The Commission met in Room 383, The Hall of States, 444 North Capitol Street, N.W., Washington, D.C., 20001, at 8:30 a.m., Kay C. James, Chair, presiding.

PRESENT:

KAY C. JAMES               Chair
WILLIAM A. BIBLE           Commissioner
JAMES C. DOBSON, PH.D.     Commissioner
RICHARD C. LEONE, PH.D.    Commissioner
J. TERRENCE LANNI          Commissioner
ROBERT W. LOESCHER         Commissioner
LEO T. MCCARTHY            Commissioner
PAUL HAROLD MOORE, M.D.    Commissioner
JOHN W. WILHELM            Commissioner
TIMOTHY A. KELLY, PH.D.    Executive Director
GEORGE T. TERWILLIGER, III General Counsel
JOHN E. SHOSKY, PH.D.      Senior Report Writer

ALSO PRESENT:
Mike Clancy, Attorney
Ron Reno
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CHAIR JAMES: Good morning. I’d like to call our meeting to order.

We have several loose ends and some unfinished business to take care of. Before we get started today, I will remind Commissioners that I asked you to bring your calendars, that you come prepared today to talk about specific recommendations.

And I think that all of us spent a great deal of time, I know I did, yesterday evening and this morning reading the various documents that have come before us. We also have some old business from our last meeting that we need to talk about, and I thought we would get to some of that this morning so that our general counsel can get back to his day.

So I thought we would start with that, then move to some of the issues to wrap up from yesterday, and then move into today’s agenda.

There were two items that — out of our last meeting we referred to the general counsel. One was the contract with ACIR and what — because of, I think, the Commission expressed their displeasure at some of the work that was coming from them and their inability to deliver what we asked for and to do it on time.

And I asked that we look at what are our — at this point, what are our options in dealing with that. And I wanted to ask our general counsel if he would speak to that issue, as well as to bring us up to date in terms of where we are on the subpoena issue and what our options are as a Commission.

GENERAL COUNSEL TERWILLIGER: Thank you. Nice to be with the whole Commission again.

In terms of the ACIR issue, there were two reports due from ACIR to the Commission. And the commissioners, no doubt,
recall the enabling statute for the Commission as passed by the Congress required contracting with ACIR, and the Commission, of course, complied with that statutory mandate.

The first report, a comparison of law report concerning gambling laws, has been described by the Commission staff as marginally adequate and was delivered late.

The second, which was a survey of gambling laws, federal, state and local, throughout the United States, has been determined by the Commission staff as unacceptable under the terms of the contract standards.

And in essence, ACIR has been very candid in meetings with the Commission staff on the latter especially. Obviously the fact that the reports were late is unassailable. Second, they’ve admitted the inadequacy on the survey part.

At this point, it seems to us that the Commission has three options. The Commission has the right, under the contract that was signed, to terminate the contract if it is breached. And the Commission could certainly take the position that the contract has been breached for the reasons that I’ve described and others.

Second, the Commission can try to reach a negotiated closure of this matter with ACIR. Currently ACIR has been paid about $210,000 based on deliverables. In other words, graduated payments. There is a $65,000 balance on the contract amount outstanding.

There is one additional deliverable due from ACIR which is basically to be in the form of a CD-ROM and it’s supposed to be delivered in mid May.

My partner, Mike Clancy, who is a Government contracts lawyer and has worked directly on this issue, is here with us...
today and can join me in answering specific questions that you
might have concerning the legal situation here.

But, in essence, what we have is a contractor who has
not delivered, from our perspective at least, that which was
required under the contract. We, of course, have looked at this
from a legal perspective.

But from a practical perspective, it’s obvious that
we’re running up against the statutory deadline to report the
Commission’s final work product, and that has to be taken into
account in deciding how to deal with this.

And in fact, and I’m sure Dr. Kelly can expound on this
in greater detail than I can, but the Commission has basically,
through its own staff, tried to back stop the ACIR effort and
fill in some of the data that is needed to aid in the
Commission’s overall work.

CHAIR JAMES: With that, I had asked the attorneys to
prepare a letter to go to ACIR which basically summarizes that.
My recommendation would be that, at this point, we -- the only
leverage we have, of course, is the remaining payment that we
have, and that we hold that until we get that deliverable, of
course, on May 15.

We don’t know how usable it will be, how accurate it
will be; but I did want to give you an update in terms of where
we are on that contract. We will get copies of this particular
letter and get it circulated among the commissioners.

Any guidance, any -- what’s your pleasure?

COMMISSIONER BIBLE: Did the contract have any penalty
provisions for non-performance or for inadequate performance?

GENERAL COUNSEL TERWILLIGER: Mike, why don’t you come
up. You’re more familiar with the contract.
Madame Chair and Commissioners, this is my partner, Mike Clancy, who is much more intimately familiar with the terms of the contract than I am.

CHAIR JAMES: Mike, if you want to have a seat right here, we can hear you.

GENERAL COUNSEL TERWILLIGER: The question was, Mike, did the contract contain any penalty provision, self-executing or otherwise?

MR. CLANCY: No, just the termination provision.

CHAIR JAMES: I’m sorry, you’re going to have to swallow that microphone.

MR. CLANCY: There’s no penalty provision. There’s just the termination clause which gives the Commission the right to terminate for breach of contract.

COMMISSIONER BIBLE: Well, Mike, my sense would be to pay for what you got and don’t pay for what you don’t have.

CHAIR JAMES: Any other comments?

COMMISSIONER McCARTHY: Yes, I wanted to say the air conditioning is working very well this morning.

CHAIR JAMES: It is indeed. Let’s see if we can get it to work a little less well.

COMMISSIONER McCARTHY: I had just one ameliorating comment that I wanted to make as to the first deliverable, the analysis. Part of the lateness was due to a change in the design of the plan which the research subcommittee sought.

So whatever liability they bear for that first section, we share.

GENERAL COUNSEL TERWILLIGER: Go ahead, Mike.
MR. CLANCY: I just want to comment on that. And working with Dr. Kelly on this, we factored that into the analysis, --

COMMISSIONER McCARTHY: Okay.

MR. CLANCY: -- and we gave ACIR a two month extension --

COMMISSIONER MCCARTHY: Okay.

MR. CLANCY: -- to get the report done, in fact, and they -- even with the two month extension, what they ultimately turned in was a draft summary of survey data which didn’t come close to the specific requirements of the report.

So I think to the extent they had any issue with needing more time, the Commission was very generous to give them that extra time.

CHAIR JAMES: Well, I will circulate the letter for your comments and proceed as we’ve --

COMMISSIONER McCARTHY: Well, if we have an extra $60,000, there’s another study that the research --

(Laughter.)

CHAIR JAMES: One more questionnaire. We expect you to announce one at the press conference. I’ll be disappointed if you don’t.

MR. CLANCY: Thank you.

CHAIR JAMES: Thank you, Mike.

COMMISSIONER BIBLE: I think you should submit a questionnaire to the commissioners.

CHAIR JAMES: We want to turn now to the question that was raised at the end of our last meeting about NIGC and our ability to get information and get data and the question as to whether or not this Commission should proceed with a subpoena.
And I wanted to ask George if he would update us on that.

GENERAL COUNSEL TERWILLIGER: Certainly.

There are basically three options that we’ve identified to deal with the question of obtaining certain data from the National Indian Gaming Commission.

The first, which I guess is always an option in any situation, is to do nothing, with the notation that obviously the Commission’s report could, if the Commission so concluded, contain factual information concerning the history of this particular effort to obtain this information and why it was needed.

