar and no bouncers are at the entry. It was unknown if anyone who entered was wanded/checked while the bouncers were outside.

Finally, license condition 3(a) prohibits security guards from socializing with patrons. Examples of violations of this condition captured on the surveillance video include:

At 2301 (53 seconds) the bouncer wearing a dark colored stocking hat walks up to the second bouncer at the door and has his back to the door. This bouncer then starts engaging in a conversation with a female (who's later involved in the altercation with the male with the gun) sitting at the counter. This conversation continued until 2307 (05 seconds) until the bouncer walked away and met up with the other bouncer at the door.

At 2305 hours (01 seconds) the bouncer at the door is seen giving a handshake and hug to a male as he was leaving.

At 2322 hours (26 seconds) the bouncer wearing the dark stocking hat is seen bringing a drink to the same female he was seen earlier talking to at 2301 hours (53 seconds). This conversation continued until 2327 hours (23 seconds).

At 2324 (57 seconds) the bouncer with the wand at the entry now engages in conversation with the other bouncer who was talking to the female, another female is also involved. This conversation continues on until the bouncer with the dark stocking hat walks away at 2327 hours (23 seconds).

The full text of License conditions #2 of the License for the Licensed Premises state that:

"All patrons will be checked for weapons (wanded) prior to entry, while security is on duty."

The full text of License conditions #3 and #3(a) of the License for the Licensed Premises state that:

"The license holder will employ properly trained security personnel who will be on duty seven (7) days a week from 8PM to closing. A minimum of one (1) will be on duty Sunday's thru Thursdays and a minimum of two (2) will be on duty Fridays and Saturdays. The security guards will adhere to the following guidelines:

(a) The security guards will not socialize with patrons and will not be allowed to drink alcoholic beverages while on duty."

The full text of License conditions #5 of the License for the Licensed Premises state that:

“Licensee will create a video surveillance camera and lighting placement plan (video surveillance plan) for the interior and exterior of the licensed premises. Licensee will submit the video surveillance plan to the Saint Paul Police Department (SPPD) liaison with the Department of Safety and Inspection (DSI) for review and approval. In accordance with the approved video surveillance plan, licensee will ensure that video surveillance camera system is in good working order, ensure it is recording 24 hours per day, ensure it can produce recorded surveillance video in a commonly used, up-to-date format, and ensure that accurate date and time of day are visible on all recorded video. Licensee will retain surveillance video for a minimum of thirty (30) days. If an incident is deemed serious by SPPD, licensee shall make surveillance video immediately available for viewing by SPPD. If a copy of the surveillance video for a serious incident is requested by SPPD, Licensee shall have the technology, materials and staff available to immediately make the copy. In all other cases, licensee shall provide a copy of the surveillance video to the requestor within 48 hours”.

Under Saint Paul Legislative Code Section 310.05 (m)(1) a violations of a license conditions placed on the license is are a basis for adverse action.

This is a third (3rd) violation within the past eighteen (18) months. Pursuant to Saint Paul Legislative Code Section 310.05 (m)(1) the Department is recommending a \$2,000 matrix penalty and a ten (10) day suspension of your licenses.

You have three (3) options to proceed:

1. If you do not contest the imposition of the proposed adverse action, you may do nothing. If I have not heard from you by **Monday, January 21, 2019**, I will presume that you have chosen not to contest the proposed adverse and the matter will be placed on the **Wednesday, February 6, 2019** City Council Consent Agenda for approval of the proposed remedy.
2. If you wish to admit the facts but you contest the penalty, you may have a public hearing before the Saint Paul City Council. You will need to send me a letter with a statement admitting to the facts and requesting a public hearing no later than **Monday, January 21, 2019**. The matter will then be scheduled before the City Council to determine whether to impose the \$2,000.00 matrix penalty and ten (10) day suspension of your licenses. You will have an opportunity to appear before the Council and make a statement on your own behalf.
3. If you dispute the facts outlined above, you may request a hearing before an Administrative Law Judge (ALJ). You will need to send me a letter disputing the facts and requesting an administrative hearing no later than **Monday, January 21, 2019**. At that hearing both you and the City will appear and present witnesses, evidence and cross-examine each other's witnesses. After receipt of the ALJ's report (usually within 30 days), a public hearing will need to be scheduled. At that time, the City Council will decide whether to adopt, modify or reject the ALJ's report and recommendation.

