CHAIRPERSON JAMES: I'd like to, with the permission of the Commission, dispense with the break that we had scheduled at this particular time and move directly into our staff report. And it's again my pleasure to introduce Doug Seay who is the Policy Director of the Commission staff who will give us a briefing on the social and economic impacts of Native American Gambling and Doug welcome back.

MR. SEAY: Thank you. Well, I thought I had the very good excuse yesterday about why I was going to read from my text, but I got a better one today. Very nicely appointed resort in the desert and you may have noticed these cactus plants, some of them with red fruit, I'm told they're called prickly pears. Don't pick those up. I did.

CHAIRMAN JAMES: They're call prickly for a reason you're telling us?

MR. SEAY: I did, they have, what were to me invisible needles, and I have about a hundred in my hand and I just spent the last hour and half picking out 95 of them and I'm trying to get the rest of them. Anybody who would like to shake my hand I would ask you not to do so.

No, Martha Roberts was walking by as I was picking them out of my hand and she said you know there ought to be a sign warning people of that. Which I appreciated the sympathy, but the thought that occurs to me is that everything can't be idiot proofed.

A VOICE: Is that risk disclosure?

MR. SEAY: So, with that let, let me segue into prickly topic of Indian gambling. Sorry for that.
Although commercial gambling on Indian Reservations it's a relatively recent phenomena it's quickly become a major presence on quite a number of them around the country. Primarily on the reservation, but off of it as well. And we've already had extensive discussions of the legal and regulatory and constitutional issues involved, but what really drives a lot of the decision making here is obviously the social and economic conditions on the reservations.

But in very short order the gambling which a decade ago was only, in any large scale, only a couple of reservations quickly became a major presence. And some have termed it "new buffalo" which is a reference to the dominate role played by the buffalo in the life of the Plains Indians prior to the last century.

Although not all tribes embrace gambling, the high profile success of some operations such as Foxwoods in Connecticut which this Commission has been to, has helped to ensure wide media coverage as well as hopes for emulation on the part of a number of tribes to a greater or lesser extent.

According to the National Indian Gaming Commission there are 558 tribes recognized by the federal government. There are other tribes, by the way, the Federal Government does not recognize and about 100 of them currently petitioning for recognition, but they are without that recognition and they really have no legal standing in the federal law.

Of those 558, 188 are operating 285 casinos in 28 states. Now their gross revenues are estimated to be around seven billion dollars. And I say underline estimated because one
of the frustrations of looking at the subject, and I just have to say I think everybody who ever looks at it has said, is the absence of reliable information. Indian gambling operations may report or are required to report obviously to the National Indian Gaming Commission a whole raft of information, but it's not necessarily publicly available. And so a lot of these estimates are little more than that.

For example, I know that Foxwoods, its annual take is estimated from the fact that we know that the state of Connecticut gets one quarter of its slot machine proceeds and they work backwards from there, but that's the type of source for a lot of the information. The only real subject -- only real good source of information the past few years has been the GAL studies of 1997, but that's rapidly coming out of date.

The seven billion dollar gross revenue, I should say, compares for illustrative purposes to the FY/1998 budget for the Bureau of Indian Affairs, the Department of the Interior which is used for a number of things; tribal government operations, and social services infrastructure, which is about one tenth of that amount.

So just comparing those two sources of income on the reservation it shows the very dramatic impact the gambling has had.

Although Indian gambling in many ways is merely a subset of other types of gambling, a casino on an Indian Reservation operates very similar to casinos around the world. Same types of games and same types of expectations on the parts of the players who go in there.

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com
They differ, obviously, to the extent that they are in a different legal category altogether. And also the socio-economic conditions on reservations which led to the introduction of gambling in the first place.

According to the 1990 census there are approximately 2.1 million American Indians with 440,000 of them living on 314 reservations. So obviously only a minority of Indians live on reservations whether by choice or simply because the reservations can support them is -- factors into that particular figure.

And those -- it's very easy to lump Indians together. I remember seeing a special once on Hollywood's version of the Indians and they only had three types. And there was, you know, the Colonial Indian and there was the Plains Indian and there was another type, but obviously there's wide, wide varieties of Indians and the conditions in which they live. And they range from the Navajo's 160,000 on reservation members which is by far the largest tribe. To some, the recognized tribes, which have fewer than 10 members. And the Navajo's have a 27,000 square mile reservation, most of it in northern Arizona which is big enough to contain the enormous Hopi reservation within it's borders. Down to some tribes which have no recognized reservation at all. I think there's one tribe in Massachusetts they have a single acre not that they live on, but that's the -- all that's left of whatever reservation they originally had.