The second would be to go through the process that is described in our statute and rules and issue a subpoena to the National Indian Gaming Commission for this information. I will come back to that one in a moment.

The third is to continue the attempts that have been made thus far at a negotiated resolution. And let me inform the Commission, as I have told the Chair last Friday, as late as last Friday, I had a conversation with Philip Hogan, who is the Executive Director of the National Indian Gaming Commission, about this particular issue.

I would note parenthetically that I’ve known Mr. Hogan on a personal basis for a long time. We both served as United States attorneys together in the Reagan and Bush Administrations.

What I explained to Mr. Hogan -- and, again, as the general background on this issue, we look at the National Indian Gaming Commission itself as a federal entity. Our statute provides that federal agencies are supposed to provide us with information upon request.
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And they, of course, have taken the position, to put it in summary form, that they are under legal restrictions as to certain information that they hold in confidence from their constituent, if not members, interested parties, tribes, that they cannot, by law, share with us if that is what has set up this -- at least the legal issue involved here.

We have told the Commission, in writing and past correspondence, which I believe has been available to all the Commissioners -- and I again reiterated this point to Mr. Hogan on Friday both orally and then I sent him a follow up letter on Friday actually to his home where I explained that our statute provides that any non-public information we receive may be maintained and must be maintained in a non-public status by us.

So we can’t convert non-public information received from a federal agency into public information. And thus, the confidentiality restriction that the Indian Gaming Commission states applies to this data.

Our position, as a legal matter, would be that it would be maintained.

I had hoped to talk again with Mr. Hogan prior to this meeting, but that did not take place. I’ve had no reply, at least as of yesterday, to that letter. And that’s where the negotiation part of it stands, I guess.

On the subpoena, as you know, we are required to give notice to the attorney general of the Commission’s intent to issue a subpoena ten days -- I believe it’s ten days prior to the issuance.

We have prepared and tendered to the Commission staff a week or so ago that correspondence. And I’ve actually given two letters to the staff. One is a simple notice provision.
The other one contains both notice and a request for the attorney general to have the Justice Department intercede on our behalf with the National Indian Gaming Commission since it is our view that it is a federal agency and perhaps, through powers of persuasion and some legal analysis, the Justice Department might be able to assist us in avoiding the necessity of issuing and/or moving to enforce the subpoena.

Which brings me to the last point on this issue, and that is assuming that the subpoena was not voluntarily complied with if we issued it and it was received and they did not -- that is, the Indian Gaming Commission did not provide the information, what happens then?

Of course, predicting the nature, extent and cost of litigation, as many of you no doubt realize from your own experiences, is a very difficult undertaking.

But suffice it to say that even under the most ambitious of scheduling matters with the District Court, if we were either to move to affirmatively enforce the subpoena, which we have the right to do, or the Indian Gaming Commission were to move to quash the subpoena, I doubt very much that that litigation could be completed in such time as to make the data useful to the Commission or even resolve before the Commission’s final report is due in 60 days thereafter that the Commission expires.

We would, of course, do everything we could with the Court to expedite those proceedings should they become necessary. But as a practical matter, I’m not sure that we could get there.

That, of course, is not a veiled suggestion not to issue the subpoena, because I think we are entitled to presume that if a legally constituted body with clear subpoena power goes
through the proper steps to issue the subpoena, we presume that people would obey the law and comply with the subpoena.

But recognize that if there is non-compliance, it may be difficult and rather expensive to go through the proceedings to enforce the subpoena or defend it, depending on how the issue arises.

CHAIR JAMES: With that, I think we have three clear options before the Commission and the Chair would like to entertain some discussion and determine the will of the Commission.

COMMISSIONER LOESCHER: Madame Chairman.

CHAIR JAMES: Certainly, Commissioner Loescher.

COMMISSIONER LOESCHER: Yeah, I had a chance to meet with the chairman of the Indian Gaming Commission, as I know you did, and they have done their best to provide whatever they can to the best of their ability and have forwarded to the Commission and members aggregate information.

And you know, for what it is, I appreciated the information. It was well formed and well displayed and clear. I am not quite sure that pursuing this matter would get us much more.

We would satisfy ourselves that we exercised and used our authority, but I’m not quite sure that we would get much more. And also, I am concerned about the timeliness and the expense that it would take.

I know that the Native American community will defend the fort from the cowboys as long as they can and probably intervene in that action as well. So, Madame Chair, I would hope that the Commission would forebear and go on.

CHAIR JAMES: Other points of view, discussion?
COMMISSIONER McCARTHY: Point of information, please.

George, which letter is it? We have sent several letters to the NIGC. Which particular letter is it you were referring to?

GENERAL COUNSEL TERWILLIGER: I may have not been clear, Commissioner McCarthy. The letter that I -- the last letter I referred to was a letter I sent last Friday.

COMMISSIONER McCARTHY: No, I don’t mean your letters. I’m sorry, I meant the original request from the Commission for information.

GENERAL COUNSEL TERWILLIGER: I don’t have the date in front of me.

COMMISSIONER McCARTHY: Because I think we’ve sent a couple of letters.

GENERAL COUNSEL TERWILLIGER: We have.

COMMISSIONER McCARTHY: Including a last one, which really, I must say, had in it what I thought were some very easy to answer questions. It had absolutely nothing to do with any proprietary information.

CHAIR JAMES: Right. And I would ask the Executive Director if you would go and brief the Commission on response that we’ve received.

COMMISSIONER McCARTHY: That’s what I’m talking about, the one that has the core elements of the regulatory scheme and asked them to respond to that, as well as some --

CHAIR JAMES: Tim, use the microphone.

EXECUTIVE DIRECTOR KELLY: Commissioner McCarthy, I don’t have copies of the letter with me. We could get staff to bring that down ASAP.
But if I remember right, the letter you’re referring to did ask for specific data elements as well because, you remember, after our last meeting, the decision was to request of the NIGC specific elements from those audits as opposed to the audits —

COMMISSIONER McCARTHY: Well, what about if it went directly to audit material? But then there was a second letter that had two sections in it. One was listing a series of core elements that were part of a regulatory scheme, a lot of it drawn from the Belletire presentation.

And the second was asking for some numbers in the aggregate which were added, but they should not have evoked the kind of controversy that the original audit request evoked. And I’m mystified as to why the second letter wasn’t -- it would take some work.

It would take, you know, some staff time to do it. But it’s not the kind of -- what has been characterized super sensitive matter, as I understood it.

Do you know the distinction I’m making, George?

GENERAL COUNSEL TERWILLIGER: I do.

CHAIR JAMES: Certainly.

I think it would be helpful to all of us if, Tim, you sort of walked us through the various requests and where we are on that right now.

EXECUTIVE DIRECTOR KELLY: If I could, just for the sake of clarity, go back to last fall just briefly. Last fall was when we sent our first request in for audit information to NIGC and were told by them that they couldn’t share that information.

At our retreat meeting, I believe, we discussed the issue and decided that the best thing to do would be to send a
request for specific data elements out of the audit. We then did
that. We sent a letter to NIGC requesting specific data elements
out of that audit, which included revenues for individual tribal
casinos, for instance.

What we got in response was the aggregate data that
Commissioner Loescher was referring to. So, in other words, what
we got was well, on average, we’re getting this type of level of
revenue as opposed to individual specific revenue data.

We could perhaps get staff to bring down copies of
these letters if that would help.

CHAIR JAMES: They’re getting it.

Given that, what would you like to do?

Commissioner Dobson, I know you have some strong
feelings about this. Commissioner Moore.

