

STATE OF CALIFORNIA
GAMBLING CONTROL COMMISSION

**CERTIFIED
COPY**

COMMISSION MEETING

California Gambling Control Commission
2399 Gateway Oaks Drive
Suite 100
Sacramento, California 95833
AUGUST 11, 2009
10:00 A.M.

Reported by: Desiree C. Tawney, CSR No. 12414



Northern California Court Reporters

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1 APPEARANCES:

2 DEAN SHELTON
3 Chairman

4 STEPHANIE SHIMAZU
5 Commissioner

6 ALEXANDRA VUKSICH
7 Commissioner

8 JOY CALKIN
9 Staff Services Analyst

10 Public Speakers:

11 Marty Horan

12 James Allen

13 Richard Mundy

14 Aaron Wong

15 Joy Harn

16 Mark Kelegian

17 Kermit Schayltz

18 Alan Titus

19 Neil Houston

20 Jason Pope

21

22

23

24

25

1 BE IT REMEMBERED, that on AUGUST 11, 2009, commencing
2 at the hour of 10:00 A.M., at the California Gambling
3 Control Commission, 2399 Gateway Oaks Drive, Suite 100,
4 Sacramento, California, before me, DESIREE C. TAWNEY,
5 Certified Shorthand Reporter in and for the county of
6 Placer, state of California, the following proceedings took
7 place:

8
9 (The following proceedings were held on the record.)

10
11 CHAIRMAN SHELTON: Call the meeting to order, please.
12 Stand for Pledge Of Allegiance to the flag.

13 (Pledge of Allegiance.)

14 CHAIRMAN SHELTON: Roll call, please.

15 JOY CALKIN: Chairman Shelton?

16 CHAIRMAN SHELTON: Here.

17 JOY CALKIN: Commissioner Shimazu?

18 COMMISSIONER SHIMAZU: Here.

19 JOY CALKIN: Commissioner Vuksich?

20 COMMISSIONER VUKSICH: Here.

21 CHAIRMAN SHELTON: Mr. Allen, are you starting?

22 JAMES ALLEN: Yes, I'm going to start off here.

23 Good morning, Mr. Chairman, Commissioners.

24 For the record, my name is James Allen, A-l-l-e-n, and
25 I am the manager of the Commission's Regulatory Actions

1 Unit.

2 We're here to conduct a public hearing regarding the
3 proposed adoption of the regulations in Title 4, Division
4 18 of the California Code of Regulations as described in
5 the Notice of Proposed Action, duly published, in the
6 California Regulatory Notice Register on June 26, 2009 and
7 mailed to those on the Commission's regulations mailing
8 list.

9 Specifically, the Commission is proposing to amend
10 Section 12370 concerning Fire Safety & Evacuation Plan and
11 to adopt sections 12372, 12395, and 12396 concerning
12 Security & Surveillance.

13 Before we begin taking public comments, I have a few
14 things that I'd like to go over regarding the procedures
15 for this hearing.

16 First of all, if you have not already done so, I ask
17 that all persons attending this hearing, even if you do not
18 wish to testify, please sign the register. This is purely
19 voluntary but we would appreciate having a complete record
20 of all of those in attendance.

21 Under the rulemaking provision in the Administrative
22 Procedures Act, this is the time and place for the
23 presentation of the statements, arguments and
24 recommendations, orally or in writing, for or against the
25 proposed regulations.

1 This is a quasi-legislative proceeding in which the
2 Commission carries out a rulemaking function delegated to
3 it by the legislature.

4 If anyone has written comments they wish to present
5 today, you may hand them to me now or at any time before
6 the close of the hearing.

7 In addition, written comments will be accepted until
8 the close of the public comment period today, August 11th,
9 2009, at 5:00 p.m.

10 Note for the record as of yesterday, August 10th, the
11 Commission had received six letters with written comments.
12 And these letters were provided to you this morning along
13 with a summary and staff's suggested responses. The
14 letters are also included in the rulemaking file.

15 In addition, I received another comment letter just
16 this morning.

17 This entire proceeding is being recorded. And the
18 record of this hearing as well as all written comments
19 received by the end of the public comment period will
20 become part of the rulemaking file.

21 Persons presenting comments or objections and
22 recommendations will not be sworn in nor will we engage in
23 cross-examination of witnesses. Persons who wish to
24 present comments, objections or recommendations are asked
25 to come to the podium, use the microphone to ensure all

1 testimony is recorded and entered into the record
2 correctly.

3 Before you begin your comments, please identify
4 yourself by name and spell your last name for the record.

5 The Commission may respond to and discuss any
6 questions, comments, suggestions or recommendations
7 received today. All comments, objections, recommendations
8 will be considered and the comments -- the Commission's
9 formal responses will be included in the final Statement of
10 Reasons that will be prepared after the close of the public
11 comment period.

12 The Commission will not formally respond directly to
13 individuals.

14 The Commission has maintained a rulemaking file for
15 the proposed regulatory action. A copy of the current file
16 is contained in a binder at the back table and is available
17 for public inspection here today. Following this hearing
18 it will also be available at the Commission's Sacramento
19 office. The rulemaking file contains all of the written
20 comments received as of yesterday. I don't believe the
21 comment I received this morning has been put into the
22 binder yet.

23 Based on some of the written comments received today,
24 staff has prepared a recommendation to modify the text of
25 the proposed regulations, which the recommendation is

1 included in the staff memorandum in your binders. This
2 recommended change is, of course, in addition to any other
3 modifications or actions the Commission may wish to
4 entertain today. If approved, a 15-day public comment
5 period will be required.

6 Okay. Before we go on, are there any questions
7 concerning the nature of the proceeding or any of the
8 procedures we're going to follow today? If not, I'm going
9 to turn this over to Rich Mundy and he is going to go
10 through our comments summary step-by-step, taking each of
11 the comments in order by the sections that we're proposing
12 to take action on.

13 CHAIRMAN SHELTON: In the meantime, I'll ask everybody
14 to turn off their cell phone or put it on vibrate. I just
15 remembered to do that. So it is kind of lonely up here.
16 Staff has deserted us or what?

17 COMMISSIONER SHIMAZU: I didn't do anything.

18 CHAIRMAN SHELTON: Must know something we don't know.

19 RICHARD MUNDY: Good morning, Mr. Chairman,
20 Commissioners.

21 My name is Richard Mundy, M-u-n-d-y. I work with Jim
22 in the Regulations Unit here at the Commission.

23 I guess we are going to try a little bit different
24 approach this morning in that for those comments that we
25 received as of 1:00 p.m. yesterday, August 10th, we have

1 prepared a summary of those comments and --

2 CHAIRMAN SHELTON: I don't know how you did it but my
3 hat goes off to you at the last minute putting this package
4 together.

5 RICHARD MUNDY: I signed off with Jim on the internet
6 last night at 11:00.

7 And what we can do -- this is listed in the order of
8 the section numbers so we can follow through on the text.
9 And the text we're using is the official 45-day text dated
10 June 11, 2009. I can call out page numbers and line
11 numbers to make it easy for everybody but only if you have
12 that text. Right away out of the gate if you -- if the
13 numbers don't match, then you might not have the right
14 text.

15 So with that we can get started. And the first
16 comment that we received is regarding Section 12370(a) on
17 Page 1, line 20. This requires gambling establishments --
18 or in this case forward referred today as cardrooms --
19 comply with the emergency planning and preparedness
20 regulations of the State Fire Marshal.

21 The comment from the Bureau of Gambling Control
22 basically says that the current emergency preparedness
23 language in subsection (a) shall remain, as it may cover
24 more contingencies than fire safety and evacuation plans
25 alone.

1 This particular comment is based on probably more of
2 the title, I would think, than just the basic contents.

3 Staff recommended that we reject it in part based on
4 the fact this section currently provides specific emergency
5 preparedness and evacuation plan requirements for
6 cardrooms. These requirements are outdated and may not be
7 consistent with those of the State Fire Marshal. The Fire
8 Marshal has the primary jurisdiction over these types of
9 issues.

10 This action is amending 12370 by simply requiring
11 cardrooms to comply with the emergency planning and
12 preparedness regulations. The State Fire Marshal may
13 already have a -- already have a complete set of the
14 emergency planning and preparedness regulations in Title 24
15 and Title 19. They periodically revise and amend these
16 regulations.

17 This change would ensure the Commission's regulations
18 for cardrooms do not conflict with those of the State Fire
19 Marshal.

20 Those elements of the current Section 12370(a) that
21 are not in the Fire Marshal's regulations, such as those
22 relating to criminal incidences, have been moved to the new
23 Section 12372 entitled, "Security Surveillance Plan."

