


### WITNESS STATEMENT

CJ Act 1967, s.9; MC Act 1980, ss.5A(3)(a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

Statement of **PC Reaz Guerra 1614CW** ..... URN:

Age if under 18 **Over 18** ..... (if over 18 insert 'over 18') Occupation: **Police Officer** .....

This statement (consisting of: .. **11** ... pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it which I know to be false, or do not believe to be true.

Signature:  ..... Date: **14<sup>TH</sup> SEPTEMBER 2019** .....


Tick if witness evidence is visually recorded  (supply witness details on rear)

I am the above-named person, currently employed in the Westminster Police Licensing Unit.  
I joined the Metropolitan Police Service in 2002 and was posted to the Borough of Westminster in 2003, working in numerous operational roles. I moved to the Westminster Police Licensing Unit in April 2011. Since my appointment in the Licensing Unit I have dealt with a wide range of licensing matters including applications for new premises licences, variations to existing premises licenses, licensing committee hearings, licensing reviews and a large number of licensing visits to licensed premises within the City of Westminster. I am also a specially trained search officer, Licensed by the Home Office, with over 13 years experience performing this role.

I submit the below information in regard to an application by the Westminster Police Licensing Unit, on behalf of the Commissioner of the Metropolitan Police, to review Opium Night Club, 21 Rupert Street, London W1D 1DJ, Premises Licence number 18/13366/LIPDPS, a copy of the premises licence can be found at **Appendix A**

Westminster Police Licensing unit seek revocation of the premises licence after an incident of serious disorder on Sunday 25<sup>th</sup> August 2019 at approximately 0300 hours, where one victim was stabbed within the premises and a second victim was shot twice outside the premises, Crime reports, 6557670/19 GBH W/I, 6557689/19 Possession of Firearms W/I, 6557678/19 Affray, Cad reports 1445 -, 1464, 1490, 1501, 1529, 1554, 1592, 1615, 1700, 4470, 7076 for 25<sup>th</sup> August 2019, (attached in appendix B)

The premises, Opium London, 9 Rupert Street is located on the east footway of Rupert Street, with the main entrance being approximately five metres north of the junction with Coventry Street. It is located within the West End Cumulative Impact area as defined by Westminster's Council Statement of Licensing Policy. Once you enter the premises you descend down stairs to the basement level where the premises is divided into two main areas, a restaurant area and a club area. At the time of this incident the restaurant was closed to the public, operating solely as a night club.

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Continuation of Statement of **PC Reaz Guerra 1614CW** .....

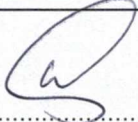
This incident starts at approximately 0302 hours in the centre of the night club floor. A verbal altercation starts between a group of males, notably a male with a bandana/shirt tied around his forehead is being held back and restrained by his friends, this male then walks towards another male and is seen talking to him, their body language changes notably as the male steps back and adopts a defensive stance, a number of males then run in between them, seconds later the male wearing the bandana then punches the other male, hitting him in the face as this situation is developing numerous males arm themselves with large glass bottles. It is clear from the CCTV that both groups are still agitated, at this stage there appears to be no intervention by security. The confrontational argument continues, with several of the males standing on furniture to elevate their position, many still armed with bottles, this stand-off continues for nearly 2 minutes before security can be seen attempting to calm the situation. Again numerous males can be seen armed with bottles. The argument continues with people being pushed and shoved. At approximately 0405, a member of security approaches the DJ desk and is believed to indicate to the DJ to turn the music off. This same member of security removes a bottle from a male. Other bystanders appear alarmed and can be seen moving away from the disorder fearing for their safety. A bottle is thrown into the group and the altercation then intensifies and becomes more physical, escalating into large scale disorder, with numerous males throwing punches, people falling to the floor, one male is struck over the head with a large bottle, then a male is stabbed (referred to as Victim 1), this is clearly shown on CCTV (Camera 6 – DJ Dance Floor) timed at 04:05:50, although the actual time is approximately 0305hrs due to the time stamp on the CCTV footage being incorrect. Security are clearly overwhelmed by the incident.