COMMISSIONER DOBSON: Madame Chair, I’ve already
expressed them. I don’t think I need to express them again. I
think we’ve been stiff armed. It sounds to me like that there’s
not a lot that we can do about it. We’re going to be out of
business June the 16th and --

CHAIR JAMES: 18th.

COMMISSIONER DOBSON: 18th.

CHAIR JAMES: Every day helps.

(Laughter.)

COMMISSIONER DOBSON: What can happen after that? We
don’t even exist. So I don’t know what to do. I’m very
frustrated by it and I feel it’s wrong.

COMMISSIONER BIBLE: And I would agree with Jim and I
think we ought to make notations in our report that we requested
the information and it was not provided. And where we come to
areas in the report document that -- where it would have been
helpful to have had that information, I think we ought to so indicate.

CHAIR JAMES: Any other discussion on this?

My recommendation would be that we do a combination of two of your options, George, which is to continue to press in and try to negotiate and get the information; but, at the same time, as we're preparing the document, do exactly what you suggest, Bill, which is, at the appropriate places where that information would have been helpful, note that it was not available and make a recommendation perhaps that Congress seek other remedies to provide this information for analysis so that policy makers can have the benefit of that for their decision making processes.

COMMISSIONER McCARTHY: May I ask a question? If an appropriate committee of the House or the Senate asks for this information, would there be any doubt that they would receive it?

GENERAL COUNSEL TERWILLIGER: Well, my crystal ball's not that good. But certainly one of the options for Congress, should they choose to act, would be to issue a subpoena for this same data.

COMMISSIONER McCARTHY: Without a subpoena, is there any doubt -- would the NIGC give a committee of either the House or the Senate the same answer that this federal agency has been given?

GENERAL COUNSEL TERWILLIGER: I can't predict that. Leo, I can't predict that.

COMMISSIONER McCARTHY: Okay.

GENERAL COUNSEL TERWILLIGER: That's hard to say. One would think not, but they very well might. But as you know, the power of Congress in its oversight role of federal operations to
gather information from federal entities is rather broad and
plenary, really.

And thus, one would expect that Congress could, in
fact, get this information.

CHAIR JAMES: Dr. Moore.

COMMISSIONER MOORE: I believe that this only fortifies
us in our recommendations in our report to the President and the
legislatures and all of that, and the governors. And I think
it’s sort of sad when a commission appointed by Congress and
approved by the President cannot get this information from
another Government entity, as described by the legal counsel.

And I believe that whoever made this rule, and if it
comes out of the Indian Regulatory Gaming Act, I believe that
there should be strong recommendations, and there are strong
recommendations, that there should be full disclosure of all of
this.

And I believe this will help us in letting Congress see
that there are some changes that need to be made and must be
made. But I say that we go on with our business but still try to
work out the second option -- no, the third option probably.

CHAIR JAMES: Well, I would ask you, George, if you
would continue your conversations with Phil. We will continue
our drafting process and use the strongest possible language
within the report to express our displeasure with our inability
to get the data so that we could do a comprehensive report.

Any other discussion?

Thank you, Ted.

Thank you, George.

GENERAL COUNSEL TERWILLIGER: You’re welcome.
COMMISSIONER LOESCHER: Madame Chair, I’d like to say thank you to George for his work with the Commission. Hope we see him before the term is out. And like to compliment him on his work on our FACA issue. And I do recognize the last page of the GAO report he did valiantly try to ask them to change their view of life and defend the President of the United States and his options for the future.

(Laughter.)

So thank you very much for your work.

GENERAL COUNSEL TERWILLIGER: Well, I appreciate you saying so. Thank you. I hope I will be with the Commission again, but this has been a very -- my goodness.

(Laughter.)

I guarantee I did not arrange that. This has been a very interesting assignment with a variety of legal issues. I, if I may, Madame Chair, --

CHAIR JAMES: Absolutely.

GENERAL COUNSEL TERWILLIGER: -- would very much like to compliment the Chair and each and every member of the Commission for not only how I have been dealt with, which is rather immaterial, but for how you have dealt with each other and with some very volatile issues here.

I think it is truly amazing that this body has remained as cohesive, as united and worked by consensus to the degree that it has on this particular issue. Of course --

CHAIR JAMES: But the day’s not over until --

GENERAL COUNSEL TERWILLIGER: I say that without --

COMMISSIONER McCARTHY: Yeah, stay tuned, George.

(Laughter.)
GENERAL COUNSEL TERWILLIGER: But really, the work has been very important. And the dedication of each and every individual Commissioner has truly been exemplary.

CHAIR JAMES: Thank you. And we very much appreciate your guidance and your help.

And on more than one occasion, I’ve told George that my comfort level has been increased greatly by knowing that we had the full weight of him and his firm and his expertise and his knowledge of Washington and of the law.

GENERAL COUNSEL TERWILLIGER: And according to the GAO, I was even chief.

(Laughter.)

COMMISSIONER WILHELM: Secret, but chief.

CHAIR JAMES: Thank you, George.

GENERAL COUNSEL TERWILLIGER: Thank you.

CHAIR JAMES: And hopefully you’ll be at our final meeting and we’ll have some other comments then.

Commissioner Kelly, you can join us here -- Director.

With that, we have a few loose ends from yesterday.

Commissioner Dobson, I want to turn to you. You had a few issues you wanted to bring back before the Commission that didn’t come to resolution. And let me ask you to do a couple of things that I think will help our day to move more smoothly.

All of us have stacks and stacks of paper in front of us. And so when you are referring to a document or talking about something, if you could say specifically what document, what page, and, when possible, what line item.

And I might as well make this comment as well before we move into our discussion of the new pieces as well. I’m going to ask that we keep our discussion today very, very narrowly
focused. And we will have ample opportunity to do many of the
line item edits.

The language will change as we go through the process.
What I’m most interested in getting through today are the policy
issues and specific recommendations. And I think that’s the best
use of our time here.

We’ll sort of take a look midpoint through the day,
maybe at the end of the day, to see where we are and what
additional time we may need together or by phone in order to get
our work done.

With that, I’m going to turn to you, Commissioner
Dobson, for the issues that you had remaining from yesterday.

COMMISSIONER DOBSON: Thank you, Madame Chair.

Rather than being my issues, some of them are
assignments or things that we agreed upon. Let’s start with the
pathological report at page four.

COMMISSIONER WILHELM: Which document is this?

COMMISSIONER DOBSON: This is the pathology -- let’s
see.

EXECUTIVE DIRECTOR KELLY: It’s the one that has
additional draft language on the front.

CHAIR JAMES: Looks like this.

COMMISSIONER DOBSON: Yeah, page four under scope.

CHAIR JAMES: Everybody got it? Six, I guess. I’ve
got paper in front of me, too.

CHAIR JAMES: And I want to thank you and your staff,
Dr. Dobson, for taking the time last night, I know, to work on
some of this language and bring it back before us, and it is
appreciated.
COMMISSIONER DOBSON: Thank you. And again, I think we can move through this very quickly.

There was, as you recall, a very intense or emotional discussion at the end of the day with reference to NORC and a particular portion of their data. And that discussion was interpreted as an attack on NORC, and I don't think that was accurate or fair and I'll explain why.

If you look at the third paragraph on page four -- and pardon me for reading to you. "The council notes that many families of pathological gamblers suffer from a variety of financial, physical and emotional problems."

"Those problems, discussed elsewhere in this report, include divorce, domestic violence, child abuse and neglect, in addition to severe financial hardships brought about by excessive gambling."