Now, we've heard the word complex used many times in describing Indian gambling and I would -- it's one I've used myself. But there's one thing about the subject of Indian gambling which is not complex and that is the socio-economic
conditions on the reservations. I think by any standard measurement they're quite grim.

The 1990 census reports that a majority of Native Americans, about 51 percent, have incomes below the poverty level. Indians living on reservations are the poorest ethnic group in the United States. The average rate of unemployment is about 50 percent, on some reservations it reaches 80, 90 percent if you're talking about effective unemployment.

The drop out rate for Native American High School students is the highest of any ethnic group in the U.S. Alcoholism, drug use are exceptionally high, they rank among the highest of any ethnic group if not the highest. Tribal housing, a very large percentage is sub-standard by any measurement. Public infrastructure services so and so forth. It's a fairly grim litany of fairly bad socio-economic conditions. Health care is a particular concern. Life, average life expectancy is 47 years.

So it's into this situation that gambling actually was introduced. A number of different efforts have been tried over the years to try to do something about the conditions on the reservations. This problem has been there since before the United States adopted its Constitution, obviously. Dealing with Indians was a very high priority of government even before the revolution.

But no real solution had ever been tried. And many different approaches from simulation to removal of Indians. Thomas Jefferson thought they could assimilated, President
Jackson obviously thought differently and removed the Cherokees from Georgia and other places to Oklahoma.

But the problem remains confinement to reservations out of the eye of the general public has been one solution that has lasted -- it's proven to have lasted, but its simply remove the problem, I think, from public view rather than address it.

Beginning in the '60's there were efforts to try to do something about this. But despite a number of reorganizations and bureaucratic initiatives in the end the conditions on the reservations at the end of fairly energetic attempts by the government to transform the conditions on the reservations produced very little positive result. And with tight and declining budgets from the 1980's and certainly into the future it does not look likely that that is a source of change in the future.

And as I said it's into this picture that gambling entered approximately 10 years ago when an unpredictable event happened. A supreme court decision essentially removed all state restrictions on Indian gambling. And Congress had to respond by adopting the Indian Gaming Regulatory Act which was an attempt to try to put some regulatory framework on it.

We've heard a lot of about the inadequacies of IGRA. I think that's only to be expected since it was written for entirely different conditions. No one, I don't think, either on the reservation or in Congress had any idea that Indian gambling on Native American Reservations was going to grow so rapidly into such a large forest. So a lot of these questions were not even considered at the time.
So that the legislation is purposely vague in a number of areas simply because it was assumed that it would never really have any real application.

But it did divide the Indian gambling into three classes and it's class three we're mainly talking here because that's the only source of economic income on the reservation that draws on the outside world.

Now prominent among the stated reasons for IGRA was the stated belief that gambling could play a useful role in funding tribal government operations and a lesser role in economic development itself. Most tribes are very poor, they have very little tax base and with government cut backs in Washington it was felt that finding some means of funding government operations was a high priority for IGRA.

On that basis a gambling industry was brought into existence which quickly has succeeded, as I said, all expectations of its potential. And has a transforming effect on a number of reservations in terms of economic self sufficiency.

IGRA also provided for allowing the tribes themselves to determine how the money would best be used as long as it was used for general tribal betterment. And as long as it's used in that context, i.e. for spending for social services and what have you the federal government won't tax it.

But it also allows for -- IGRA also allows for, once certain levels have been reached in economic development, for income to be distributed on a per capita basis. That is taxed by the government when that happens and a few tribes have chosen that route.

Some of the more dramatic ones, such as
the Mashantucket Pequot's or the Shakopee's these can amount to
several hundred thousand dollars a year per member, but more
commonly it's the range of $100.00 or $400.00 per capita so it's
not a trans -- a life transforming source of income. But that is
-- when people see those figures they automatically attribute to
a number of tribes that this a path to getting rich.

I think that Professor Thompson, who's going to be
speaking later on, uses the figures in fact I heard him outside
that's why I know I can pretty reliably quote these. Three
percent of all the gambling income or gambling operations of the
Indians -- I'm sorry, 50 percent of the Indian gambling
operations income is controlled by or benefits three percent of
the tribal members so it's highly concentrated in the few tribes.