24 However, staff would recommend that we change the
25 title of the section. Maybe that is what set somebody off

1 thinking it is strictly just dealing with fire issues.

2 These Fire Marshal regulations deal with all forms of
3 evacuation and emergency preparedness and they're entitled,
4 "Emergency Planning & Preparedness."

5 We would probably recommend that the title be changed.

6 State Fire Marshal has already approved this action,
7 already reviewed our amendments and given us that approval
8 which we have to get before we file these regulations with
9 the Office of Administrative Law.

10 So Mr. Chairman, if you want me to stop at each of
11 these and we'll at that point ask for comments or anything,
12 if you want to deal with it now or --

13 CHAIRMAN SHELTON: Let's do that because we're on the
14 item. We know what we're talking about. We can move on.

15 It will take a little bit longer but gives everybody a
16 chance for input.

17 Any public input on this item?

18 I guess you may move on.

19 RICHARD MUNDY: Okay. The next comment was from
20 Limelight Cardroom. And although large cardrooms, their
21 comments, dealt with they have retained counsel and should
22 find no problem in obtaining copies of the State Fire
23 Marshal's regulations, smaller ones might find it
24 difficult.

25 Thomas Williams comments to Title 24 may be

1 copyrighted and the Commission should do more to provide
2 licensees with access to the regulations.

3 The Bureau also mentioned something similar where they
4 suggest having a link to this regulation posted in the
5 Commission's website so it may be more readily available.

6 Staff recommends these comments be accepted. Although
7 Title 24 is copyrighted, which is kind of a surprise to all
8 of us in the Regulations Unit and it is not available for
9 viewing on the website of the Office of Administrative Law,
10 it is readily available for viewing at no cost at over 100
11 California state depository libraries.

12 California law requires state regulations be made
13 available to the public at these depository libraries.
14 OAL's website provides a link to a list of these libraries,
15 which at the time of this writing, totaled about 114
16 throughout the state.

17 The Commission can easily provide the same link on its
18 own website. That is basically what we're recommending.

19 This document is so big because it not only contains
20 Fire Marshal regulations but all of the building codes and
21 everything else that exists throughout the state. And it
22 is part of a nationwide process that is copyrighted because
23 the task is so monumental.

24 And so but the good news here is that further, most
25 city, county and fire state -- fire district jurisdictions

1 throughout the state have assumed the Fire Marshal's role
2 with respect to the facility inspections and approval of
3 the fire safety and evacuation plans. As a result,
4 cardrooms need only to contact the local fire department
5 for these services.

6 And Section 12370 already takes this into
7 consideration in subsection (a) by providing the option for
8 local authorities to review and approve their fire
9 evacuation plans.

10 I might also add that of these regulations Section
11 12370 really does not force cardrooms to do anything they
12 wouldn't have to do already through the State Fire
13 Marshal's regulations. The real purpose of 12370 is to
14 provide some form of disciplinary action if they don't, in
15 the form of discipline in their Commission license. That
16 is really the only thing that is being accomplished here
17 for the most part.

18 When somebody says they couldn't comply with them, all
19 they have to do is contact their local fire department, get
20 that in writing and give it to us. Simple as that.

21 CHAIRMAN SHELTON: Public comment?

22 ALAN TITUS: Good morning, Commissioners. Alan Titus
23 for Artichoke Joe's.

24 I want to mention that I was able to find the link to
25 those regulations from an official state website. It was

1 not the OAL website but somewhere there was a website that
2 then gave a link to this. And I think it was a private
3 website that had the actual text on it. So you could
4 provide that link.

5 RICHARD MUNDY: Certainly.

6 ALAN TITUS: It would be helpful. It will take me
7 time to find that.

8 RICHARD MUNDY: The copyright is just to reproduce it,
9 not to just look at it.

10 ALAN TITUS: The website I found said that this title,
11 this Fire Marshal title, was not copyrighted; wherein, most
12 of Title 24 is, this little chapter -- 9, 4 -- whatever
13 that is, was not copyrighted.

14 RICHARD MUNDY: We'll certainly take that website link
15 and add it to our list.

16 CHAIRMAN SHELTON: Good. Anything further?

17 Next?

18 RICHARD MUNDY: Sections 12372(a) and (b) starting on
19 Page 4, line 31 requires cardrooms to promptly develop and
20 implement the Security Surveillance Plan.

21 Section 12372(c)(3) requires cardrooms to submit a
22 copy of the Security & Surveillance Plan with the first
23 biennial license renewal application that is submitted six
24 months after the effective date of the section.

25 Section 12395(f) requires that cardrooms comply with

1 the security standards no later than the first day of the
2 first month, six months following the effective date of the
3 section.

4 And finally, Section 12396(e) requires that cardrooms
5 comply with surveillance standards no later than the first
6 day of the first month, 18 months following the effective
7 date of the section.

8 Needless to say, there is a lot of coordination that
9 needs to be accomplished there to make sure all of the
10 implementation schedules align.

11 Limelight Cardroom, Mr. Thomas Williams, did point
12 that out as well. And he points out that many of these
13 sections have different implementation schedules. Some of
14 them might say "promptly." Others might say "six months"
15 and others may say "18 months."

16 Staff recommends this comment be accepted.

17 Section 12372(a) and (b) be amended as part of a first
18 15-day change to allow 18 months for cardrooms to develop
19 and implement their security & surveillance plans.

20 Staff also recommends Section 12372(c)(3) and 12395(f)
21 also be amended to conform to the 18-month implementation
22 schedule already set by Section 12396.

23 This would align all of the sections into an 18-month
24 implementation schedule.

25 CHAIRMAN SHELTON: Comments to the response? Move on.

1 RICHARD MUNDY: Section 12372(a)(1) on Page 5, line 3
2 requires Tiers I and II cardrooms to develop a Security &
3 Surveillance Plan that includes close monitoring and
4 control of all gambling activity.

5 The Bureau suggests using the words "close monitoring
6 and control of all controlled games and gaming activity" to
7 remain more consistent with other MICS.

8 Staff recommends this comment be accepted and
9 incorporated and amendments made to Section
10 12372(a)(1).

11 CHAIRMAN SHELTON: Okay. Comments?

12 RICHARD MUNDY: 12372(c)(1) Page 5, line 26 requires
13 each Security & Surveillance Plan be consistent with state
14 and local requirements.

15 The Bureau suggests using the words "each Security &
16 Surveillance Plan shall be consistent with, identify and
17 comply with all state and local requirements."

18 They also suggest requiring the licensee provide
19 documentation for applicable local ordinances when a
20 Security & Surveillance Plan is submitted. If the local
21 jurisdiction issues the license -- licensee a certificate
22 of compliance, the licensee shall also submit a copy of it
23 along with a copy of the ordinances.

24 Staff recommends this comment be accepted and
25 12372(c)(1) amended as requested by the Bureau.

1 Our position is if the licensee knows that a local
2 ordinance applies to them, a copy should already be
3 available. Shouldn't be a real chore to be able to supply
4 that.

5 CHAIRMAN SHELTON: Comments?

6 COMMISSIONER SHIMAZU: Is that the Bureau's concern
7 that mostly the local requirements requiring them to submit
8 the ordinance so we have it in front of us so we can
9 compare and make sure they're in compliance?

10 MARTY HORAN: That is correct. Or at the time of
11 inspection, when we're out there, it is attached or
12 available.

13 COMMISSIONER SHIMAZU: Okay.

14 RICHARD MUNDY: Section 12395(a)(2) Page 7, line 21
15 requires all cardrooms provide adequate lighting in parking
16 areas owned, leased, rented, operated or otherwise
17 controlled by the licensee for use by the patrons.

18 Crystal Casino comments that this lighting requirement
19 should be limited to only those parking areas owned,
20 operated or otherwise controlled by the licensee. Some
21 cardrooms may not have any control over the parking areas
22 as they may be part of a lease by multiple tenants for use
23 by everyone's customers.

24 Staff recommends this comment be accepted and Section
25 12395(a)(2) be amended as part of the first 15-day change

1 to limit lighting requirements only to those parking areas
2 that are owned, operated or otherwise controlled by the
3 licensee; thus, deleting the words "leased" and
4 "rented."