The victim of the stabbing, along with many other customers then escapes out of a fire escape out onto Rupert Street, opposite Waxy O Connors 14-16 Rupert Street, where it is believed he is provided first aid by his friends.

Inside the premises the disorder continues, with another male being pushed to the floor and struck over the head with a bottle, captured on DVR2 Camera 9 (VIP Table 72,73) at 04:06:00. It can also be seen that a number of females are clearly alarmed and scared, seeking shelter toward the back of this VIP area. A male is seen throwing a large sofa onto another male, a further male is pacing around the venue having armed himself with his belt.

As the disorder takes place inside, several members of staff can be seen to completely hide themselves under one of the bars, believed to be the VIP Service Bar, at one point there are three females huddled underneath the bar. A member of Security clearly withdraws fearing for his safety.

At the same time as the disorder and fighting is ongoing in the middle of the club, the two suspects concerned in the shooting that will take place outside the venue are inside the premises in one of the VIP areas, referred to as VIP TABLES 60-63 on CCTV. It is also worth noting that the male with the bandana is with the group in this VIP area throughout the evening. The exact sequence of events is detailed in the CCTV Transcript **Exhibit RGG/01**. Suspect 1 is seen to be holding what is believed to be a hand gun, he is seen to rack the slide and place it in his front right trouser pocket. On viewing the CCTV, for both Suspect1 and suspect2 their actions, reactions, hand movements and body language would

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Continuation of Statement of **PC Reaz Guerra 1614CW**

indicate that suspect 1 does indeed have a gun. He is seen to he is seen to rack the slide on the weapon, then move to a sofa and fiddle with something and then return. The gun can be seen being held by Suspect 1 at time stamp 04:06:42 on DVR2 camera 4. When suspect one places the gun in his pocket, from his body language he appears nervous and anxious, he is constantly looking around, his right hand is either in his front right trouser pocket, or fidgeting with his pocket. It is my opinion that he is guarding and protect the gun in his pocket. This along with the reactions of suspect two when he sees Suspect 1 holding the gun, adds further weight that this is indeed a gun. It is suspect 2 who later uses a firearm outside on Rupert Street to shoot Victim 2 twice. In my role as a Specially Trained Licence Search officer, one area of the training covers searching people. A proven method is the cover and contact tactic, whereby the contact officer conducts the search of the person, whilst the cover officer stands back and observes the person being searched, looking at their body language and movement which could give an indication that they are concealing or hiding something. Which in this instance why I believe suspect 1 is in possession of a gun.


Outside the venue the disorder continues for several minutes, large groups of males are confronting each other, which is captured on CCTV from a neighbouring building. At approximately 0316hrs there is further fighting outside the fire escape, this is partially captured on the dashcam of a moving vehicle, the subsequent victim of the shooting (victim 2) is seen walking up to the fire escape, where the victim of the stabbing is still located, seconds later Victim 1 one is seen running north along the footway of Rupert Street towards Shaftesbury Avenue, a few seconds later Victim 2 is also seen running in the carriageway towards Shaftesbury Avenue being chased by the suspect and in the middle of a busy street shoots the victim twice, the victim manages to keep running towards Shaftesbury Avenue. The suspect for the shooting runs in the opposite direction. The crowd starbust from the disturbance.

Victim 1 attempted to get into a minicab but was refused and subsequently treated for a stab wound to his abdomen, by the London Ambulance Service, on Shaftesbury Avenue. Victim two was later taken to St Thomas Hospital and admitted into hospital having received two gunshot wounds.