And it's important to realize that most -- even most
of the gambling tribes have very small operations. Often a
casino is nothing more than a cinder block room with a couple of
slot machines in it. Aimed mainly at the tribal on reservation
population so its contribution to economic development of the
reservation is nil or close to it I believe.

As I said Indian gambling has quickly moved beyond
the original conception of its sponsors. It has become the most
prominent new source of funding on the reservations and a major
economic presence on others outside of the reservation itself.

Just to quote one example, which I think is probably
illustrative of its presence on the reservation, that 75 percent
of the revenues for the California Indian tribes comes from
gambling. That's an estimate, we don't know what the actual
figures are because they're not publicly reported. But that is -
- that indicates why the disputes over gambling, especially in California, are so bitterly contested because of the prominence gambling has taken on the reservation in terms of its importance in the economic community.

One note that I wanted to make about the problems on the reservation is that there are a number of factors that are cited to explain it. One is that all the good land was stolen and the Indians were placed on land of marginal productivity which I think is probably true, but it's a historical argument and there's not much that can be done about it. Nobody's going to be handing Manhattan back in the near future.

The other is that there's general societal discrimination against Indians. I don't think there's any doubt that that occurs, but I don't think it's a sufficient explanation of why the reservations have such difficult economic conditions.

One that I think that is insufficiently commented on, but I think is relative to this Commission's work even though that's not a direct part of our mandate is the problems created by the reservation system itself. Because I think it's undeniable that that system itself is a significant obstacle to economic development.

The fact is that the existence of reservations ensures that Indians whether the original impetus was simply to get them out of the way or to protect them from the population on the outside, are now isolated from the general population to a great extent. Not just physically, but economically, socially and culturally as well and that inevitably has a impact on the socio-economic conditions there.
At a minimum the reservation system is not well designed to promote the development of modern industrial service or information based economy.

In fact, to the extent that modern society has based their prosperity on private property, the free operation of markets and individual enterprise and risk taking the communal organization of reservations may be a key hinderance to the improvement of economic conditions on the reservation.

I raise that simply because I think it's so important to the debate, but it is almost never raised in the debates that I have seen about Indian gambling. That part of the major obstacle is the existing organizations of the reservations themselves.

My background, I'm going to take a small segue here, is in foreign policy so you might wonder what I'm doing in gambling. But part of that was in the area of economic development and I came across many, many, many societies, countries, whatever and debates in each one of them were in many ways the same. How do we participate in the economic and technological benefits of western society and economy without adopting necessarily western, social and economic structures.

How much -- how can we keep traditional social and other structures and yet have these benefits? I'm unaware of any case in which that was -- has been successfully done. There have been many, many attempts. I just don't think that it's necessarily possible, it's always a trade off. And people are free to make that trade off because there are other things obviously more important than simply money.
And people who have chosen to continue the reservation system as is obviously have other incentives, values that they wish to take into consideration.

But I think we need to also look at the fact that the reservation system itself is an obstacle. And I think that's one of the reasons gambling has proven to be so popular because there are very few ways that a communal organization can actually earn enough money to bring their members into a modern level of socio-economic development.

So I think that is a point that simply needs to be emphasized. I'm not sure there's a good answer to that, I think it's simply part of the perennial problem of how can we ensure that the benefits of society are distributed to all of its members on a fair basis.

There are many positive economic benefits to the tribe. It's interesting looking at the subject of the economic and social impacts because I'm used to trying to somehow balance the -- generally the positive economic impact with the sometimes negative social impacts or at least the alleged negative social impact.

It's very difficult to do that on the reservation. It's not simply because there's insufficient information, but because the conditions are generally so bad that any improvement at all, anything that is done, is generally a move upwards. And that's certainly been the case with gambling. It's difficult to find a reservation where looking at standard indices or whatever you want to look at where that has actually had a negative impact. It's almost uniformly positive.
A number of factors are included, obviously, in the degree to which the gambling operations are successful. And most of them are uncontrollable such as the presence next to a major metropolitan center. But assuming that is the case the success of gambling operations on the reservation, to a large extent, draw upon how many of the non-Indian surrounding population can become clientele. Those operations which are confined to the reservation typically don't do very well and a number have even closed.