5 CHAIRMAN SHELTON: Any comments? Move on.

6 RICHARD MUNDY: Section 12395(a)(3)(A) and (B) Page 7,
7 line 25 requires licensees to file an incident report with
8 the Bureau within five business days following any
9 reasonable suspected violation of the Act, Commission or
10 Bureau regulations or any of the following laws -- I don't
11 know if you want me to read all of the laws but --

12 CHAIRMAN SHELTON: You don't --

13 RICHARD MUNDY: Everybody can read along as we go. We
14 have two comments. One from California Gaming Association,
15 Mr. Fried, and the Bureau itself.

16 Mr. Fried comments that the requirements to file
17 incident reports with the Bureau should be limited to
18 offenses related to gaming, such as those listed in the
19 disciplinary actions regulation 12560(b). He specifically
20 lists those as cheating, extortion, loansharking, narcotic
21 sales, bribery and money laundering.

22 Proposed Section 12395(a)(3)(A) and (B) is currently
23 too broad in scope by including petty offenses that
24 shouldn't concern the Bureau, such as petty theft,
25 pandering and loitering, prostitution and pimping.

1 Further, this regulation is not sufficiently specific
2 as it requires incident reports for, quote, other serious
3 criminal offenses.

4 You'll find that is the intro to the Penal Code
5 section.

6 The Bureau has had an ability or has had the
7 opportunity to respond in response to their comments. This
8 list includes offenses beyond those that may merit actions
9 against the licensee, such as issues that could pose a
10 serious threat to public health and safety.

11 Staff recommends that the California Gaming
12 Association comments be accepted in part by deleting words
13 "other serious criminal offenses including but not limited
14 to" as an introduction to the Penal Code section, as this
15 phrase may be too broad reaching and could promote
16 inconsistent interpretations.

17 However, staff recommends retaining on the list of
18 reportable offenses those Penal Code sections proposed by
19 the CGA to be deleted, as the Bureau has the assigned
20 responsibility to ensure that a gambling operation is not
21 conducted in any manner that is harmful to public health,
22 safety or welfare.

23 This list of reportable offenses is not intended for
24 the sole purpose of taking disciplinary action against the
25 licensee.

1 These incident reports may assist the Bureau in
2 seeking a safe environment for the public.

3 We're recommending we accept the part of eliminating
4 the vague language or -- but keep the site specific
5 sections in here.

6 CHAIRMAN SHELTON: Comments?

7 MARK KELEGIAN: Good morning. Mark Kelegian,
8 K-e-l-e-g-i-a-n, Crystal Casino. One brief comment.

9 The recommendation continues to list petty thefts,
10 which means any thefts less than \$400, as I interpret it.

11 Many of the clubs get incidents where someone will
12 grab someone else's chips. We call them chip grabbers.
13 That may be \$25, \$50, \$60 worth of chips.

14 I think that the list should not include petty thefts.
15 Rather, it should include grand thefts. At least you're
16 getting to a dollar amount. It seems more appropriate to
17 report. Where, as I understand, grand theft is \$400 or
18 more.

19 My only comment. Thank you.

20 CHAIRMAN SHELTON: Commissioners?

21 COMMISSIONER SHIMAZU: Is grand theft already listed?
22 Is grand theft already listed?

23 RICHARD MUNDY: Yes, it is.

24 COMMISSIONER SHIMAZU: I'm sorry. I see it. Yes.

25 MARTY HORAN: I can speak for the Bureau. Marty Horan

1 with the Bureau of Gambling Control, assistant chief.

2 The Bureau does have a concern for those instances
3 because, again, oftentimes individuals that may be involved
4 in that type of chip stealing or theft of a purse that is
5 laying next to a chair or whatever else, these are people
6 that are going to these places to look for easy opportunity
7 victims. They may go from one cardroom to another.

8 If we have incidences like that where an actual police
9 report was made, an arrest was made, our intelligence unit
10 can put bulletins out to the other cardroom industries and
11 the tribal casinos and let them know this individual was
12 involved in some type of a theft at a cardroom and be
13 advised in case of, you know, this individual comes into
14 your establishment.

15 CHAIRMAN SHELTON: Do you accept what was
16 recommended --

17 MARTY HORAN: Yes, the Bureau --

18 CHAIRMAN SHELTON: -- wording?

19 MARTY HORAN: -- is okay with the language being
20 removed. That was too vague.

21 ALAN TITUS: Commissioners, Alan Titus for Artichoke
22 Joe's.

23 We've got an issue with a different phrase here, the
24 phrase "reasonably suspected violation." It is not clear
25 what a reasonably suspected violation is. One might

1 suspect something and have doubts. Am I being reasonable?
2 Certainly, if you get a report from someone else, you have
3 even more doubt. Is that person reasonably suspecting it?
4 Are they just a crackpot?

5 And I'll just give you one example where this could
6 cause mischief and that is with counterfeiting. A player
7 comes in and they hand an employee some bills, hundred
8 dollar bill, to buy some chips. And the employee realizes
9 this is a counterfeit bill. Now, is the person there a
10 victim of counterfeiting? Do they not know the bill
11 they're holding is counterfeit and they're out a hundred
12 dollars or a few hundred dollars if they have a few of
13 them? Or are they the ones who are, in fact, spreading it?
14 It is very difficult for the club to make that decision.

15 This regulation could put them in a real spot if they
16 accuse their player of this. They could lose that player
17 for life. If they don't accuse the player and it turns out
18 that player was the one passing it, they can get in trouble
19 here.

20 I think that Mr. Horan just mentioned if a police
21 report had been filed or if an arrest had been made, those
22 are very definite things. We could easily decide to make a
23 report based on that. But "reasonably suspected" is a very
24 difficult standard to deal with.

25 COMMISSIONER SHIMAZU: With counterfeiting, couldn't

1 you report the crime? I'm looking at what needs to be an
2 incident report.

3 ALAN TITUS: A crime? It is not a crime if they're a
4 victim.

5 COMMISSIONER SHIMAZU: I see what you're saying with
6 the "reasonably suspected." You just have to submit an
7 incident report. So it does not necessarily have to
8 establish --

9 ALAN TITUS: Incident report of what?

10 COMMISSIONER SHIMAZU: -- who the victim is of the
11 counterfeit currency.

12 ALAN TITUS: No. You're -- your regulation here would
13 require us to report the crime of counterfeiting.

14 Receiving a counterfeit bill is not necessarily a
15 crime.

16 COMMISSIONER SHIMAZU: Any comments?

17 CHAIRMAN SHELTON: Having some expertise in that
18 field, there is a report filed. Usually it comes under
19 counterfeiting or suspicious circumstances. It should be
20 investigated.

21 It is not accusing the person who would have the phony
22 money -- in my days, it used to be \$20, now it is \$100 --
23 but initiation of the investigation.

24 The locals not only do the investigation but they call
25 in the federal government to help assist in the

1 investigation. The Bureau has to know that if they're
2 going to coordinate these things.

3 I don't think it is hammering on the individual who
4 passed the money. It is speaking to the individual to see
5 where they got the money so you can trace it back to where
6 it came from. Nine chances out of ten they may have
7 accepted it somewhere else, too. So they're not guilty of
8 anything. They don't have a record of being guilty. They
9 end up being a witness. Am I wrong?

10 ALAN TITUS: I suspect a number of those people would
11 not want to be witnesses.

12 CHAIRMAN SHELTON: That is tough. You know, we're in
13 an industry now where we have to find out where the money
14 is coming from and where it is going. It's part of it.
15 I'm sorry. I don't know how else you get by it. You can't
16 just look the other way and say, well, we've got a felony
17 taking place here but we're not going to investigate it. I
18 kind of side with the Bureau on that.

19 MARTY HORAN: The Bureau agrees with the Chairman on
20 that comment, not only for the issue you mentioned about
21 the witnesses; but, again, if these incidences are
22 reported, our intelligence units are able to track that
23 information.

24 For instance, if you have somebody passing a bill like
25 that at the cage who claims, hey, I got this at the bank or

1 at the local supermarket, well, if we have information or
2 other incident reports from other casinos or cardrooms that
3 show this person over the last month has done it at five
4 other locations, obviously, it goes beyond them receiving
5 possibly a fictitious bill and unknowingly now they're
6 trying to pass it. We won't know that information if these
7 incidences are not logged and reported.

8 CHAIRMAN SHELTON: I'm just not -- in my career,
9 anybody that was offended when we talked to them about
10 having possession of phony money unless they knew the money
11 was phony to begin with.

12 ALAN TITUS: Aside from that example, there still is
13 the problem with "reasonably suspected" is a very vague
14 term. And what is reasonable?

15 CHAIRMAN SHELTON: What would you -- help us. How
16 would you word it?

17 ALAN TITUS: My suggestion is if a police report is
18 filed or an arrest made, that that be reported. I think
19 that is a very clear standard there.