"Children of compulsive gamblers are more characteristic" -- I'm sorry, I'm sorry. I'm sorry, I've got so much paper in front of me. Go to page 11. Go to page 11. Go to page 11, if you will.

CHAIR JAMES: Okay.

COMMISSIONER DOBSON: I opened to the wrong page. Okay, it was on page 11 that we had the disagreement. I'm sorry, I referenced the wrong place. Let me read that paragraph at the top.

CHAIR JAMES: Page 12, line --

COMMISSIONER DOBSON: One. And I don't -- I don't want to start with the beginning of that paragraph. Let's just start at the top of page 11.

"Characteristics of home is lying to conceal the extent of their gambling. Might lie to someone collecting data. Those
who have lost their savings and homes might be reachable by phone. Heavy gamblers may not be in their homes to answer the phone."

"People in treatment for gambling addiction might not be in their homes or in their casinos. Those in prison for gambling related crimes would not be accounted for."

What we were dealing with in this section, obviously, was the under representation of losses by those who have pathological and problem difficulties.

Now, I had suggested yesterday that the NORC data under represented the losses by those who were -- had problems with pathological gambling, and some of you saw that again as an attack on NORC.

Let me read to you NORC's own comments, which I wanted to put in here, and then you tell me whether or not that's appropriate.

Number one, "Virtually none of the survey data on the reported wins and losses appears to be accurate at face value."

That's NORC's own statement about it's own data at this point. That's NORC page 31.

Number two, "Instead of a careful, computer-like accounting for gaming dollars, individuals tend to understate their net losses and exaggerate their net wins."

That's also page 31.

Number three, on page 31 also, they referred to "numerous instances of non-credible reporting."

Number four, the balance of past year casino wins and losses shows patrons ended up with a $5 billion dollars or a $3 billion dollar windfall instead of leaving more than $20 billion at the casinos." That's page 33.
Number four, "Lack of realism in the overall estimates of monetary wins and losses." And number five, "Gamblers seem accustomed to a fairly high level of wishful thinking about the economics of the games they play."

That’s page 34. These are NORC’s own comments about their own data. To report that in our document is not an attack on NORC; it is simply reporting their own information. Therefore, this is the paragraph that we want you to consider.

Data within the NORC survey give indications that gamblers tend to understate their negative experiences with gambling. For instance, survey respondents greatly exaggerated their wins and under reported their losses.

Further, respondents were five times more likely to report that their spouse’s gamblings contributed to a prior divorce than to admit that their own gambling was a factor.

That is not an attack on NORC. That is a statement that comes out of the NORC report itself.

CHAIR JAMES: Are you suggesting substituting that or adding that paragraph that you just read?

COMMISSIONER DOBSON: Adding that.

CHAIR JAMES: Commissioner Wilhelm.

COMMISSIONER WILHELM: Madame Chair, if we’re going down this road, I’d like to have a week or ten days to rewrite all of this to qualify every single -- or, I’m sorry, to further explain, within the bounds of the NORC commentary, every single statistic that is attributed to NORC because they’ve all got, you know, caveats and that’s the nature of survey work.

So if we’re going to do that in one place, let’s do it everywhere. I think we can do it in a week or ten days, at
least, for people’s consideration. And I don’t mind doing that, although I don’t know where that leads.

COMMISSIONER LANNI: Madame Chair, I have a question, if I may.

CHAIR JAMES: Certainly.

COMMISSIONER LANNI: Jim, when you say the survey, is that the patron survey of -- NORC’s patron survey?

COMMISSIONER DOBSON: Yes.

COMMISSIONER LANNI: It’s purely patron survey?

COMMISSIONER DOBSON: Right.

COMMISSIONER LANNI: And is that -- just asking. I’m just asking. Now it’s a total.

What does that mean, Rod?

COMMISSIONER DOBSON: It’s the entire survey.

COMMISSIONER LANNI: Okay, the entire survey, meaning the telephone and -- the random telephone and the survey? You believe so. You’re not sure, but you believe so? You’re not sure.

COMMISSIONER DOBSON: We’re quoting directly from NORC here. We can check on it.

COMMISSIONER LANNI: Well, unfortunately I don’t have page 34, 33 or 31 in front of me. I’m just asking what the source of NORC’s information on this is, if it’s the telephone survey or if it is the patron survey.

If it’s a combination of those two, that’s one thing. But again, I think one thing we have to do here, we take a survey -- let’s just say it’s the patron survey, 500 individuals, of which 13%, or 63 people, responded to the fact that they -- based upon their responses, that they were determined to be problem or pathological gamblers.
How we extrapolate from 500 people and 63 responses in this category to the multi-billion dollar figures and millions of people I think is irrational at best. And I think we said before -- or someone else said, and I think it’s very accurate, what we have learned is we don’t know a lot about this.

There needs to be a lot more research. And I am not prepared to accept a survey of 500 people with 63 responses in a lifetime to determine that these numbers can be extrapolated. And I know that, in fairness, Jim, you’re a decent guy.

I find you to be a very bright and decent human being. You want these numbers to be high. Arguably, I’d want the numbers to be low. Realistically, I don’t think we know what the numbers are.

And I think every time we try to come to a definitive decision based upon 500 people in a survey, we’re going to look foolish. And I cannot be part of looking foolish. If someone else wants to be, that’s their prerogative.

COMMISSIONER DOBSON: Yesterday you and I think John objected to my concerns about the youth survey, which was based on far fewer than 500, and that we needed to leave that in the report despite the fact that it didn’t correlate at all with other studies that were done.

So we can’t pick and choose.

COMMISSIONER LANNI: I did not respond on that particular matter. But if you think I did, I’ll be happy to say that I did. I think John raised that particular issue and noted that he didn’t have anyone supporting him on that issue, if I’m not mistaken.

COMMISSIONER WILHELM: Yes, I really would like to be interpreted accurately. What I said yesterday was that I think
that the section on pathological gambling doesn’t nearly -- isn’t nearly hard hitting enough with respect to youth gambling.

And I still think that. And I think that part of the reason for that is that we don’t have the data and that’s our fault.

So that’s a little bit different, Jim, from what you just attributed to me.

COMMISSIONER DOBSON: It’s out there. Do with it what you will. I think this is a qualifier by the researcher. When the researcher himself says we have a problem with the accuracy of the respondents or their willingness to admit that they have a problem, that ought to be represented in the report.

And to ignore that, I think, is a big mistake.

COMMISSIONER LANNI: I would add, I think, Jim, if you’re going to make a suggestion, I think I would come prepared knowing if it were the telephone survey, if it’s the random digit dial survey, or if it’s the patron survey or a combination.

You’re not even sure, nor is your associate sure, of what the source is.

COMMISSIONER DOBSON: Terry, when you disagree with someone, you tend to attack the individual. This came up at 5:00 last night. We’re here, not in Colorado Springs. We did the very best we could to pull that information together in an evening.

Last night we brought the information. There’s one little fact that’s not there. If that’s a problem for you, we’ll find it.

COMMISSIONER LANNI: I appreciate your efforts, Jim, and I think you have made significant efforts in trying to get
that information. And if you feel that my attacks are personal, you’ll just have to feel that they’re personal.

They’re not intended to be. I just feel as strongly about this issue as you do. And I respect the fact that you feel strongly, and I would expect you would respect the fact that I have the same feelings.

CHAIR JAMES: Let me ask this. Terry, in looking at the language that Jim is suggesting, it seems that what I hear your objection -- a big part of it is that it’s based on a very small piece. It’s based on 500 with 63 particular respondents out of a survey of 500.