Now, as I said, the expectation for IGRA was that the money would be used for funding tribal government operations and other social services that the federal government could not or chose not to fund sufficiently. And by and large the tribes have used their gambling operation, the revenues from the gambling operations, in line with that expectation.

For example health services are a high priority for many tribes. The Mille Lacs, a band of the Ojibwes in Minnesota and the Oneidas and the Gila River Indians, who a number of us will be visiting tomorrow, have had that as a very high priority on their list.

Some things as simple as one of the tribes in California simply purchasing life and health insurance for their members for the first time that's -- they had no access really to health care before that. Other uses are fire fighting and police facilities, roads, educational scholarships, plumbing in houses, real basic stuff that I think most people take for granted. And by and large, as I said, the tribes have been using the bulk of
their resources because the need is so great to try to bring them
at least up to tolerable standards.

A few tribes, but not as many as had been hoped, are
also investing in economic operations outside of the -- out of
the gambling operations. This is sort of a -- this is done in the
expectation that the revenues from gambling are not reliable and
they may fade away in the future and I think that's probably a
very reasonable expectation to take.

And if this sudden influx of money that a number of
tribes are experiencing can be used to invest in long-term
economic development that's probably the best use for the income
over the long-term.

Some of the other uses that have been -- for the
money they have found are repurchasing some of the reservation
land that over the years has been alienated, sold off, what have
you. I know the Oneida's in Wisconsin, for example, that is a
very high priority on their list. I think that less than 40
percent, something like a third of the original reservation
remains. And a portion of the income after all these other needs
have been satisfied and after the economic investments have been
made has been going to repurchasing some of that land.

That in itself creates a number of problems for the
local areas in that it removes a lot of the tax base for the
surrounding communities. But that's a debate that has yet to be
satisfied to the satisfaction of both.

Perhaps the most important economic impacts after
this funding of tribal services is on employment. Traditionally,
as I said, very high employment rates on the reservations and as
you might imagine long-term generational unemployment combined
often with a dependency on welfare produces a number of social
pathologies of its own. So simply being able to provide jobs
itself is a major social and economic benefit of gambling.

Native American gambling is estimated around the
country to employ about 40,000 individuals. A significant number
of them being non-Indian. In fact, the rates really vary from 90
percent non-Indian to less than 5 percent.

That can have a dramatic impact especially on the
smaller tribes. For example I've mentioned the Mille Lacs before
in Minnesota. They've had 60 percent unemployment in 1991 and
now it's zero. Eighty percent of the tribal employees in the
casino were previously unemployed. The Oneida's unemployment
rate dropped in the same period from 70 percent to less than 5
percent. In Minnesota there are 17 casinos, 37 percent of the
Native American employees now working the casinos formerly were
on welfare, 31 percent of the others were drawing unemployment
benefits.

And even in places that aren't necessarily fully
employing Native Americans in the casinos the -- if you look at
the county by county rates of welfare dependency and unemployment
benefits those drop fairly significantly as well. In Wisconsin,
again, in approximately about five years welfare roles in
counties with casinos dropped 26 percent -- sorry that's in three
years. And you can go case after case after case after case
where this has had a dramatic impact on the reservation.

In fact, that's such an important part of the pay off
of the casinos that a number of tribes that are operating casinos
at a loss have chosen to keep them open simply to provide employment for tribal members, there being no other source of employment once the casinos would close.

There's also been a fairly significant impact off the reservation, but again it's very difficult given the combination of lack of information and also the lack, I have to say quite bluntly, the lack of negative impact. To say that by and large the impact off the reservation at least to the extent that it can be measured has been positive.

The principal argument against this point of view is the so called displacement affect debate. Where money used to gamble on the reservation from outside the reservation is being taken away from other areas. That's a fairly contentious area of inquiry in the economic literature, but nevertheless it exists.

One study that has been done in New Mexico estimated that the gambling operations there produced a net 400 million dollar economic benefit to the tribes, but the New Mexico taxation or revenue department estimated that a large amount, although they didn't put a figure on it, comes from the displacement effect on retail sales so on and so forth from off the reservation. In essence a transfer of money from non-Indians to Indians.

But other studies such as Minnesota has looked at the communities within a 30 mile radius of non-urban Native American casinos and found virtually no negative impact. The displacement effect was sufficiently minimal because there had never been any businesses off the reservation anyway to cannibalize so it was in essence a situation in which the surrounding communities
benefited, not as much as those on the reservation, but certainly
significantly.