Please note: If you choose an administrative hearing, the Department of Safety and Inspections reserves the right to request that City Council impose the costs of the administrative hearing per Saint Paul Legislative Code § 310.05 (k).

If you have not contacted me by Monday, January 21, 2019, I will assume that you do not contest the imposition of the \$2,000.00 matrix penalty and ten (10) day suspension of your licenses. In that case, the matter will be placed on the February 6, 2019 City Council Consent Agenda for approval of the recommended penalty.

If you have questions about these options, please contact my Legal Assistant, Julie Kraus at (651) 266-8776.

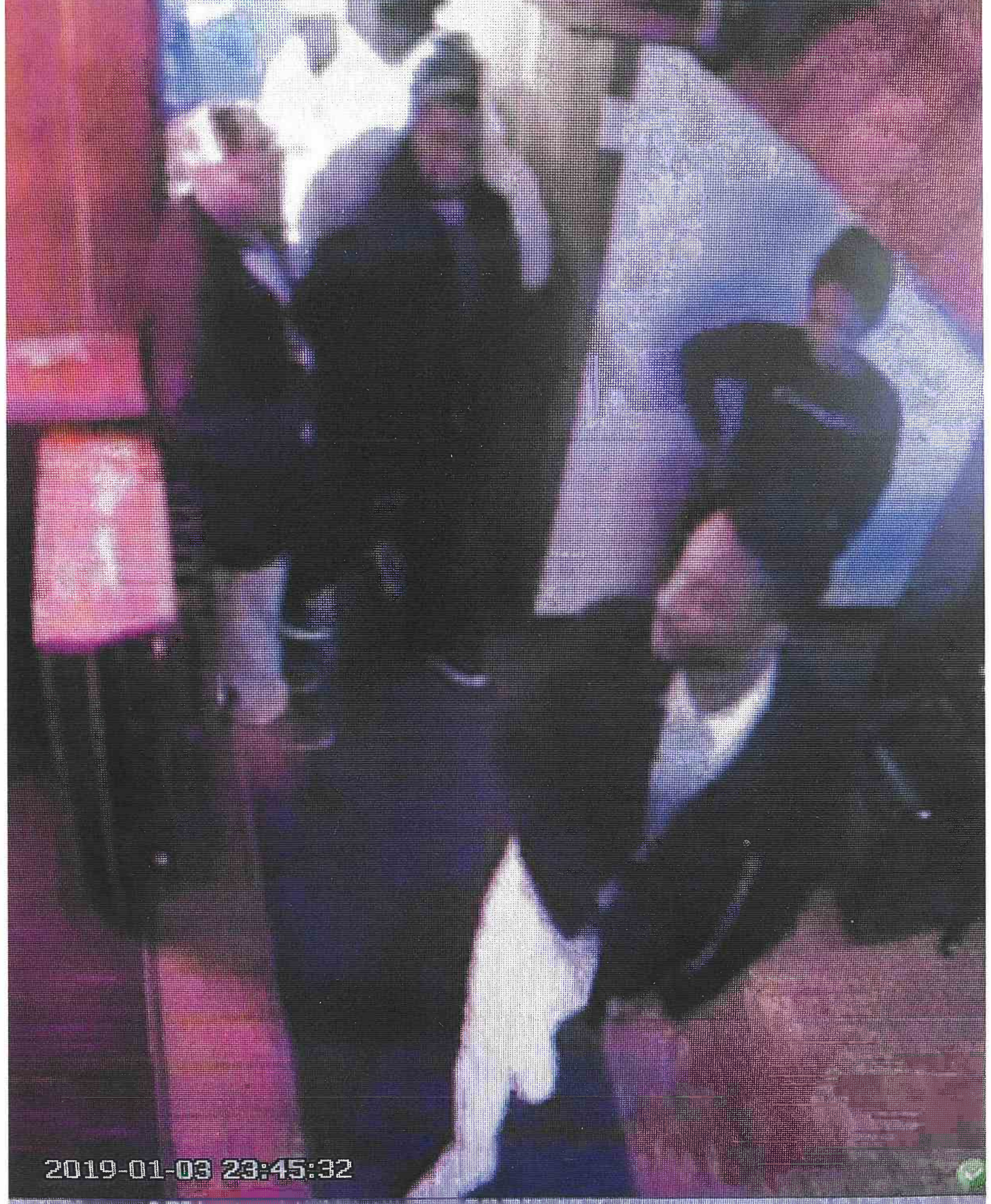
Sincerely,



Therese Skarda
Assistant City Attorney
License No. #024989

cc: Caty Royce, Co-Executive Director, Frogtown Neighborhood Association, Midtown Business Center,
501 Dale Street North, Ste. 300, St. Paul, MN 55103-1914

Attachments: Photographs dated January 3, 2019
Video surveillance DVD accompanying CN #19-002-262 dated February 8, 2019
Supplemental Offense/Incident Report (CN #19-002-262) dated February 11, 2019
Johnny Baby's Video plan submitted October 22, 2017
Johnny Baby's Video Plan received July 3, 2018