If that were noted in the document that, based on the survey of 500 people with 63 respondents, could then the language follow?

COMMISSIONER LANNI: Kay, your point is well taken. I think that the issues that I have concern with, without going into the specificity at the moment, although I’m certainly prepared to, is that when proponents of this gambling industry look at numbers, and I happen to be a proponent of the industry obviously, we tend to look for the numbers that are most reflective of our position.

I think opponents do the same thing. In the numbers that are presented by individuals -- I don’t want to say Jim because he says it’s personalizing it -- but the numbers that are being presented today are taking the worst case of very small samples, and I don’t think that that is appropriate.

If there are qualifiers, and if we show the ranges, I have no problem with utilizing the numbers of NORC. I have my feelings about NORC. I’ve expressed them before. But I have no
I firmly believe, in my heart of hearts, that we need more research, more study in this area, and we’ve learned that we don’t know a lot about it. And to reach conclusions that seem to be very factual -- you know, saying, for example, on page six of this same section that -- I’ll give you a perfect example, if I may, and I think it’s on point.

You come to the expenditures on page five. It says, "The Commission heard repeated testimony" -- and I won’t read it all, but let me give you the one section.

CHAIR JAMES: Is this the substantial?

COMMISSIONER LANNI: Yes.

"The Commission heard repeated testimony from individual compulsive gamblers" --

COMMISSIONER DOBSON: That goes on to another issue.

COMMISSIONER LANNI: No, but I just wanted -- and it is another issue, Jim, there’s no doubt about it. But I think it’s a classic case in point and I want to take a moment and present it if I can find that section.

It’s the one that’s determined -- yeah, it’s the bottom of page five, problem and pathologic -- this is the statement. And this is the concern I have with the statement. It is classical, in my opinion. It’s line 20.

"Problem and pathological gamblers account for a substantial percentage, in the billions of dollars, of gambling operation revenues each year."

I don’t know what that’s based on. I was told it was based on NRC. Now, I go to the NRC report and they talk about gambling expenditures in here. And in the report where they come
up with this four and a half times for the gambler as compared to
the problem and pathological problem is four and a half times in
expenditures what the non-problem gambler would be.

In this report by the NRC, which is not evidenced by
the very strong statement here, it says in the following: the
gambling expenditures. Eight of the studies listed in Table 3.3
-- this is page three of seven of the NRC report.

"Eight of the studies listed in Table 3.3 reported the
responses of gamblers to questions about their net monthly
gambling expenditures." I quote. "Although expense reporting
has dubious accuracy, the data, nonetheless, provides some
indication of the order of magnitude of the gambling expenditure
of pathological and problem gamblers."

I think it’s misrepresentation to translate that to a
defined determination that these figures are fact. I don’t think
we have the qualifications that were included in the report that
we paid a great deal of money for.

That’s all I’m saying.

COMMISSIONER DOBSON: Madame Chair.

COMMISSIONER LANNI: And I don’t think that’s a
personal attack.

COMMISSIONER DOBSON: May I go back to the other issue
and then come back to this one?

CHAIR JAMES: Yes.

COMMISSIONER DOBSON: Ron has handed me the reference
with regard to the number in the NORC study at this point. And
it says on page 30 Table 10, which is based on the RDD plus
patron data -- so that's 3,500. That's an “n” of 3,500, not 500.

COMMISSIONER LANNI: Well, I was asking. I didn't know
if it was -- at the time, I didn't have that page in front of me.
And I appreciate that information, but my position remains the same, Jim. I think we’re trying to determine definitive answers where there are a lot of qualifications in the statistics which we’re utilizing to try to reach those definitive answers. That is my point there.

CHAIR JAMES: Well, let’s see if we can. Let’s take this piece right here, see if we can come to some resolution as to what this Commission is going to say on this point in the final report.

Terry, what I heard you say was that if we included ranges or accurately reflected the data and then gave the statements from NORC, that you would not have a problem with that.

COMMISSIONER LANNI: Again, I have my feelings about NORC, but in this area of compromise and reasonableness, I would just like to say if generally there can be ranges based upon the information, definition of the number of people reaching that conclusion, and where there are qualifications, such as in NRC, because qualifications should be there and we shouldn’t be as definitive and these are facts when I don’t think they are necessarily confirmed to be facts.

COMMISSIONER DOBSON: That is my view. There are no numbers in this statement. Let me read it again. "Data within the NORC survey give indications that gamblers tend to understate their negative experiences with gambling," pretty conservative statement. "For instance, survey respondents" --

COMMISSIONER LANNI: I would expect no less from you.

COMMISSIONER DOBSON: -- "greatly exaggerated their wins and under-reported their losses. Further, respondents were five times more likely to report that their spouses’ gambling
contributed to a prior divorce than to admit that their own
gambling was a factor."

That doesn’t seem like some gross overstatement of the
facts to me.

COMMISSIONER LANNI: I think it is a statement of
indications, not a statement of facts. I don’t think they have
been determined to be facts. They are indications. And these
people said that --

COMMISSIONER DOBSON: That’s the word that’s used.

COMMISSIONER LANNI: You had mentioned the word
"facts." I was merely saying it was not a word.

CHAIR JAMES: Okay. Let’s do this. Let’s continue to
work with that, Jim. That seems like language that, if
appropriately noted, we could incorporate there. As we continue
the editing and drafting process, we will see how we can fit that
in and, Terry, work with you to make sure that it’s language that
you can’t.

Let’s go back to the substantial percentage. That’s
the next. Was that your next one?

COMMISSIONER DOBSON: It is.

CHAIR JAMES: Okay.

COMMISSIONER DOBSON: That’s on Page 5, -- that’s what
I got confused over a minute ago -- Lines 20 to 22, "Gamblers
account for a substantial percentage in the billions of dollars
of gambling operations revenues each year." That’s what we were
discussing.

Terry, you’re probably not going to like this either,
but let me read it to you.

CHAIR JAMES: He might. Let’s start positive.
COMMISSIONER LANNI: That’s never deferred your thinking in the past.

COMMISSIONER DOBSON: That’s true. "It is of great concern to this Commission that problem and pathological gamblers appear to spend a disproportionate amount of money on gambling compared to non-problem gamblers.

Both NORC and Dr. Rachel Volberg and others have calculated that the problem in pathological gamblers account for about 15 percent of total gambling revenues or about 7.6 billion per year based on total annual gambling revenues of 51 billion.

Dr. Henry Lesieur has calculated that problem and pathological gamblers account for roughly 30 percent of gambling revenues, which would be approximately 15 billion per year.

COMMISSIONER LANNI: I have a question about that. I don’t have those studies in front of me, but does that include legal and illegal gambling or is it all legal gambling?

COMMISSIONER DOBSON: Again, I think --

COMMISSIONER LANNI: The number of 51 billion is legal gambling, but I’m saying: Do those reports include illegal gambling?

COMMISSIONER DOBSON: Legal.

COMMISSIONER LANNI: Only legal gambling? That’s Lesieur, Volberg, and the NRC does not indicate if this is illegal or legal gambling in their analysis of -- or not analysis, the one they refer to as the dubious accuracy of the data in interviewing these people, responsive gamblers, to questions.

CHAIR JAMES: Let’s do this. Let’s look at the --

COMMISSIONER LANNI: I have a question. I don’t know if that’s legal and illegal.
CHAIR JAMES: Before we get into the fact-checking piece of it, let's talk about the policy issue that is being discussed there. Jim, if you would, just read the statement before you get into the --

COMMISSIONER DOBSON: Do you want me to read the whole thing again?