One other thing on the non-reservation impacts. As I
said before a large percentage and often a majority of the
employment in the casinos is non-Indian. Again, in Minnesota
there are eleven gambling tribes, employing 12,000 people, 75
percent of whom are not Indian. In Oregon a much smaller market
it's 1700 jobs, but again three-quarters are filled by non-
Indians.

And certainly you can look and see the same pattern
in many other states. When we were in Foxwoods we were told the
Foxwoods opening countered pretty much exactly the employment
effects of the closure of the electric boat ship yard. Not the
closure, but the radical down sizing of the electric boat ship
yard in New London.

So in many areas the Indian casinos have become major
employers of the non-Indian communities.

CHAIRMAN JAMES: Doug, I'm going to ask you to move
towards summarization.

MR. SEAY: I will very quickly.

Some of the negative impacts have been alleged have
been for -- as with all casino gambling is crime and pathological
gambling. Very, very difficult to come to any conclusions here
simply because the information is not available.

There have been -- the most -- the state that's been
most closely looked at is Wisconsin. There have been two
separate studies one funded by the gaming tribes there one funded
by a 501(c)3 state think tank. They came to absolutely opposite conclusions about what the impact on crime has been.

I think that Bill Thompson, who is here today, was one of the authors of the one that found a significant increase at least in burglary and perhaps in larceny in the counties with Indian casinos. The other study found no increase in crime whatsoever, in fact, found a decrease due to the positive impacts of employment.

On compulsive gambling there have been very few studies that have been done. They come out with rates that are, frankly, very difficult to believe, but if are true are significantly out of line with any other study that has been done in the general population. Finding rates, for example, of compulsive gamblers of upwards of 29 percent of the adult population on the reservation.

I find that very difficult to believe. But what is true is there are very high rates of alcoholism and drug use on the reservations. And there is a clear correlation according to Dr. Schaffer, Howard Schaffer of Harvard, between compulsive gambling and other addictive behaviors.

The last thing I will say is that it's interesting when you look at even the opponents -- not the opponents there are strong advocates of Indian gambling and then there are people who are opposed for one reason or another to various aspects of that. But even those who find there to be really no net negative impact from Indian gambling on the general economy, as one of these studies in Wisconsin did, come to the conclusion that even though it was a net wash for the state itself the state should
continue to permit it, recognizing it was a transfer payment of money from non-Indian areas to the Indian areas, simply because the needs on the reservations were so great. No other mechanism had been found that could equal this. And so even if it could not be justified in terms of economic benefit for the state. Even if there may be modest net social negative impacts elsewhere, the need on the reservations was sufficiently great that they were prepared to recommend a continuation of Indian gambling in the country.

Thank you, I apologize for droning on and on.

CHAIRMAN JAMES: No, thank you. Commissioner Wilhelm.

COMMISSIONER WILHELM: I realize you want to move along quickly so I'll try to be very brief with this. Doug, you've done your usual superb job with respect to an overview and it's very helpful. On the employment issues, however, without belaboring this I think I would -- I thing there's a couple of things that ought to be either looked at again or put in some context.

Did I understand you to say that there's an estimated 40,000 jobs?

MR. SEAY: Yes.

COMMISSIONER WILHELM: I think that's quite low.

MR. SEAY: I agree.

COMMISSIONER WILHELM: But these are the figures --

MR. SEAY: Let me just again underline every figure I've used in here I have very little confidence in it.

COMMISSIONER WILHELM: Yeah.
MR. SEAY: Simply because it comes from estimates rather than actual reported (figures).

COMMISSIONER WILHELM: There's 15,000 in California and at least 21,000 in Connecticut so that's 36 already. So I think it's way higher which is important for us to know.

Secondly, I take your meaning, I think, when you talked about the fact that the Foxwoods jobs more or less numerically replaced the electric boat ship yard jobs. However, it's worth noting that the wage benefit package is probably a third, 40 percent, 50 percent tops. So it replaced it in one sense, but in another.

MR. SEAY: I agree with you on that, that's actually true and I did not mean to imply that the people who lost a job at electric boat got one at Foxwoods. I simply meant that the importance, the regional importance, of these casinos can be quite significant.

COMMISSIONER WILHELM: Absolutely, thank you.

CHAIRMAN JAMES: Thank you. Any other questions or comments before we move onto our panelists? Doug, once again thank you very much for that report.