20 CHAIRMAN SHELTON: Who would file the police report?

21 ALAN TITUS: If -- if a police report is filed based
22 on an activity at the establishment, whether -- no matter
23 who files it. Could be the player. Could be the
24 establishment.

25 CHAIRMAN SHELTON: Okay. I'm just trying to walk

1 through it with you.

2 ALAN TITUS: Any police report. I think that the club
3 would always know about the report.

4 CHAIRMAN SHELTON: Commissioners?

5 COMMISSIONER SHIMAZU: They could choose not to. This
6 way there is a list where we would be informed -- the
7 Bureau would be informed for these issues, if there is a
8 problem, versus waiting on the club to make a decision.

9 ALAN TITUS: I'm not saying take away the list. You
10 can still have the list.

11 COMMISSIONER SHIMAZU: If we base it just on when a
12 police report is filed, isn't it the club who makes a
13 determination whether or not to make a report in some
14 occasions or incident reports with the police?

15 So here it was kind of laid out where any time this
16 happens or where you think it -- reasonably suspect it
17 happened, you let us know so we can track it versus letting
18 the club kind of decide when to file.

19 ALAN TITUS: It is the same problem. When does the
20 club send this to you? When is it reasonably suspected?
21 When they've gone to the police and taken it to the police,
22 then it is very clear. There is something going on. And
23 up to that point it is not very clear. It is just going to
24 open up a real problem. You're not going to know when to
25 enforce it. It could waste a lot of resources trying to

1 enforce this.

2 We could have a very clear standard. You could adopt
3 a clear one and see how it works, see if it gets there,
4 rather than just adopting something very vague and could
5 end up causing trouble down the line.

6 MARTY HORAN: The Bureau has comment that may clarify.

7 There's two sections here we're dealing with. The
8 first section has to do with actual crimes that are
9 committed and reported to the local law enforcement agency,
10 which is 12395(a)(3)(A). And those are -- those are those
11 code sections there that are referred.

12 The next section after that (B) is any owner or key
13 employee obtaining knowledge or notice of any reasonably
14 suspected violation of those crimes.

15 So it does not necessarily require a police report in
16 that incident. That is where these incidents would be
17 reported.

18 And this is kind of a double-edged sword here. This
19 language in here is broad enough to allow the cardrooms
20 some flexibility. Before we heard concern or issue
21 regarding the cardroom industry not being experts in the
22 field of crimes that are committed: They're not attorneys,
23 not law enforcement officers, don't know the Penal Code by
24 heart, don't know where to look to make sure those crimes
25 have been committed. That is why it is in here listed as

1 "obtaining knowledge or notice of any reasonably suspected
2 violation."

3 ALAN TITUS: I'm suggesting that flexibility could
4 come back and cause trouble. I think something more firm
5 or more definite would be better for everyone. And that
6 would be if there is a police report filed, if there is an
7 arrest made, that it would be reported.

8 COMMISSIONER VUKSICH: Mr. Titus, who within the
9 establishment structure makes that call?

10 Let's say there is a counterfeit bill being passed.
11 And who is it that makes the call to either just let it go
12 or pursue it?

13 ALAN TITUS: I --

14 COMMISSIONER VUKSICH: Or --

15 ALAN TITUS: I don't know.

16 COMMISSIONER VUKSICH: -- someone gets their purse
17 snatched? Is that a supervisor?

18 ALAN TITUS: I don't know the answer to that.

19 COMMISSIONER VUKSICH: Trying to get a grasp of where
20 within the structure of the floor of the casino these
21 things are identified.

22 ALAN TITUS: I don't know. I do know that the
23 security department will get involved in this but the key
24 employee on duty is the shift manager at Artichoke Joe's or
25 shift coordinator, they're called. And I think that person

1 probably is the ultimate one. During the day when there is
2 even more senior people in the building, it might be
3 someone more senior gets involved in this.

4 COMMISSIONER VUKSICH: We could have a lot of things
5 under reported or not reported or --

6 ALAN TITUS: The cardroom has a strong interest --

7 COMMISSIONER VUKSICH: -- police report.

8 ALAN TITUS: The cardroom is going to have a strong
9 interest in reporting crimes. They don't want to be a
10 lawless facility.

11 COMMISSIONER VUKSICH: No, you have to create a safe
12 environment for your players.

13 ALAN TITUS: I think that when there is a crime
14 committed, it is going to be reported. You get these --
15 you hear about these much more than I do. I don't know
16 all of what is reported.

17 COMMISSIONER VUKSICH: Mostly goes on in the parking
18 lot. Okay. Thank you.

19 RICHARD MUNDY: Point of -- question, then,
20 Mr. Chairman.

21 Is it the Commission's pleasure to decide on these
22 issues as we go, as to whether they're included in a
23 15-day change or -- and what is included or should we just
24 keep going?

25 CHAIRMAN SHELTON: Commissioners, your desires?

1 COMMISSIONER SHIMAZU: To the extent we can decide on
2 them, it would be nice to let staff know so they can
3 incorporate them as we go. We've heard of couple of issues
4 with respect to the grand theft and the -- what was the
5 other one -- the petty -- leaving the petty theft in.

6 I agree with the Bureau. I think that cumulative you
7 look at these things and you see a pattern. So that is why
8 they need to be informed so they can keep track of these
9 things.

10 I'm trying to look at Mr. Titus' "reasonably
11 suspected" language. Not sure what would be a more
12 concrete term to use to -- I think we've played with the
13 language before.

14 CHAIRMAN SHELTON: Well, I'm happy with staff's
15 recommendation on both items.

16 COMMISSIONER SHIMAZU: I think it was something that
17 we -- some language we worked on, wasn't it, to define
18 something where it would hold -- it wouldn't be
19 unreasonable for the industry. We were going to look at
20 what they reported and -- I mean, it is a reasonable
21 standard so.

22 RICHARD MUNDY: Staff and the Bureau, as well as some
23 industry members, have discussed it before in meetings.

24 CHAIRMAN SHELTON: Commissioners, you ready to proceed
25 to accept staff's recommendation and proceed or do you want

1 to change it?

2 COMMISSIONER VUKSICH: I'm fine with staff's
3 recommendation.

4 CHAIRMAN SHELTON: Move? You want to come back to it?

5 COMMISSIONER VUKSICH: No.

6 COMMISSIONER SHIMAZU: Staff's recommendation is to
7 leave it as is? Did you do --

8 RICHARD MUNDY: We were leaving it.

9 CHAIRMAN SHELTON: We can vote on it at the end or
10 discuss it now and say what we want.

11 RICHARD MUNDY: We were leaving the list of offenses
12 the same but we were recommending eliminating the
13 introduction language to the Penal Code section.

14 COMMISSIONER SHIMAZU: Fine.

15 RICHARD MUNDY: Moving on to Number 7, Page 4, Section
16 12395(b)(4) on Page 10, line 4 requires Tier III through V
17 cardrooms to have at least one security officer on duty
18 during nighttime business hours to patrol all attached and
19 adjacent parking lots owned, leased, rented operated and/or
20 otherwise controlled by the licensee for use by patrons.

21 This section also requires these cardrooms to obtain a
22 work permit for security officers that meets the definition
23 of a gambling enterprise employee. And what this primarily
24 means is any security officer that enters the gambling
25 floor.

1 Security officers that do not enter the cardroom are
2 exempt from this requirement.

3 Crystal Casino comments that California law does not
4 require a business owner to provide security guards in
5 parking areas unless there is a high foreseeability of
6 criminal conduct. And we have a footnote regarding case
7 law. The requisite degree of foreseeability rarely, if
8 ever, can be proven in the absence of prior similar
9 instances of crimes on the landowner's or possessor's
10 premises.

11 And they further comment that some cardrooms may not
12 have any control over parking areas as they may be part of
13 a lease by multiple businesses and/or tenants for use by
14 everyone's customers. In this case they would be providing
15 security to benefit both their own patrons as well as all
16 other patrons of the joint complex. As a result, this
17 regulation should be amended to require security only in
18 the parking areas that are owned, operated or otherwise
19 controlled by the licensee.

20 Staff recommends this comment be accepted and Section
21 12395(b)(4) be amended to require security only in those
22 parking areas that are owned, operated or otherwise
23 controlled by the licensee, deleting the "leased," "rented"
24 language. This would be similar to the previous amendment
25 regarding lighting.