CHAIR JAMES: No. Just the statement piece, not the particular researchers, to see in terms of --

COMMISSIONER LANNI: Is this replacement? There are two pieces. One piece is a statement about the behavioral problem of pathological gambling.

CHAIR JAMES: Right.

COMMISSIONER LANNI: The other piece, as I understand it, is a bit of reporting about what --

CHAIR JAMES: About the researchers.

COMMISSIONER LANNI: -- the researchers --

CHAIR JAMES: And I'm saying substitute out the researchers right now and let's just take the policy piece of it.

COMMISSIONER DOBSON: Let's take the first statement?

CHAIR JAMES: The first statement.

COMMISSIONER DOBSON: Okay. "It is of great concern to this Commission that pathological gamblers appear to spend a disproportionate amount of money on gambling compared to non-problem gamblers."

CHAIR JAMES: Okay. Any disagreement with that statement?

COMMISSIONER WILHELM: Could you read it one more time?

COMMISSIONER DOBSON: Yes. "It is of great concern to this Commission that problem and pathological gamblers appear to
spend a disproportionate amount of money on gambling compared to non-problem gamblers."

CHAIR JAMES: Discussion?

COMMISSIONER MOORE: That’s pretty benign-appearing.

So I don’t see where we can object to that.

COMMISSIONER BIBLE: You’re talking about their own personal money?

COMMISSIONER MOORE: Right.

COMMISSIONER DOBSON: Right.

COMMISSIONER BIBLE: They’re spending a great percentage of their personal money on gambling. That makes sense, yes.

COMMISSIONER MOORE: More than non-gamblers.

CHAIR JAMES: Okay. So we have no problem with the statement. Now, it seems to me that on the researchers, one of the questions that you’re asking, Terry, is a fact checking to make sure that when we quote a particular researcher, that it is in the proper context and that they make a particular distinction between legal and illegal gambling. That’s not a question we can resolve right now.

COMMISSIONER LANNI: That’s correct, but my strongest concern is the statement on Lines 20 and 21.

CHAIR JAMES: I think the suggestion was that this language would substitute for that. Is that correct?

COMMISSIONER DOBSON: That’s right.

CHAIR JAMES: Yes.

COMMISSIONER LANNI: And that --

CHAIR JAMES: He’s taking that out.

COMMISSIONER LANNI: What would be deleted, then, Jim?

Which lines would be deleted?
CHAIR JAMES: Twenty through 22.

COMMISSIONER WILHELM: Well, not all of it. It’s 20 beginning with the word "problem."

CHAIR JAMES: In the interest of being reasonable, Dr. Dobson is suggesting dropping that language.

COMMISSIONER LANNI: I said he was a good and decent human being. I just don’t always agree with him.

CHAIR JAMES: Yes. So the suggestion is that that language be deleted, the other be substituted. Any further discussion?

COMMISSIONER LANNI: If that is the extent of it, although I see an amendment coming forward.

COMMISSIONER DOBSON: That’s right, 20, 21, 22.

COMMISSIONER LANNI: Okay. I have no problem with that. I think that is a very good suggestion on Jim’s part.

COMMISSIONER DOBSON: Thank you, sir. You’re a good and decent man.

COMMISSIONER WILHELM: Jim, don’t take that compliment personally.

COMMISSIONER LANNI: Jim and I have this secret thing. We are both USC graduates. So you guys don’t know what we’re really doing together.

COMMISSIONER DOBSON: I’m still smiling over your comments about losing Anna.

COMMISSIONER LANNI: Unfortunately, I have those strong feelings about that particular area. But, as I said, John has had the good sense to move you out of that state.

CHAIR JAMES: I think we have made some progress on that. And I will ask the staff to do the fact checking and work with one on the researchers that were quoted there. And, Terry,
we will make sure that it is noted in some sense whether it’s illegal or legal, that particular --

COMMISSIONER DOBSON: Okay. The other issue we discussed is Page 20, Lines 17 to 20. Actually, it starts on 17, the end of the line, "A review of various practices engaged in by different forms of gambling that contribute to or exacerbate a problem gambling condition must also be a property."

CHAIR JAMES: It was just not clear in the language. And so they were going to redraft.

COMMISSIONER DOBSON: We are suggesting that the words "may contribute" be substituted for "that contribute." I can go through a list of sources for that and reasons for it if you have a problem.

CHAIR JAMES: If on Line 19 you substitute "may" for "that" --

COMMISSIONER LANNI: No. It’s "in addition to."

CHAIR JAMES: "In addition to."

COMMISSIONER LANNI: "That may."

CHAIR JAMES: "That may."

COMMISSIONER DOBSON: "That may," yes.

COMMISSIONER LANNI: Jim, when I raised that, it actually began with Line 15 where I had some concerns.

COMMISSIONER DOBSON: Okay.

COMMISSIONER LANNI: What I had asked for was: What was the source of "The rapid proliferation of" -- this is Line 15, Page 20, the same page you were just reading. It says, "The rapid proliferation of gambling must be recognized as a significant contributing factor to the increase in problem and pathological gambling."
I had asked what the source was from that, and I think it was mentioned it was NORC.

COMMISSIONER DOBSON: Let me list the sources for that paragraph.

MR. RENO: Pages 12 and 13, Schaeffer, Volberg, NRC, abundant personal testimony, Ed Luny, a number of GA chapters.

COMMISSIONER BIBLE: In terms of the study, why don’t you tell us what the studies are and where the pages are where the data comes from so we can go take a look?

COMMISSIONER DOBSON: It’s what Ron just said. It’s on Pages 12 and 13.

CHAIR JAMES: Now, I would just say, Bill, for point of clarification, we’re of the conclusion that what they’re saying is that it’s concluding information that was discussed on Pages 12 and 13 where the actual cites are given so that you can go back to the pages and check the cites. Do you see that at the bottom of Page 12?

COMMISSIONER LANNI: Yes. This is a summary, if you would, of what those comments are.

CHAIR JAMES: Right.

COMMISSIONER LANNI: But to me I have to accept. And in accepting, the concluding statement is automatically accepting Volberg’s, Schaeffer’s, and -- what was the third one, Ron? I’m sorry.

MR. RENO: NRC has cited.

COMMISSIONER LANNI: -- and the NRC cite without having read them to know what they actually have said to see if this is a proper conclusion. I think that’s a concern I have.
We seem to reach these definitive conclusions based upon one or two or three or a combination of people’s determinations. I don’t think it’s necessarily definitive.

CHAIR JAMES: My suggestion will be at that point that if you would like to go back and have additional time to review that and respond in writing, that that would be helpful.

COMMISSIONER BIBLE: No. That is essentially what I was asking. I want to go back to the source literature and take a look.

CHAIR JAMES: Okay.

COMMISSIONER DOBSON: Fair enough.

COMMISSIONER BIBLE: It would probably be helpful if you just asked Ron because he has all the material just to compile all the source literature and set it out with the chapter.

COMMISSIONER DOBSON: What Steve just said to me was that all of this information has been distributed to the Commissioners. You have got it already. You can read it for yourself.

COMMISSIONER LANNI: I would be happy to read it. I think the issue is we’re looking at it in light of this conclusion that you have reached as a result of your interpretation of this literature. I would like the opportunity to review it and see if I have the same conclusion that you do. That’s my question.

COMMISSIONER LEONE: May I ask a more fundamental question? Is it, in fact, a matter for debate on this Commission whether or not there is more gambling now in the United States than there was before it was legal --

CHAIR JAMES: No.
COMMISSIONER LEONE: -- in all the places legal? I mean, the Commission generally agrees that there’s more gambling; right?