Subsequent enquiries reveal that a member of Trocadero Security whilst conducting their patrols around the building exterior found the victim, surrounded by a group of males. The victim had been lying up against a wall bleeding heavily. The member of Trocadero security stated he went to Opium and spoke to security there to ask if they had a paramedic on duty, but was told no. I produce redacted copy (removing only personal details) of the email sent to police containing the incident report, produced as **exhibit RGG/02**

At the interim steps hearing, counsel for the applicant stated that this event was a one-off event and that the premises had been closed since June 2019. A member of staff identified by the premises as Bemnet Selestion approached the venue management looking to hold a promoted event at the premises. It is claimed by the premises the event was promoted by Isaac Adeniyi – who was from JUST BRINGING THE ENTERTAINMENT LTD. The personal licence holders present during the incident have been named as Mr. Jose Parra, Bemnet Selestion (who the premises state was a staff member at Opium at the time but has subsequently been dismissed) and Bereket Selestion.

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Continuation of Statement of **PC Reaz Guerra 1614CW** .....

In a meeting on the 10<sup>th</sup> September 2019, between the premises and the Westminster Police licensing team, the premises states that Bemnet Selestion had been employed at the premises for only four months, two of which the premises was apparently shut. The police raised serious concerns as to how the premises could fully entrust the operation of the club to him to run such a promoted event.

There is evidence to the contrary that this event was just a one of event. The premises had, through LT Law given notice for a Late Temporary Event Notice on 15<sup>th</sup> August 2019 for an event on Monday 26<sup>th</sup> August 2019. I produce a copy of the TEN as **exhibit RGG/03** the TEN was made in the name of Selestion Bereket, the TEN gave the description of the event and offered undertakings as followed

- *Extended trade- bank holiday- private prebooked event- dinner and late bar/music-Each guest is by invitation only*
- *Operational conditions on existing premises licence will apply*
- *Guest list will be retained for 31 days after the event*
- *CCTV will be operation*
- *No new entries or re-entries after 02.00, save for smokers (existing condition 59)*
- *There shall be a minimum of 8 sia on duty for the event*
- *Transport for attendees away from the venue will be assisted by the venue*
- *This is a late TEN and has been applied for out of caution upon instructions- the venue can open to 3am on Sunday for consumption of alcohol and entertainment under the licence but this ten is sought to promote the licensing objectives and regulate the sale of alcohol in a responsible manner.*

Although the premises voluntarily agreed to cancel the event following intervention from the Westminster Police Licencing Team after the incident on 24<sup>th</sup>/25<sup>th</sup> August 19, subsequent enquiries via open source media have established that this event was in fact another promoted event and not a private event as described on the TEN. The event was an externally promoted event, promoted as 'Ballin London'. I exhibit a screenshot, produced as **EXHIBIT RGG/04**. The police now believe that the notice was made for the TEN as Eamonn Mulholland (DPS) was absent and not involved with the premises. Further research on Selestion Bereket, the person named on the temporary event notice shows he was associated to London Late Club (also known as London Luxury Club) 28a Leicester Square, a premises which was subject to an application for review of its premises Licence by Westminster Police Licensing following serious disorder , I exhibit a excerpt from companies house gazette, namely the incorporation certificate showing the two significant share holders being Bereket Selestion and Dipendhra Maharajan, who was the Designated premises supervisor at LLC 28a Leicester Square, produced as **exhibit RGG/05**

Further checks on police indices found that on the 6<sup>th</sup> July 2019, two separate incidents were recorded, with the location of incidents shown as Opium, 9 Rupert Street, London.

Firstly at approximately 0030 hours on the 6<sup>th</sup> July 2019 police had cause to deal with a male who had fallen/collapsed, the location was given as 9 Rupert Street CAD 285 06JUL 19 refers (**attached in appendix B**), the Officer concerned PS Lamb 5029U, states that whilst he was unable to confirm if the

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collapsed male have been in Opium, he did recall that the premises was open and appeared to be trading. The second report was recorded on Crime Report 6546372/19 (**attached in appendix B**), in which the victim states he left Opium and was robbed of his personal property. On Wednesday 10<sup>th</sup> September, along with my colleague PC Deweltz, we attended the premises and viewed CCTV in the presence of Sumeet Anand-Patel and Marcello Toscanca, upon viewing recorded footage from the evening of Friday 5<sup>th</sup> July into Saturday 6<sup>th</sup> July 2019 it showed that the premises was open and trading. This is contrary to the claims made by the premises that they had been closed since the end of June 2019, there was no DPS in place at this time.