1 CHAIRMAN SHELTON: Any further comment?

2 MARTY HORAN: Bureau has comment on that. I guess
3 we're not certain as to why they would not be expected to
4 have reasonable security walking on property that is a
5 parking lot that is part of their lease or their rental of
6 their gambling establishment property.

7 If their lease includes certain parking lots, A, B and
8 C, I guess we just don't have an understanding of why they
9 would not be responsible to provide security surveillance
10 of those parking lots.

11 CHAIRMAN SHELTON: Commissioners? You can come up.

12 MARK KELEGIAN: Mark Kelegian, again. I can perhaps
13 address it a little more fully.

14 Where the property -- where the licensee has a shared
15 parking area with multiple other tenants, say, in a small
16 shopping center or similar type facility, the licensee
17 won't have the legal ability in their contract or otherwise
18 in California law to control the parking area that is owned
19 by the property owner and that is shared by all of the
20 other tenants.

21 If a licensee were to take that step and go ahead and
22 voluntarily do it, the licensee would be exposing itself to
23 claims by guests and tenants -- guests of other tenants and
24 the tenants themselves regarding the providing of security.

25 Someone could come along and say, for example, you

1 have a strip center that looks much like the Chairman's
2 desk, counter, whatever you call it. And the gambling
3 establishment is located on one end of it. And on the
4 complete opposite end you have a bar. And the patrons come
5 out of here. Something happens on this end of the parking
6 lot. Some lawyer is going to come around say: Well, gee.
7 Where is the security patrolling the parking lot?

8 Going to say: Well, the casino has security that
9 patrols it.

10 The next legal argument to follow is: Well, they have
11 voluntarily assumed the risks inherent in providing
12 security to the entire parking lot and therefore are
13 required to now do it in an adequate manner and so on and
14 so forth and all of these liabilities keep compounding.

15 California law is very clear on the issue of the
16 requirement for landowners and possessors of land to
17 provide security. It is in situations where there is a
18 high degree of foreseeability where there are multiple
19 prior acts on the property. Even in that case, the
20 responsibility falls to the property owner or the property
21 management company that may be in charge of the entire
22 complex. A single tenant in a group of multiple tenants
23 does not have that obligation in the California law. He
24 won't have it in his contract either to provide that
25 security.

1 We're not -- at least in my position in this matter,
2 I'm not saying that there should not be security patrolling
3 the parking lot. It is simply an obligation that the
4 licensee in a multi-tenant facility does not have the legal
5 ability to provide. It is something that I think we're
6 safe and we're fair in falling back on California law and
7 as the California law apportions that responsibility.

8 If you have a parking area that has incidence of
9 criminal conduct that rises to a level of frequency or the
10 nature of the criminal conduct itself causes a need for
11 security to be in place, that is something that must be
12 fulfilled by the property owner or the property management
13 company. It is simply a legal impossibility for the one
14 tenant in a multi-tenant complex to provide that.

15 COMMISSIONER VUKSICH: Let me see if I understand this
16 correctly. Let's take Westfield Mall down on K Street.
17 Macy's couldn't supply the security. It has to be the
18 Westfield --

19 MARK KELEGIAN: It would be the --

20 COMMISSIONER VUKSICH: -- lessor that patrols the
21 parking lot?

22 MARK KELEGIAN: If you're talking the common area
23 between all the stores or the parking areas, it is the
24 responsibility of the landlord who owns the shopping center
25 as well as any property management company, which would be

1 typically the case that they would hire to manage, control
2 and operate the property.

3 COMMISSIONER VUKSICH: Can a tenant ask for security
4 as part of their lease?

5 MARK KELEGIAN: A tenant could -- sure. A tenant can
6 ask that be provided. Then you probably have an -- if a --

7 COMMISSIONER VUKSICH: Added expense?

8 MARK KELEGIAN: You have a disproportionate situation.
9 In a multi-tenant situation where the cost for providing
10 live bodies patrolling the parking lot is obviously an
11 enormous cost, they would say: Macy's, you're going to pay
12 the bill for the whole thing, which would cause other
13 potential problems between the landlord and the tenant.

14 COMMISSIONER SHIMAZU: Is there a difference if the
15 cardroom leases a particular lot where there is only
16 cardroom tenants/clients or I'm not sure --

17 MARK KELEGIAN: Big difference.

18 COMMISSIONER SHIMAZU: -- where they say: Hey, these
19 are your parking spaces or your area. I don't know if they
20 do that. That would be otherwise controlled by the --

21 MARK KELEGIAN: I think that there would be a
22 tremendous difference in that scenario. Not sure it's a
23 practical example where they would say you're only --
24 cardroom people can only park here. I can see somebody
25 coming along and saying: Well, all that parking was full

1 so I went and parked over in some other space. And you
2 know your parking lot is full because you know on Friday
3 nights you have 50 spaces and you have a hundred people
4 here every night.

5 In a dedicated parking area situation there is no
6 problem, no legal hindrance to having the licensee provide
7 security for that parking area.

8 This is a limited situation where it is a shared use.

9 CHAIRMAN SHELTON: Makes sense to me.

10 MARTY HORAN: Hold on just a second. I just don't
11 understand what is wrong with the existing language. I
12 know you've tried to explain it.

13 The way it is currently written in here says, "who
14 shall periodically patrol the exterior of the gambling
15 establishment, including all attached and adjacent parking
16 areas owned, leased, rented, operated and/or otherwise
17 controlled by the licensee for the use of by its patrons."

18 Your example of a strip mall, I'm assuming in your
19 lease you're not renting or leasing or paying for this
20 whole parking lot. There is probably a certain area of
21 stalls you have with your property or -- I'm just -- I
22 don't understand the difference between renting and
23 leasing. If I rent or lease this property across the
24 street from my establishment, then I need to provide
25 surveillance.

1 MARK KELEGIAN: I think we've got the same situation
2 where what I'm going to rent or lease is access to a shared
3 parking lot.

4 If, as in the Commissioner's example, I was given a
5 particular portion of the parking lot or particular area of
6 stalls or my own individual parking area, then it is not an
7 issue.

8 The problem with the regulation is it commingles
9 situations where there is ownership, control and operation
10 and rent and lease. You have to separate the two because
11 in the situation where we were just discussing, I rent. I
12 lease. But I don't own, operate or control the parking
13 area.

14 So that is really -- it is -- I think the focus needs
15 to be on owned, operated or control. Because only if I do
16 or only if I do or have one of those three elements, do I
17 have the ability to do anything in the parking lot.

18 As just a tenant who does not own, operate and control
19 I couldn't go out into a common shared parking area and
20 say: I don't like the way this is striped. I'm going to
21 re-stripe it or add lighting or going to do this or do that
22 or put up barriers or so on and so forth, speed bumps.

23 I don't have the ability to do that unless I own,
24 operate or control.

25 By making this change by deleting "rent" and "lease,"

1 the responsibility simple lies as it would otherwise for
2 any property owner or possessor under California law; that
3 same obligation to provide the security if the high degree
4 of foreseeability exists.

5 I think we have a lot of situations in the state where
6 you have shared multi-use facilities.

7 RICHARD MUNDY: Suggestion from Commission staff
8 was -- I don't know if it would make a difference for the
9 Bureau -- but if we were to put the word "solely" on line 9
10 behind the word "licensee" and keep the "lease" and
11 "rented" in there.

12 Would that -- of course that means the parking lot has
13 to still be solely for the use of the patrons of the
14 cardroom before they have to patrol it.

15 MARK KELEGIAN: I'm not sure that changes -- I think
16 it is kind of a distinction without a difference. Because
17 you still -- as long as you have that own, operate or
18 control, then you have the ability to take action in the
19 parking -- security -- render security measures in the
20 parking lot.

21 CHAIRMAN SHELTON: I think under your scenario you
22 tighten it up for yourself because if you lease a portion
23 of the parking lot that is dedicated to you, under your
24 scenario, you're responsible for the security.

25 MARK KELEGIAN: Then the regulations as they're in

1 place impose the obligation on me to patrol any area that I
2 own, operate or control.

3 If I'm designated -- you know, that chair is my
4 parking -- one of the chairs of the nine chairs is my
5 parking area, then that is an area I own, operate or
6 control. Control being the key in that instance.

7 I would be obligated under the regulations to provide
8 the periodic patrol.

9 CHAIRMAN SHELTON: Your point is strictly on mingled
10 parking that you have no control over?

11 MARK KELEGIAN: Absolutely.

12 CHAIRMAN SHELTON: That makes sense to me.

13 COMMISSIONER VUKSICH: This information is always
14 disclosed in the lease?

15 MARK KELEGIAN: Who owns, operates or control? Yes.
16 You just don't have the lease rights.

17 COMMISSIONER VUKSICH: I'm thinking of the property
18 right now in Garden City. It is in the middle of a huge
19 parking lot shared by everybody.