COMMISSIONER LANNI: Of course.

COMMISSIONER DOBSON: Yes, we do.

COMMISSIONER LEONE: Forget the cites. Wouldn’t sweet common sense tell us that, therefore, if more people are gambling, that would produce more problem gamblers since there’s a propensity to become a problem gambler among 100 percent of the population?

This seems to me to be a remarkably modest conclusion to draw about the history of the last 25 years. I mean, I understand your point in general about citations and authority, and there are other places in the report where I think we don’t make ourselves clear.

But I assume one thing there, one of the several things, there is unanimity about is that we have changed dramatically from a country where there is a very limited amount of legalized gambling to one where there is a lot more of it.

Some people say not enough. Some people would say too much. Some people would say we need a moratorium. But I guess I’m missing something of what we’re arguing about here.

I mean, it seems to me all Jim is asserting or all this language suggests is that with more gambling we’re likely to produce more winners and more losers and more problem gamblers. I don’t know what I --

CHAIR JAMES: Commissioner Loescher?

COMMISSIONER LOESCHER: Madam Chair, I’m not quite sure Dr. Dobson and Mr. Lanni are done, but I had comments.
CHAIR JAMES: Oh, no. Let’s finish this one before we introduce a new one.

COMMISSIONER LOESCHER: Okay. No. I was just --

COMMISSIONER LANNI: You were just hoping, Bob.

COMMISSIONER LOESCHER: I wanted to deal with the recommendation section. Is that appropriate?

CHAIR JAMES: We’ll get there in a second. No. Let’s resolve this one because I think we have two different perspectives on the table.

COMMISSIONER McCARTHY: Jim, do you remember my taking out 15 million yesterday?

COMMISSIONER DOBSON: It feels to me like all three of these discussions generated a significantly more amount of emotion than is warranted by the nature of the comment.

CHAIR JAMES: But not unpredictable, unexpected, or even unwarranted. That’s why we’re here. It’s going to be a spirited debate, and that’s okay.

COMMISSIONER McCARTHY: We don’t really need extensive documentation, do we?

CHAIR JAMES: No. I don’t think they’re saying experiment --

COMMISSIONER McCARTHY: Our memories are good enough --

CHAIR JAMES: Excuse me just a minute, Leo.

COMMISSIONER McCARTHY: Our memories are good enough --

CHAIR JAMES: I don’t think that they were asking for more documentation but just the opportunity to look at the documentation that is there.

COMMISSIONER McCARTHY: Well, they’re asking, as I understood it -- perhaps I didn’t hear correctly -- for citations of NORC or Volberg or the third one mentioned of --
COMMISSIONER LANNI: NRC I think.

COMMISSIONER McCARTHY: NRC.

CHAIR JAMES: And I think Dick raises a very good point.

COMMISSIONER McCARTHY: Using Dick Leone's reasoning, is there any real dispute about this section?

COMMISSIONER MOORE: It's pretty benign.

COMMISSIONER WILHELM: I personally have no problem with this paragraph as it was just amended. I continue to have the gravest reservations in other sections of this chapter and, in particular, in the section, Jim, that we were talking about a few minutes ago with trying to lob in some parts of the argument but not other parts of the argument all the qualifiers that necessarily pertain to a survey.

CHAIR JAMES: Okay. Well, let's resolve this one before we move on.

COMMISSIONER WILHELM: With regard to this particular paragraph, I have no problem with it.

COMMISSIONER LANNI: The response that Jim gave as to the source or Ron did as to the source at least included the report. So that answers my question there.

The issue on the word "may" contribute I think is an appropriate modification. So I have no problem with it.

CHAIR JAMES: Well, then, good. That one is resolved, and we can move on. If you just stick at it long enough, -- I know it's hard -- we can usually get there.

COMMISSIONER LEONE: I do think the point John is making, though, is something I want to go on record on. And here on some things I'm disagreeing with one side, some things the other side.
I think the qualifiers and the language framing the research are important because I have been on both sides of the argument all along. The way all research tends to be used in an argument is selectively without the qualifiers.

I mean, it’s like yesterday when I said in the last year alone. You give me 20 minutes with this report, and I’ll turn it into a document one way or the other.

So I think that it’s important, and I think that is the importance of what Jim was talking about earlier, but it’s also the importance of what John has talked about about other qualifications and what Terry has talked about.

Start from the beginning. If the research is research, it stands on its own. Personally I think in advance is what we know, but by no means does it lead us to wisdom. And we should have the qualifiers in, even if it’s in footnotes, as we go along and probe from this research.

It seems to me several of the recommendations to do that, John’s earlier and Jim’s today, are appropriate. I mean, the last thing we want to do is join the chorus on both sides that has tended to use research findings fast and loose without qualifying.

COMMISSIONER DOBSON: The last comment on that: I cannot imagine a researcher recognizing that the findings that he has generated are invalid for some purpose and then not reporting that with these data. That is essential to any researcher, --

CHAIR JAMES: And NORC, in fact, did that.

COMMISSIONER DOBSON: -- especially one who has gone to some length to tell you there’s a problem here.

CHAIR JAMES: Bob, you had a question, and it was dealing with the recommendation section. I with your concurrence
want to go to John to see if we can finish up the body before we
go to the recommendation.

John, you said you had another point, and I asked you
to stick with this one. Have you already --

COMMISSIONER WILHELM: No. I already said it. If the
Commission at some point decides to include that other stuff Jim
was talking about to put the NORC research in the best light from
his perspective, then I think we need to do that throughout.

I think we need to be consistent. We are either going
to include all the caveats and qualifiers on every single point
NORC makes or we’re not. I don’t think we should do that
selectively. I think that is a disservice.

Also just as a personal aside, Richard, perhaps I’m
insufficiently self-critical. And if that’s anybody’s judgment,
I wouldn’t argue, but I don’t really perceive that on the issue
of pathological gambling, there are sides here.

I have no side. I take no second place to anybody here
in terms of my concerns about that issue. I do believe there
ought to be some balance in this report, and I believe we also to
assert facts.

Again, I don’t want to argue the point because if
someone has a different view of my behavior, then that’s fine. I
don’t take exception to that. But I don’t see sides here on this
particular issue.

COMMISSIONER LEONE: I didn’t mean sides. I meant
sides in the sense that a family will sometimes have
disagreements among family members.

CHAIR JAMES: I dare say on this particular issue that
we can speak with one voice in some of the strongest possible
language in terms of what we want to say about the position of
this particular commission on pathological and problem gambling.
With that, I will -- yes, Terry?

COMMISSIONER LANNI: Sorry. Not to belabor the point, but, again, if you’d look at qualifiers, on Page 6, when we get to the NRC on this particular section, it talks about on Line 1, "According to NRC, problem and pathological gamblers report spending four and a half times as much on gambling each month as do non-problem gamblers."

And then I would repeat again: In the NRC report, where this was drawn from, by their own admission, it says, "Although expense reporting has dubious accuracy, the data, nonetheless, provides some indication of the order of magnitude."
If we’re going to have qualifiers there, I think there should be a qualifier there because that is not included in that.

CHAIR JAMES: Unless we go through the --

COMMISSIONER LANNI: That’s 3 of 7 of the NRC report. I have it right here if you want to see it, the qualification. Then it says, "Thus, by self-report, pathological and problem gamblers spent approximately four and a half times as much per month as gamblers without problems on their gambling activities."

So we have that statement, but we don’t have the qualification questioning that in the same paragraph from the same people.