2019-01-03 23:45:32

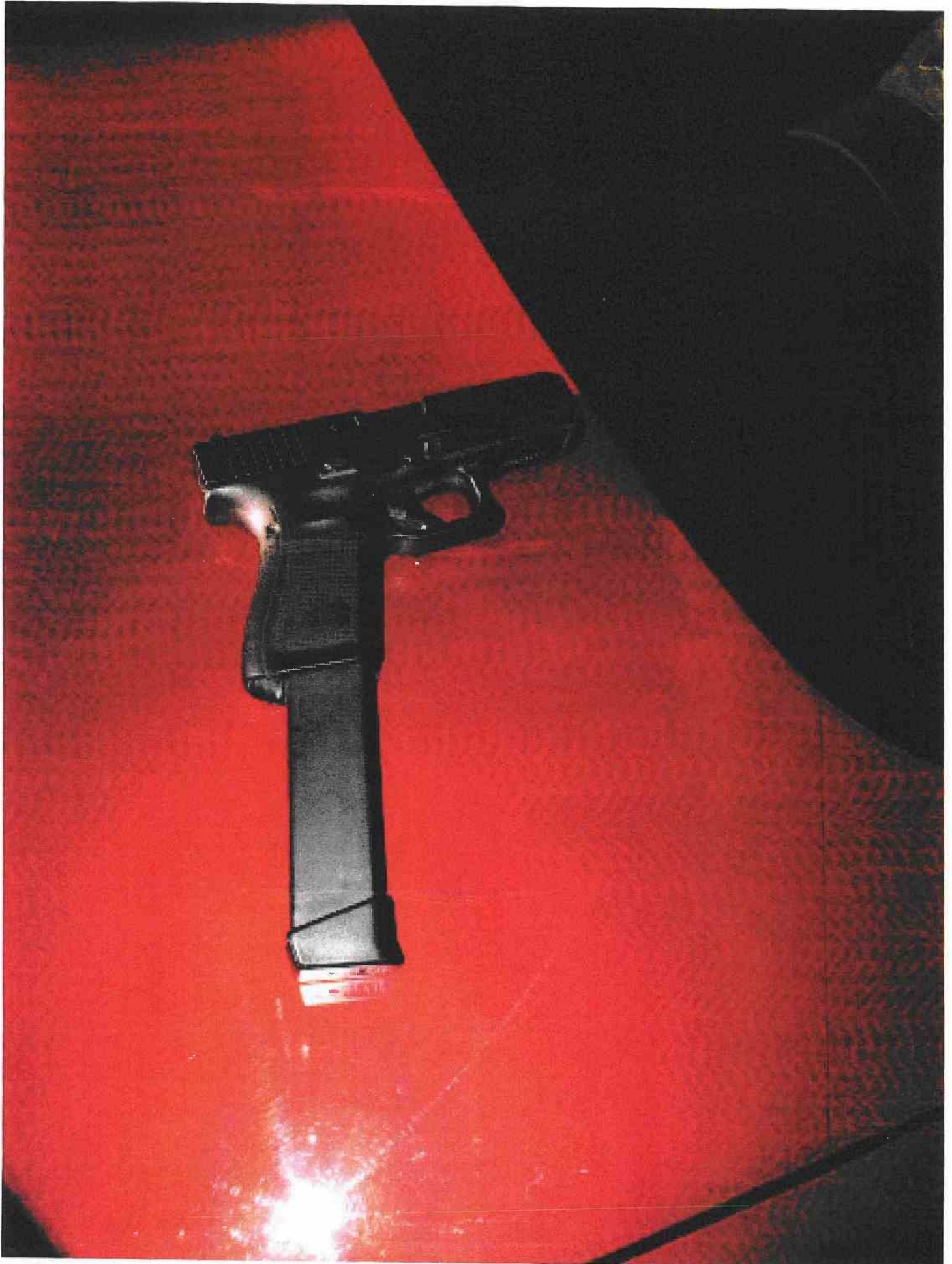


19-002-262



19-002-262

19-002-262



SUPPLEMENTAL OFFENSE / INCIDENT REPORT

Complaint Number Reference CN

19002262

Date and Time of Report

02/11/2019 11:02:00

Primary offense:

DISTURBANCE-DISORDERLY CONDUCT

Primary Reporting Officer: Stanway, Robert A

Primary squad: 854

Secondary reporting officer:

Approver: Stanway, Robert

District: Western

Site:

Name of location/business:

Location of incident: 981 UNIVERSITY AV W

ST PAUL, MN 55104

Date & time of occurrence: 01/03/2019 23:43:00 to

01/03/2019 23:43:00

Arrest made:

Secondary offense:

Police Officer Assaulted or Injured:

Police Officer Assisted Suicide:

Crime Scene Processed:

OFFENSE DETAILS**DISTURBANCE-DISORDERLY CONDUCT**

Attempt Only:

Appears to be Gang Related:

SOLVABILITY FACTORS

Suspect can be Identified:

By:

Photos Taken:

Stolen Property Traceable:

Evidence Turned In:

Property Turned In:

Related Incident:

Lab

Biological Analysis:

Fingerprints Taken:

Narcotic Analysis:

Items Fingerprinted:

Lab Comments:

Participants:

Person Type:

Name:

Address:

Phone:

NARRATIVE

On 02-06-18, I made a request to the SPPD Photo Lab that a copy be made of the surveillance video from Johnny Baby's.

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On 02-08-18, I picked up the copy. I played the copy and saw that only 6 cameras had recorded. I had Senior Inspector Kris Schweinler pull the approved camera plan for Johnny Baby's to confirm the number of cameras they should of had operating at the time. I counted 10 from an amended camera plan dated 07-03-18 even though only 6 had recorded.

I played camera # 3 which showed the west entry door. At 2259 hours (58 seconds) a B/M bouncer with glasses, wearing a light colored stocking hat, white hooded sweatshirt that said Johnny Baby's on the front and security on the back and blue jeans is seen standing at the front door. The bouncer is seen holding a dark colored metal detection wand in his right hand.

At 2301 hours (35 seconds) the suspect (who had the gun) enters behind another male. The B/M suspect was wearing a black jacket with a white shirt underneath, white pants and white shoes.

As the suspect approached the bouncer, I noticed the suspect immediately grab the sides of his unzipped/open jacket exposing his waist. The suspect raised the sides of his jacket high above his waist area and above his arm pits. The bouncer is then seen wand only the front and partial back/waist areas of the suspect. The suspect then passes by the bouncer and lowers the sides of his jacket back down and enters into the bar.

The bouncer continues to wand people as they enter. What I noticed was the bouncer did not adequately and effectively wand people. The wand appeared quick and not in a slow methodical manner. The wand did not start at the collar bone area and extend fully down to the ankles. The bouncer was not consistent with how he wanded customers and each customer varied.