20 MARK KELEGIAN: Unless -- I don't know that particular
21 situation although I've seen it. Unless the licensee owned
22 the parking lot or is, say, for example the master tenant.
23 I didn't mean own the parking -- owned the entire complex
24 or is the master tenant for the entire complex, then you
25 have that obligation.

1 CHAIRMAN SHELTON: Makes sense to me.

2 MARK KELEGIAN: Thank you.

3 CHAIRMAN SHELTON: Okay.

4 RICHARD MUNDY: The next comment is related to the
5 same section but for a different issue. We're not talking
6 about patrolling the parking lots now. We're talking about
7 needing a work permit for independently contracted outside
8 security guards to enter the club.

9 This comment comes from Mr. David Fried from the CGA
10 and was also endorsed by Mr. Kelegian.

11 The comment basically says in emergency situations
12 involving physical safety, smaller Tier III cardrooms may
13 need to call upon their independently contracted outside
14 security guards to enter the club. These contract security
15 officers who only on occasion enter the club should not be
16 required to hold a work permit.

17 Staff recommends this comment be rejected as the Act
18 requires a work permit for any employee, independent agent
19 or person whose employment duties require for authorized
20 access to the restricted gambling establishment areas.

21 We kind of felt our hands were tied by Business &
22 Professions Code Section 19805(m) that defines gambling
23 enterprise employees and 19912(1)(a) that -- (a)(1). I'm
24 sorry. That says they have to have a work permit.

25 CHAIRMAN SHELTON: The only thing I would think that

1 would have to be very clear in these circumstances is if
2 the establishment calls the contract security officers
3 inside to perform duties inside the gambling establishment,
4 that is -- you know, I could see that happening.

5 So I know what you're saying. I'm just saying that if
6 the Bureau goes out and finds out the contract employees
7 are being used otherwise, I think the Bureau has the right
8 to take appropriate action and say these people have to
9 be -- do you disagree with that?

10 RICHARD MUNDY: No.

11 MARTY HORAN: If I may comment, this has been an area
12 of concern for quite some time on this.

13 And the Bureau fully understands the concern of the
14 industry. We've gone back and forth. And the Bureau is
15 trying to compromise as much as possible and be reasonable
16 especially with the smaller cardrooms.

17 You know, the Bureau's initial feeling and intent was
18 all of the security guards need to be work permitted
19 regardless. But then, obviously, there is arguments: What
20 if we contract with the companies and we can't force the
21 companies to do this and if somebody is sick they may send
22 somebody else who is not work permitted and so forth. That
23 is why we included the language in here that if it is a
24 contract employee that is going to stay strictly outside,
25 then they don't need to be work permitted.

1 If we start crossing the boundary of under emergency
2 circumstances they need to come inside and help out, we'll
3 be back to the Bureau thinks they need to be work
4 permitted.

5 CHAIRMAN SHELTON: I agree.

6 MARK KELEGIAN: Okay. I think I am done there.

7 RICHARD MUNDY: That gets us to the next comment from
8 the Bureau that Marty just mentioned and that is suggests
9 adding the word "contract" in front of "security guards"
10 when we are referring to those duties exclusively outside
11 of the cardroom where they don't need a work permit.

12 Staff recommends this comment be accepted and the word
13 added to Section 12395(b)(4). An exception from requiring
14 a work permit for contract security guards that do not
15 enter the cardroom is appropriate and consistent with the
16 Act.

17 And also I might add that probably the only instance
18 when getting a work permit for that person would be very
19 difficult because their contract can change from night to
20 night.

21 CHAIRMAN SHELTON: I think we're all there on this.

22 RICHARD MUNDY: Okay. Number 8, Section 12395(c)(1)
23 Page 10, line 18 requires Tier IV and V cardrooms to have a
24 backup generator sufficient to provide for the continued
25 operation of those systems that are necessary for the

1 safety and security of patrons, patron's property,
2 employees and the licensee's assets and property.

3 Further, Section 12395(e)(2) Page 10, line 30 requires
4 a generator for Tier V cardrooms to provide for the
5 continued full operation of all lighting systems and
6 information systems and all surveillance and recording
7 systems.

8 The Bureau comments that Tier IV cardrooms should have
9 the same generator requirements as Tier V, capable for
10 providing for the continued full operation of lighting,
11 information systems, surveillance and recording systems.

12 Staff remains neutral on this issue and defers to the
13 Bureau for an explanation as to the reasons for this
14 requirement.

15 MARTY HORAN: This goes back to the Bureau's argument
16 from, I think, day one on the regulations on our concern
17 with where the Tier IV and Tier V cardrooms lie.

18 And the Bureau believes Tier IV and Tier V cardrooms
19 should be joined together as the largest establishments out
20 there that we have the most protection and regulations in
21 place for those establishments.

22 These are gambling establishments or cardrooms that
23 are multi-million dollar operations anywhere from -- again,
24 when we look at Tier IV and V, we're looking at roughly 15
25 million dollar establishments up to 175 million dollar

1 establishments.

2 There is a need for those large-sized cardroom
3 gambling establishments to have this backup power
4 capability.

5 CHAIRMAN SHELTON: Comments?

6 ALAN TITUS: Alan Titus for Artichoke Joe's.

7 Artichoke Joe's is a Tier IV cardroom. I don't know
8 what our position would be on this generator.

9 CHAIRMAN SHELTON: Do you have one?

10 ALAN TITUS: We have a generator. I don't know if it
11 provides full back up. It is too technical for me to know
12 off the top of my head. We need to reserve our right to
13 comment on that.

14 But the general concept really troubles me. I think
15 that the difference between the very big cardrooms down in
16 LA which were started in the 1980's and they've got
17 investors -- many investors that put them together, it is a
18 very different situation than the family owned cardrooms
19 that I am most aware of in the Bay area, the Oaks and
20 Artichoke Joe's.

21 And saying the two of those should be treated the same
22 and the burdens should be the same on both of them, even
23 though the incomes and revenues are greatly different, it
24 really troubles me. I think that the tiers are very
25 appropriate. Those have been in place a little bit now and

1 they make a lot of sense. And trying to meld these two
2 tiers together is very inappropriate. I -- I don't know
3 what else to tell you. I can address it further if -- as
4 specific issues come along.

5 CHAIRMAN SHELTON: Thank you. Commissioners?

6 COMMISSIONER SHIMAZU: I don't know. Is this having a
7 generator to do the additional things, is that a huge cost
8 or burden? I don't know. Me just sitting here, okay,
9 provide for everything. Unless I hear something from, I
10 guess, the industry, I'm not sure what to think of it.

11 MARTY HORAN: One final comment. If you can imagine
12 yourself in one of the larger establishments, the Tier IV
13 or Tier V, and power outages do occur, you can have
14 complete chaos. With the number of people in there, the
15 amount of live games going, the amount of money on the
16 table and so forth, the operation should be able to have a
17 backup generator that sustains operation continuously.

18 COMMISSIONER SHIMAZU: Do you not think the current
19 language for the Tier IV -- there is something Tier IV has
20 to do? Getting the backup generator for general safety and
21 security to protect assets, is that not specific enough? I
22 mean what does Tier V require? All lighting, all
23 information systems, surveillance and recording.

24 MARTY HORAN: The full operation of the establishment,
25 backup generator to maintain.

1 COMMISSIONER SHIMAZU: You can't tell. Once the
2 lights and power goes out, it is still operating basically
3 as it did before?

4 MARTY HORAN: You have security measures that are
5 depleted as far as how much can actually be surveilled
6 through cameras, physical observation of what is happening
7 on the floor and so forth. These operations are our
8 largest operations in the State of California. I think
9 they should have all of the security measures in place to
10 sustain that during a power outage.

11 ALAN TITUS: Can I may make a comment? Alan Titus,
12 Artichoke Joe's.

13 It seems to me what would be needed in the event of a
14 power blackout is enough backup generation so that the
15 money could be secured. Once it is all secured, chips are
16 secured, money is secured, if then there is no longer
17 sufficient power, then everything is okay. We don't need
18 to run the games continuously while Rome is burning. We
19 need to be able to get everyone their money and to have
20 things settled. In those kinds of circumstances, there
21 might be evacuations. The idea it be continuous, I
22 certainly would protest against.