The premises had prior to the interim steps hearing, requested they be allowed to open for two charitable events described in an email sent prior to the hearing from Lana Tricker to the Licensing Authority.

1. 5<sup>th</sup> September, a Save the Rhino Charity Fundraiser Quiz, which is a seated quiz running from 6 – 10.30 p.m to be attended by 150 people.
2. 12<sup>th</sup> September, an animal charity fundraising event, running from 6 – 9.30 p.m. attended by 150 people, with speeches, drinks and canapes.

The event on the 12<sup>th</sup> September was again externally promoted event with tickets being sold via the Eventbrite Website. The description of the event *“Join us for a celebration of all things dogs; schmooze with dog lovers from all over the world. Toast the pooches with live entertainment, a raffle, a silent auction, and you may even sniff out a well known pupper lover or two in the crowd.”*

This differs to the description of the event provided by the premises at the interim steps hearing.


I exhibit screen shots of this event as **exhibit RGG/06**.

I also produce further screen shots as exhibit XXXX, which show forthcoming events being promoted at the venue on Tuesdays, Fridays and Saturdays

It was submitted by counsel for the premises at the interim step hearing that the premises had a comprehensive CCTV system with 64 cameras, however it has subsequently been confirmed by the premises that there are in fact only 48 cameras, with three Digital video recorders (DVRs) each with 16 cameras, however the date/time stamping on two of the DVR’s is inaccurate being One (1) hour ahead for the actual time, in breach of premises licence condition 24. therefore, in providing reference time in relation to CCTV footage I have used the time stamped on the recorded footage, albeit not the actual correct time. Having partially viewed some of the CCTV, a transcript is produced as exhibit RGG02

The premises has breached numerous conditions on its premises licence, namely conditions

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1, 11, 14, 24,48, 50, 54, 59, 61, 62, 63c and 64,

***Condition 1 - No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.***

Eamonn Mulholland is the named designated premises supervisor (DPS) in respect of this premises licence. It was submitted by counsel for the premises at the interim steps hearing that Mr Mulholland had left the premises, having no involvement with them since June 2019, although the exact date is unknown it is clear that on both the 5/6<sup>th</sup> July and 24<sup>th</sup>/25<sup>th</sup> August that there was no DPS in place and therefore no authority, delegated or otherwise, this is further confirmed in a letter (produced as **exhibit RGG/07**) to PS Whiteley from Lana Tricker, dated 7<sup>th</sup> September 2019


***Condition 11 - All drinking containers used within the lounge/club area shall be polycarbonate. All glass bottles to be decanted into polycarbonate glassware or polycarbonate glassware carafes, with the exception of champagne and bottles of spirits of a minimum size of 70cl, supplied by waiter/waitress service to tables. Staff will clear all empty champagne and spirit bottles from the tables promptly. Customers will not permitted to self serve or remove bottles from the tables. Customers will not be permitted to drink directly from champagne or spirit bottles. For the avoidance of any doubt, this condition does not apply to the restaurant area of the premises, as marked on the plans attached to the licence.***

Analysis of CCTV clearly demonstrates that this condition has been breached creating significant risk to the public. Customers can be seen to be drinking direct from both champagne bottles and large bottles of spirits, unchallenged by staff, as evidenced on CCTV DVR2 Camera 4 (VIP Tables 60-63) at time stamp 01:47:42. Here staff bring a number of bottles to the table and whilst staff are still at the table, several of the customers start to serve themselves whilst others having removed bottles from the table then drink directly from them. In another instance, within the same area a male can be seen dispensing alcohol from a large spirit bottle, directly into the mouths of two different females, The condition prohibits customers to self-serve or remove bottles from the tables and customers should not be permitted to drink directly from champagne or spirit bottles.