NOTE: It appeared that two bouncers were present that night.

Here are other examples of what I saw while reviewing the video:

At 2301 (53 seconds) another bouncer seen wearing a dark colored stocking hat walks up to where the other bouncer is at the door and has his back to the door. This bouncer then starts engaging in a conversation with a female (who's later involved in the altercation) sitting at the counter. This conversation continued until 2307 (05 seconds) until the bouncer walked away and met up with the other bouncer at the door.

At 2303 hours (21 seconds) a woman wearing a white top and blue jeans enters. The bouncer with the wand is seen only wand the front of her body/waist area. Her back side appears to be only partially checked.

At 2304 hours (19 seconds) a woman enters wearing all black and the bouncer does not wand the front of her torso. He only is seen doing a quick wand of her rear torso and she enters. The woman behind her is only wanded on her back side as well.

At 2305 hours (01 seconds) the bouncer at the door are seen giving a handshake and hug to a male as he was leaving.

At 2305 (15 seconds) a woman enters and it appears the bouncer again only wands the back side of her torso and she then walks in.

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At 2306 (15 seconds) a male enters wearing a dark jacket and baseball cap and the bouncer at the door hugs this male and the male enters without being wanded. Another male enters in behind this male and the bouncer is seen only partially wanding this male on the left side of his body.

At 2308 (51 seconds) an individual walked in. The bouncer checked the front waist area and pockets of the jacket, but did not wand the rear torso of this person. The other guests that follow in are also not adequately/thoroughly checked.

These poor quality checks of customers continued through the watching of the video.

At 2320 (38 seconds) the bouncer is seen leaving and going outside. It is unknown where the second bouncer was and the interior of the entry door was uncovered.

At 2321 hours (58 seconds) the bouncer is seen re-entering and goes into the restroom.

At 2321 hours (14 seconds) a male enters wearing a dark gray open jacket and baseball hat. This male walks directly into the bar and no bouncer was there to check/wand him.

NOTE: It appeared the bouncers didn't effectively communicate with each other. If one bouncer has to leave the doorway and the other should take over and cover. The front door/entry way should not be left unattended.

At 2322 hours (26 seconds) the bouncer exits the bathroom and both bouncers are now seen back at the front door/entry.

At 2322 hours (26 seconds) the second bouncer (dark stocking hat) is seen bringing a drink to the same female he was seen earlier talking to at 2301 hours (53 seconds). This conversation continued until 2327 hours (23 seconds).

At 2324 hours (25 seconds) a male customer walks in with a Chicago Bear jersey on # 52 and a white hood. The bouncer at the entry fails to wand this individual and he walks past the bouncer and into the bar. A female with a dark jacket is behind this male and the bouncer just wands the back part of her torso and not her front and she walks into the bar.

At 2324 hours (46 seconds) a male enters wearing a jacket with a Minnesota Vikings log on the left chest. The bouncer does not adequately wand this male and completely misses wanding his rear torso. The male then walks into the bar.

At 2324 (57 seconds) the bouncer with the wand at the entry now engages in conversation with the other bouncer who was talking to the female, another female is also involved. This conversation continues on until the bouncer with the dark stocking hat walks away at 2327 hours (23 seconds).

The altercation which started this incident is seen at 2342 hours (05 seconds) between the woman the bouncer with the dark stocking cap had been talking to earlier and two men. One male was wearing a blue

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hooded sweatshirt and dark stocking cap and the other was wearing a white hooded sweatshirt and white stocking cap. The bouncer (dark stocking cap) who was talking to this female earlier is seen intervening in this verbal altercation at 2342 hours (14 seconds). The other bouncer with the wand is seen going outside.

At 2342 hours (38 seconds) the suspect with the gun is seen approaching the group arguing.

At 2342 hours (56 seconds) the other bouncer with the wand re-enters into the hallway/entry.

At 2343 hours (31 seconds) the suspect with the gun who was wearing a black jacket with a white shirt underneath, white pants and white shoes is seen from a distance looking at the people who were arguing.