23 MARK KELEGIAN: Mark Kelegian again. Perhaps an
24 alternative or solution is to require that either a backup
25 generator or sufficient backup lighting is available. In

1 most casino operations, the backup generator is not what
2 kicks in if there should be a lighting -- a light failure
3 to the lighting system. It is backup generators that are
4 battery powered.

5 So perhaps a reasonable solution might be to say one
6 or have -- that the licensee must have either a backup
7 generator or a sufficient backup lighting system, all of
8 which are regulated and monitored by the local fire
9 department agencies.

10 COMMISSIONER VUKSICH: Are the lighting systems the
11 issue or the information systems and everything else?

12 MARTY HORAN: Everything. The lighting, the
13 information, security, surveillance, all of that.

14 Chances are if something like that was to occur in the
15 cardroom they're not going to shut down, you know, all of
16 their operations at all tables and collect or account for
17 money and so forth. The cardroom is going to have an
18 interest if they have backup generator power to continue
19 operations as reasonably safe and necessary.

20 COMMISSIONER VUKSICH: Just out of curiosity, what was
21 Artichoke Joe's experience during Loma Prieta? I'm sorry.
22 Just curiosity.

23 ALAN TITUS: I have been their attorney since Loma
24 Prieta 20 years ago. I don't remember what their
25 experience was. I had another client who was much more

1 impacted by it. I -- they have had backup generators since
2 before then. They have gotten new ones since then. They
3 have big backup generation. I don't know if they could
4 cover this.

5 But in any event, it seemed to me that if you can shut
6 down your operation, you don't need backup generation. The
7 state does not need to say you have to keep operating in
8 the event of this, that and the other thing.

9 I can understand the state's interest that the cameras
10 keep going as long as money is out there and chips are out
11 there but there should be the option that you can -- you
12 can stop the operation, if you feel that you want to. They
13 might not want to. They might prefer to have big
14 generators or be all ready for this but they should have
15 the option.

16 COMMISSIONER SHIMAZU: That is what I was going to
17 ask. Would this be an option that if you don't have full
18 backup generators you have to close up shop? I don't know.
19 That might be a problem. If the power goes off for five
20 minutes then, I don't know.

21 If that is the concern that they're going to keep
22 operating during this time, then we need all of the lights
23 and cameras on. Maybe that is a way to address --

24 ALAN TITUS: During the storms, lights can go out for
25 days.

1 MARTY HORAN: True. That is our point. If it goes
2 out and you don't have back up --

3 ALAN TITUS: Your point is we have to keep operating
4 during those days. We can't shut down.

5 MARTY HORAN: No, you can shut down. But your option
6 of staying open is you have to have a backup generator that
7 fully makes your gambling establishment operational in all
8 aspects.

9 ALAN TITUS: While the gambling is going on, it has to
10 be operational?

11 MARTY HORAN: Absolutely.

12 COMMISSIONER SHIMAZU: If we said, if you don't
13 operate you don't -- so they have the option? If the power
14 goes out and they don't operate, that is okay. But if they
15 do operate, they need to have everything on?

16 MARTY HORAN: I guess. That is the intent.

17 CHAIRMAN SHELTON: Staff, give me some wording, would
18 you please? Bring this in.

19 RICHARD MUNDY: Well --

20 CHAIRMAN SHELTON: Wait a minute. Let me tell you
21 what kind of wording I want.

22 I want to -- I think what I'm hearing is we want power
23 generators while the business is running. When the power
24 goes off, we want an alternative power source.

25 If the establishment decides to shut down, they can do

1 that and shut the generator off. But if they're in
2 operation for a certain period of time, we need an
3 alternative power source so we can have tapes and review
4 what is happening in the gambling establishment.

5 I think that is what I'm hearing for security, health
6 and safety reasons. If you -- you can do that with certain
7 generators. If you want to go 24/7, you need larger more
8 expensive generators.

9 To accommodate the industry, can we do something like
10 that? Would it accommodate the interest of the industry
11 and would that meet the needs of the Bureau?

12 RICHARD MUNDY: Staff's interpretation of these
13 sections, there is two of them, is the ability to safely
14 bring the place down safely and securely. And so it is not
15 necessarily -- we don't interpret this section as requiring
16 you to do business for days. This is the ability to bring
17 a facility down and without losing data in computers,
18 without losing lighting so people can leave, without losing
19 lighting and security sufficient enough to gather their
20 money and leave.

21 CHAIRMAN SHELTON: Do we need to say that so they
22 understand our interpretation and they're not put in
23 jeopardy? I -- that is what I'm trying to get to.

24 RICHARD MUNDY: We can wordsmith language that
25 probably makes that more apparent regarding bringing the

1 facility down to, you know, in a secure and safe manner.

2 CHAIRMAN SHELTON: Am I communicating with you guys?

3 COMMISSIONER SHIMAZU: Yeah. It addresses the
4 concerns hopefully, yes, that Mr. Titus had.

5 ALAN TITUS: I wanted to make sure we distinguish
6 between food operation and gambling operation because
7 during an emergency I think Artichoke Joe's we try to
8 provide food to the neighborhood that --

9 CHAIRMAN SHELTON: Yeah. I think that is what we're
10 addressing, gambling operation. All of us want to eat.

11 MARTY HORAN: I think the two sections that are
12 covering -- one of them is covering IV and V and one just
13 covers V. I think they're trying to say the same thing.
14 The one that covers IV and V is too vague or too broad in
15 how it is worded. It refers to "to provide for the
16 continued operation of those systems that are necessary for
17 the safety and security of patrons, patron's property,
18 employees and the licensee's assets and property."

19 The difference in the other section having to do with
20 just V says that "to provide for the continued full
21 operation of all lighting systems, all information systems
22 and all surveillance and recording systems during power
23 outages." It is much more clear what is expected if you're
24 going to continue to operate.

25 The Tier IV and V scenario is just too broad for

1 interpretation on what is necessary for the safety and
2 security of patrons. Certain elements of their system
3 could be down.

4 RICHARD MUNDY: At this point we could probably come
5 up with some language that would depict both of those
6 sections as the ability to safely wind down the business in
7 a power failure -- securely wind it down safely and perhaps
8 do that for both Tiers IV and V and be more specific about
9 that like the Tier V language says that information systems
10 be maintained long enough to shut them down --

11 CHAIRMAN SHELTON: I think just --

12 RICHARD MUNDY: -- lighting --

13 CHAIRMAN SHELTON: Mr. Horan is right. Say what you
14 said in V for IV, with the caveat they can shut down.
15 They're not required to stay open 24/7. It gets us where
16 we need to go.

17 RICHARD MUNDY: All right.

18 CHAIRMAN SHELTON: You were going to be neutral.

19 RICHARD MUNDY: Neutral just long enough for the
20 discussion.

21 CHAIRMAN SHELTON: Number 9? 10? Okay.

22 RICHARD MUNDY: Okay. The next section is a different
23 issue but still dealing with difference between Tier IV and
24 V.

25 Section 12395(d) on Page 10, line 21 requires Tier IV

1 cardrooms to have a security officer on duty during all
2 hours of operation and periodically patrol the outside of
3 the cardroom, including all attached and adjacent parking
4 areas.

5 Section 12395(e)(1) Page 10, line 26, requires Tier V
6 cardrooms to have two uniformed security officers on duty
7 during all hours of operation, one of which shall
8 continuously patrol the exterior of the cardroom, including
9 all attached and adjacent parking areas.

10 The Bureau's comment here relates to Tier IV cardrooms
11 should have the same security officer requirements as Tier
12 V; that is, two security officers on duty in all hours of
13 operation, one of which shall continuously patrol the
14 exterior of the cardroom including all attached and
15 adjacent parking areas.

16 This is the difference between Tiers IV and V pending
17 any discussion from the Bureau, Commission staff is
18 still neutral.

19 MARK KELEGIAN: I need a walking cane. Mark Kelegian
20 again.

21 CHAIRMAN SHELTON: I was hoping to have you people
22 sitting.

23 MARK KELEGIAN: I think the same issues are present
24 here when we speak to attached and adjacent parking areas.
25 The other side is we incorporate all of the same comments I

1 made for the last issue on that.

2 As far as having Tier IV have two security officers at
3 all times, I think there is one way in which Tier IV and
4 Tier V differ significantly is simply volume of people and
5 hours of play.

6 Tier V's are typically -- have 100 or more -- I'd even
7 go as far as to say 300 or more people 24 hours a day.

8 Tier IV operations there are many hours of the day,
9 unfortunately, even in today's economy where the staff may
10 outnumber the guests. You get into the wee hours of the
11 morning and, say, from 3:00 o'clock to noon, typically
12 they're not that busy.