In the letter from Lana Tricker to Sergeant Whiteley, she purports that customers only begin to remove bottles from table as this incident evolves, this is strongly refuted by police, and corroborated by CCTV that customers both self-served, removed bottles from the tables and drank directly from them throughout the evening. As the incident evolved customers then started to arm themselves with bottles and use them as weapons. Similar behaviour, with customers drinking directly from bottles was highlighted as a concern in a previous visit to the premises by PC Lewis to Eamonn Mullholland as detailed in the statement submitted by PC Lewis.

***Condition 14(a) When the premises are open all customers entering the nightclub/lounge after 22:00 will have their ID scanned on entry or be subject to a biometric scanning system***

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*(when fingerprint scanning will be required for all customers who have previously shown identification at the premises).*

*All customers entering shall have their facial image captured by the ID scanner camera except for person who enter using finger print scanning and have provided a recent facial image captured by the ID Scanner.*

The premises has provided a copy of the ID Scan log for 24/25<sup>th</sup> August 2019, containing a record of 392 scanned ID's, analysis of this document show that the premises has failed to comply with the above condition in its entirety. It is a requirement of the condition that **All customers entering shall have their facial image captured by the ID scanner camera except for person who enter using finger print scanning and have provided a recent facial image captured by the ID Scanner.** There was no live image captured for all of the 392 ID's scanned. The importance of the live image capture is it allows for a direct comparison between the photo on the ID and the actual person presenting the ID, this could also be of critical importance in the subsequent identification of any victims or suspects. This was indeed the case in this incident, with one of the persons involved not having had their ID scanned correctly upon entry to the premises. The suspects concerned in the shooting did not have their ID checked or scanned. Having viewed CCTV of customers having their ID scanned it is apparent that the member of staff operating the ID Scan machine is ignoring any information, such as warning reports that are being flagged by ID Scan, there are instances of ID's not being scanned properly. The IDScan log has not been exhibited within this statement due the extensive personal information within and being impractical to redact.

**Condition 24 - The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.**

As previously stated the premises has a CCTV system which records onto three separate DVR's, with a total of 48 Camera. The date and time stamp on two of the DVRS is incorrect, being one hour out. This provides a lack of continuity when reviewing the CCTV and could present evidential issues. This also demonstrate a lack of diligence by the premises in ensuring the times on their CCTV are accurate. Although not required by way of a licence condition, there were no Body Worn Cameras (BWV) in use by security, which is now commonplace across venues, particularly night clubs within Westminster, the use of BWV can often provide key first person evidence.

**Condition 26 - There shall be no removal of glasses or bottles from the premises by patrons when leaving.**

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Continuation of Statement of **PC Reaz Guerra 1614CW** .....

Following the disorder, staff and security are so overwhelmed that they are unable to stop some customers leaving with bottles. There is CCTV from a neighbouring outside the venue which shows a male smashing a glass bottle into the floor, further endangering the public.

***Condition 48 - After 21:00 Registered Door Supervisors shall ensure that the specified capacities are adhered to at all material times. Before 21:00 Registered Door Supervisors and/or staff shall ensure that the specified capacities are adhered to at all material times. A daily log is to be maintained to ensure that any capacity limit set is recorded hourly and can be properly monitored. Information regarding the capacity will be given to an authorised officer or police officer on request.***

With the restaurant area not in use at the time of the incident, the premises had a maximum capacity of 250 customers (as per condition 16), the ID Scan log shows that potentially 392 persons entered the venue. In addition to the 392 scanned entrants, there were customers who entered without having their ID Scanned. . Police have requested to view the hourly log, showing how the capacity was managed and controlled. The Log has not been provided.