COMMISSIONER DOBSON: Put it in there.

COMMISSIONER LANNI: You’re writing that, and I’ll be happy to support you doing it.

COMMISSIONER DOBSON: Do it. Do it.

COMMISSIONER LANNI: It’s Page 3 of 7. I’ll pass that down to you so you have it. I’m more generous with the documents that I have.
CHAIR JAMES: Gentlemen.

COMMISSIONER LEONE: It's nothing personal.

(Laughter.)

COMMISSIONER LANNI: That's very personal.

CHAIR JAMES: Bob?

COMMISSIONER LOESCHER: Thank you, Madam Chair. I was looking at this recommendation section. And I have been reviewing these other papers by Dr. Dobson and others about where this should go.

A couple of observations first before I make my comments. One is that in previous Commissions meetings, I indicated that I was a bit underwhelmed by the NORC work and other work. And as a business person, I probably wouldn’t make decisions based upon the information that was provided there.

Notwithstanding that, all across America, we went to hearings. And I was persuaded by the vivid stories of people who have pathological gambling problems. They were very dramatic stories, and they are real.

The other thing is that I heard in the hearings from people who are practitioners, people who practice in dealing with problem gamblers and pathological gamblers. There is a difference between research and practicing to help people.

I am a bit more persuaded by those people who are in the practice of trying to help people and what they have said in our hearings and also their recommendations.

I was particularly remembering the two ladies. I don’t know. I think it was New Orleans or somewhere, the one that was form the milder, psychiatrist of whatever. She made that point very vividly about the difference between the research and the
practitioner trying to help people who are problem gamblers and practitioners.

In the recommendations, I don’t see much in there that does much to support people who are currently trying to help problem gamblers, the practitioners. We talk a lot about research here and this and that, but I would like to ask the Commission to consider some of those recommendations from practitioners and also to consider the lists.

We did get a long list of recommendations from the associations, and they grouped themselves together nationally and are working together nationally. Our recommendations don’t encourage that private volunteerism of groups and associations working across America to solve problem gambling.

I think we should have a recommendation there that we endorse that kind of activity and that the networking takes place across America, that there be pooling of research monies into areas. We have noticed one or two places were beginning to pool their monies and researchers to do that.

The other thing is that they recommended -- and I don’t know all of the right terminology -- standards and methods, that there be uniform standards and methods of diagnosis. And we came up with our own approach through our contractors and whatnot and seem to have landed on that, but we ought to recommend that idea that there be uniform methods and means to diagnose people.

Then, lastly, the recommendations from the national association or the groups that are involved in this, they had a long memorandum to us about a month or a month and a half ago. I would like to see some of that incorporated into the final recommendations.

Madam Chair, those are my only comments about this.
CHAIR JAMES: Thank you. I would say for the benefit of all of the commissioners that I met with the staff this morning. And I know that all of us are concerned about many of the recommendations that have come up over the course of the Commission that we want to see that we have reached agreement on and that are very strong and we want to see reflected in the documents.

I have asked Dr. Kelly to go back through every transcript, every piece of correspondence from Commissioners, as well as the previously prepared document of recommendations that have come in from various organizations and by Friday evening to have prepared for Commissioners a set of recommendations that should be at the end of each chapter. That will be coming out for your review on Friday so that we can have it all in one place.

I’ve asked for the language to be forceful. I’ve asked for it to be explicit. I asked for it to be in English and to be as strong as possible. I also asked that in the recommendations they be very specific about who we are making this recommendation to.

Are we recommending to the President or to Congress or to governors, to leaders of tribal nations -- I want to be clear that we leave no one -- or to the citizens of this country? -- off the hook in terms of things that they can and should be doing about this issue.

COMMISSIONER WILHELM: The universities.

CHAIR JAMES: And universities. Absolutely. We had some excellent recommendations that I think came out of our Virginia Beach meeting about what universities and research institutions could and should be doing.
Jim, I think you will see incorporated many of the things that you recommended in that list that will be a point of departure for discussion. Now what we have to do is decide as a Commission how best to work our way through that list. But it will be very helpful to have that in one place.

COMMISSIONER WILHELM: I appreciate your working with the staff to that end, Kay. I think that will be extremely helpful. One that point, if I may, Jim gave us a -- I didn’t count -- long list of recommendations late yesterday.

I certainly, Jim, don’t want to be interpreted as suggesting in any way, shape, or form that either you or any other Commissioner shouldn’t make as many recommendations as you believe are important.

On the other hand, if we have numbers of recommendations on that order of magnitude from one or more Commissioners at this late stage, in reading these last night, I, frankly, to be candid, Kay, panicked because I can’t imagine how we could work through these things in that length of time.

There were a few of these in that particular packet yesterday that are the same subject matter but different language from ones that we adopted at the last meeting and that Jim rightly points out don’t show up anywhere.

For example, we adopted one, I believe, or at least the consensus was unanimous if you can have unanimous consensus in support of a recommendation you made, Jim, about destination resorts. And, yet, in this one, there is a very differently worded recommendation on the identical subject.

Likewise, there was a clear consensus on one about ATM machines and stuff like that. And, yet, there’s a different version of that in here.
More broadly than those particular conflicts, I am completely at a loss as to how it is that -- assuming that we have these and Jim may have more and that other Commissioners no doubt will have their own, I don’t know how we get from here to anywhere.

CHAIR JAMES: Let me suggest this. One of the things that I think will be important for Dr. Kelly to do is as he looks at the transcript, to come up with the language that we did reach consensus on.

I will ask him to work with Dr. Dobson and other Commissioners who have submitted those to go through and say: This one, let’s bump this off. That takes care of this. Maybe one, we’ll combine two or three and come up with one list that we will all work off of.

COMMISSIONER DOBSON: And in reference to John’s comments, a lot of these things have already been discussed. They are past us now. This was a list that was put together several days ago, before we had seen the draft document.

Part of it was a lack of confidence that the things we had decided here were going to show up there. So they’re repeated in here. Some of these are not our comments but your own. You’ll find Richard’s comments in here and Leo’s and others. So it’s really a compilation of some of the recommendations that have come out. You know, whatever --

CHAIR JAMES: And, John, what I am asking Tim to do is to produce the official version of this.

COMMISSIONER WILHELM: Okay. And I didn’t mean my comments to be critical to either Jim or anyone else. I mean, having read the people and places stuff, I tilt a lot myself, but
I was hanging on to see if I could stop from falling all the way over one side of this issue in reading it.

I want to have six or seven or eight recommendations related to economics later today, which is just as late in the game as this pile from Jim. So I just don’t know how we get from here to anywhere.

COMMISSIONER BIBLE: We probably need to talk about process as to how we’re going to work our way through the next couple of months.

CHAIR JAMES: We do.

COMMISSIONER BIBLE: It’s becoming very, very difficult to keep track of all of the information. We have various versions of the chapters. We have three or four different people writing them. We have recommendations that don’t get put into the chapters. And then we have --

CHAIR JAMES: Bill, my recommendation is going to be that we continue to work through this document, at the end of the day see where we are, and have the discussion on calendars and process and where we go from here. So if you don’t mind delaying that until that?

I asked you to bring your calendars.

COMMISSIONER BIBLE: I’ve got my calendar.

CHAIR JAMES: I know that we will have to discuss process. It’s just when we do it.

Having said that, what I would like to do now is to turn our attention to the remaining areas to be discussed: technology, gamblings, economic impact, people and places. It’s 10:00 o’clock. I’m going to suggest we take a ten-minute break and come back together and pick up our agenda right there.