At 2343 hours (48 seconds) the bouncer with the wand is seen attempting to remove the male with the blue hooded sweatshirt and dark stocking cap as he continues to yell at the female.

At 2344 hours (17 seconds) the other bouncer (dark stocking cap) appears and is with the male wearing the white hooded sweatshirt and white stocking cap.

At 2344 hours (37 seconds) both bouncers are then able to escort both males into the entryway and towards the door and away from the female.

At 2344 hours (47 seconds) the suspect then turns and gets behind the group of people in the entryway. It appears at the time the suspect has his hands in his pockets.

At 2345 hours (03 seconds) the bouncer with the wand is seen having a conversation with the suspect and they walk partially back into the bar. Judging from the suspects body language, it looked as if the suspect showed the bouncer the gun. You can see the bouncers head look down at the suspect jacket pocket/waist area.

At 2345 hours (17 seconds) both bouncers then go back into the hallway/entry and the suspect then briefly goes out of camera site. Seconds later the suspect re-appears and goes back toward the front door and is behind the group of people in the hallway/entry. The suspect is seen engaging in conversation with the bouncer who had the wand.

At 2345 hours (32 seconds) the bouncer confronts the suspect who backs up and back into the bar. The suspect is seen turning around and has his right hand inside his jacket he then goes out of camera sight. Seconds later, the suspect re-appears and the bouncer with the wand confronts him again along with a few customers. A conversation takes place and the suspect leaves and the bouncer and other customers follow him out.

At 2346 hours (00 seconds) both bouncers are outside the bar.

At 2346 hours (02 seconds), the males seen earlier that were arguing with the female are now seen back in the bar.

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At 2347 hours (10 seconds) customers are seen entering the bar and no bouncers are at the entry. It was unknown if anyone who entered was wanded/checked while the bouncers were outside.

At 2349 (37 seconds) the bouncer with the wand is seen coming back into the bar.

End.

After reviewing this video, I found 2 license condition violations:

Condition# 2 stated all patrons will be checked for weapons (Wanded) prior to entry, while security is on duty.

It's clear to me after reviewing this video, the bouncer with the wand failed on numerous occasions to wand customers effectively like condition #2 stated. It appeared the bouncer was improperly trained on how to wand and check people for weapons. The wand was not consist with each individual customer who entered and the wand was not thorough. The wand needed to involve the front and rear torsos of the customers starting at the collar bone and extending down to the ankles. Primary areas where weapons can be concealed is the arm pit area, bra area in females, waist, crotch and ankle area inside socks/shoes. I also didn't see any of the bouncers check bags/purses of women who had carried them in.

Condition #3 stated the license holder will employ properly trained security personnel who will be on duty seven (7) days a week from 8PM to closing. A minimum of one (1) will be on duty Sundays thru Thursdays and a minimum of two (2) will be on duty Fridays and Saturdays. The security guards will adhere to the following guidelines:

A. The security guards will not socialize with patrons and will not drink alcoholic beverages while on duty.

Condition #A is clearly seen. Both bouncers socialized with many customers especially the woman that was later involved in the verbal altercation with the two men. The bouncer with the dark stocking cap is seen bringing this female a drink at 2322 hours (26 seconds) and conversing with her for approximately 5 minutes. It appeared at times the bouncers were unaware of their surroundings and were distracted by socializing.

The bouncers failed to remove the two males involved in the altercation from the bar. They were seen on video being escorted out, but then later returning inside.

It also appeared to me that the suspect who had the gun had brought it into the bar and had it in his jacket pocket the entire time. When he approached the bouncer with the wand, he clearly and purposely held his jacket up high to avoid it being detected. This is the only male customer I saw while reviewing the video who did this.

This report was forwarded to DSI for consideration on adverse licensing action.