***Condition 50 - From Monday to Sunday after 23:00 all patrons attempting to gain re-entry will be subject to a search. After 21:00 Monday to Sunday, upon entry all bags are to be opened and searched. A general search policy shall be implemented as agreed with the Westminster Police Licensing Team and documented. In accordance with the general search policy, searching will be supplemented by the use of two functional metal detecting wands operated by a male and female door supervisor dedicated to that duty either until the end of permitted hours or until there are no further admissions.***

Searching by the SIA Security personnel was ineffective. Searches should be carried out in a systematic, thorough and methodical manner to the appropriate depth of search. CCTV shows a demonstrable failure with the search regime, rendering any searching pointless. There are numerous customers that enter the venue, particularly male customers carrying bags who do not have their bags searched, At no point are search wands used to facilitate and supplement the searching as required by this condition. This is evidenced on DVR3 Camera 3 (Entrance In) where by a male enters and there is a cursory inadequate search of his upper body, with no search conducted of his waist downwards. The suspects concerned in the shooting were not searched upon entry, one is allowed to leave and re-enter but it still not searched upon re-entry. Undoubtedly this significant failing poses immense risk to public safety and a failure to ensure the prevention of crime and disorder.

***Condition 54 - An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:***

- (a) all crimes reported to the venue***
- (b) any complaints received regarding crime and disorder***
- (c) any incidents of disorder***

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**Condition 66 - On nights where the part or all of the premises is operating as a nightclub (not including corporate events, or when the restaurant only is open) a traffic marshal ('the marshal') shall be employed by the premises management from 22:00 until all customers have left the immediate vicinity of the premises to ensure, as far as reasonably practicable, there is no obstruction on Rupert Street in the immediate vicinity of the premises from customers or vehicles related to customers, of the premises. The marshal shall wear a high visibility jacket of a different colour to those worn by SIA door staff and marked 'traffic marshal' so as to be clearly identifiable in this role.**

The premises by their own admission state there was no 'traffic marshal' on duty, the lack of control over the outside environs of the premises creates a risk to public safety. CCTV shows the footway outside the premises is densely populated and congested, with customers obstructing the footway, particularly evident between 0100 and 0140 hours.

There is a history of Crime and Disorder associated with this premises. Police objected the to initial licence being granted in 2011. In 2014 an application to review the premises licence was made by Westminster City Inspectors on the grounds of crime and disorder, this was supported by the Police. Whilst admittedly it was a different operator in charge of the premises at the time of that review it was evident then that a significant number of conditions had been breached. It was submitted by counsel for the premises that moving forward from that review the premises would be employing a total of 81 Staff, for the 24<sup>th</sup>/25<sup>th</sup> August 2019 the premises had just 21 members of staff. The outcome of the previous review imposed two further conditions to the licence;

- *Whenever the VIP toilets in the basement lounge are in use there shall be a minimum of 1 SIA stationed in the VIP toilet lobby area.*
- *A qualified medic shall be on duty on Friday and Saturday nights from midnight until the premises closes, whenever the basement lounge is in operation.*

The premises failed to comply with these conditions on the 24<sup>th</sup>/25<sup>th</sup> August 2019, it is of critical importance to note that this premises has a history of attracting high risk clientele, as is evident in the previous review and in the statement of PC Lewis. It is then again evidenced on the night of the 24<sup>th</sup>/25<sup>th</sup> August 2019 with someone being stabbed within the venue and another male being shot twice in the street.

The current Licence Holder states they are hugely successful operators with a wealth of experience, with three large capacity nightclubs in Spain. Despite this self-acclaimed success none of their experience is apparent in the way in which they have operated this premises. There have been comprehensive failings by the premises in promoting and upholding the licensing objectives, the associated crime and serious disorder that took place exposed the

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public to significant and unnecessary risk. The police therefore request revocation of this premises licence.

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