PUBLIC NARRATIVE

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Primary offense:

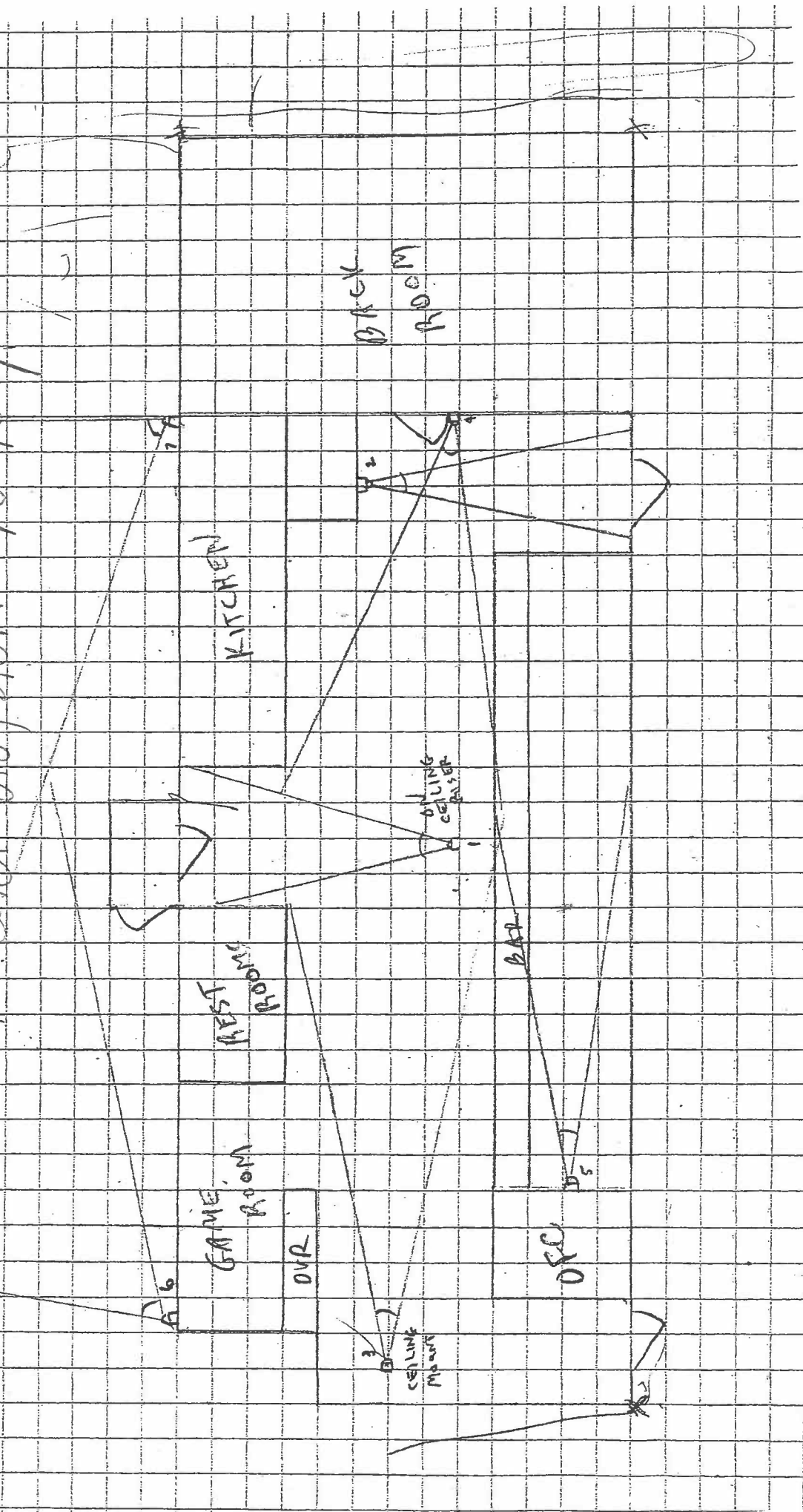
DISTURBANCE-DISORDERLY CONDUCT

DSI Investigation

Last page of the report

JOHNNY BAEY'S

This was ~~with~~ submitted
on Oct 27, 2017 to support



Johnny Babys
Video plan

RECEIVED

JUL 03 2018

By: City of St Paul DSI

University Ave

CHATS WORTH