13 To require two security guards at all times is
14 excessive for Tier IV.

15 I think we can -- as long as we have the requirement
16 which is already there of one security guard, I think we
17 can leave it to the sound discretion of the licensees
18 during what hours of the day or night they need additional
19 security officers. Thank you.

20 ALAN TITUS: Alan Titus for Artichoke Joe's.

21 This is another one where I don't see why Tier IV's
22 and Tier V's are being lumped together. There are
23 differences between them. Like Mr. Kelegian said, the
24 number of customers is a big difference between them.

25 I know that my club feels that one officer patrolling

1 continuously outside is very excessive and really a misuse
2 of manpower. Even if they were to have two on duty at all
3 times, that is not how they would allocate this.

4 You're beginning to step into the role of trying to
5 decide how to run a cardroom as opposed to setting down
6 some minimum standards with this kind of a regulation.

7 I think that there should be -- I think that the Tier
8 IV cardrooms, many of them have been around a long time and
9 they have some established practices. On this one, I don't
10 know what it is.

11 Again, this recommendation is being made by a
12 commentator which we weren't privy to until a minute ago.
13 I don't have all of the information to come back at you
14 with a response on this. I do think where the cardrooms
15 have been having practices in place and those practices
16 seem to be working fine, there is really no reason to
17 impose something more. The minimum would be what is going
18 on.

19 With Tier IV what I'm seeing is a ramp up to treat
20 them like Tier V, make them start spending a lot more money
21 on manpower, on equipment and I don't think that is needed
22 or appropriate.

23 COMMISSIONER SHIMAZU: Okay. While we were working
24 through these regs we were trying to distinguish between IV
25 and V. We had a lot of times where IV and V were lumped

1 together and there was an effort to separate them, if we're
2 going to have tiers and different requirements going up.
3 So that was really an effort on our part to try and
4 separate them, if we're going to have the tiers.

5 If I remember, I understand Mr. Horan's concern but
6 Tier IV also starts at 31 -- is it 31 tables? So being
7 mindful if there is someone with 31 versus -- I'm
8 already --

9 UNIDENTIFIED SPEAKER: 31 to 60 is Tier IV.

10 COMMISSIONER SHIMAZU: We struggled with how to divide
11 the tiers up to make it equitable and how to impose the
12 requirements. But after back and forth and talking with
13 everyone, we settled on those. That is why there is a
14 distinction between Tier IV and Tier V. We're trying to
15 separate them and make them a little more stricter
16 requirements for Tier V.

17 MARTY HORAN: We have heard arguments from the
18 industry on prior regulations that we have gone through
19 talking about the vulnerabilities of the gambling
20 establishments and if a crime is going to occur, you know,
21 the larger concern is what is happening out in the parking
22 lot. That is most likely where the victim is going to be
23 victimized. We've heard that from the industry. This is a
24 very cash intensive business that is existing here in
25 California that we're responsible for regulation of.

1 The industry has commented that the parking lots are
2 the areas where patrons are most vulnerable to attack or to
3 become victims of crimes against their persons or property.

4 So you know, in one instance on regulations we've
5 heard comments to that extent and now, you know, here we're
6 talking about a Tier IV, Tier V cardroom, there is a
7 significant amount of concern that the parking lots may be
8 an area of vulnerability that the Tier IV cardrooms should
9 have some sort of security surveillance going on on foot.

10 ALAN TITUS: Alan Titus, Artichoke Joe's.

11 As people leave, if they need security officers to
12 accompany them to their car, that can be provided. If they
13 leave and a security officer knows, he might walk out and
14 watch the person walk to their car. As was said earlier,
15 Tier IV cardrooms don't always have that many people in
16 them. And there are times when it really would be a waste
17 to have someone walking around a parking lot and there is
18 no patrons coming or going.

19 COMMISSIONER SHIMAZU: During, I guess, the dark hours
20 Tiers III to V need to have one uniformed security officer
21 periodically patrol. There is somebody out there during
22 certain hours in the parking lot?

23 MARTY HORAN: That's correct.

24 RICHARD MUNDY: Correct.

25 CHAIRMAN SHELTON: So what we're saying for Tier IV,

1 one security officer, is that continuous out there in the
2 parking lot?

3 RICHARD MUNDY: Periodically.

4 COMMISSIONER SHIMAZU: Yeah.

5 CHAIRMAN SHELTON: Do we require surveillance cameras
6 for Tier IV parking lot?

7 RICHARD MUNDY: Yes.

8 CHAIRMAN SHELTON: Are they monitored or are they not
9 monitored?

10 RICHARD MUNDY: Tier IV would not be live monitoring.

11 COMMISSIONER SHIMAZU: That is probably another issue.

12 MARTY HORAN: It is. It boils down to, again, where
13 the concern the Bureau has is the Tier IV and Tier V are
14 our largest cardrooms in the industry. Is it more
15 appropriate to include Tier IV with Tier III? The Bureau
16 argues against that. It is more appropriate to concern
17 Tier IV and Tier V together with the security protocols
18 that are in place for those size gambling establishments.

19 For instance, the way it is currently written with
20 just Tier IV having to do periodic patrol outside of the
21 cardroom, that is the same security requirement you're
22 having Tier III do.

23 COMMISSIONER SHIMAZU: They have to, in addition to
24 that, have to have someone on duty all of the time which I
25 think Tier III does not, right?

1 RICHARD MUNDY: Correct.

2 COMMISSIONER SHIMAZU: Trying to separate, ramp up in
3 terms of what the --

4 RICHARD MUNDY: Tier III would be just during
5 nighttime hours.

6 COMMISSIONER VUKSICH: May I ask how many Tier IV
7 clubs do we have right now?

8 UNIDENTIFIED SPEAKER: Eight.

9 MARTY HORAN: We have eight Tier IV cardrooms in the
10 state and five Tier V.

11 UNIDENTIFIED SPEAKER: Every single one has two
12 currently.

13 MARTY HORAN: All of them have two currently?

14 UNIDENTIFIED SPEAKER: The other one do have two at
15 all times.

16 MARTY HORAN: All of them but one as far as we're
17 aware have two security guards on shift at all times
18 currently.

19 So this regulation is not imposing that much more
20 responsibility on what they're already doing.

21 So, again, for Tier IV and V looking at the largest 13
22 cardrooms in an industry of 91 here in California.

23 ALAN TITUS: Alan Titus again. Even if they have two
24 guards, they aren't necessarily allocated, one, to be just
25 outside. That is the real objection here is saying the one

1 has to be outside. Because then if you're counting on two
2 to be inside, even just to say collect the drop boxes when
3 that comes about, then you have to have three guards
4 around. You can't bring the one in from outside. You have
5 to have the one guy sitting out there all of the time.

6 MARTY HORAN: I think the Bureau would be willing to
7 compromise if we have to have a separation between Tier IV
8 and V that Tier IV is required to have two security guards
9 but they, one, must periodically patrol the outside versus
10 the Tier V which must have two with one designated
11 permanent to the outside, if that is more reasonable to the
12 industry.

13 ALAN TITUS: Periodically --

14 MARTY HORAN: Tier IV must still have two full-time
15 security guards but one of them must periodically go
16 outside and patrol the parking lot.

17 ALAN TITUS: It is your impression that all the Tier
18 IV already have two guards at all times? I don't know if
19 this is true or not. I think that probably is okay. If it
20 is not --

21 CHAIRMAN SHELTON: It gets us out of the business of
22 us telling you what to do with your employees. Now we're
23 just telling you how many you have to have, not how to use
24 them.

25 ALAN TITUS: I think it would probably work.

1 CHAIRMAN SHELTON: It is a good compromise.

2 MARK KELEGIAN: Mark Kelegian. Just as a point of
3 clarification, you would be saying Tier IV would have two
4 security guards at all times without further describing
5 what their job duties should be at any time? By saying
6 "further," they're already described in Tiers I through III
7 in some respects about periodically patrolling the parking
8 areas?

9 MARTY HORAN: Correct. The only change would be that
10 Tier IV cardrooms shall have two security officers on duty
11 during all hours of operation who must periodically patrol
12 the outside of the cardroom.

13 MARK KELEGIAN: Only other comment to that would be:
14 Are we accepting there are situations where there are lunch
15 breaks and --

16 CHAIRMAN SHELTON: No lunch.

17 MARK KELEGIAN: Well, I mean, you know two could mean
18 three could mean four in order to have two posted at all
19 times.

20 If we say two assigned security guards on duty -- just
21 want to make certain we are providing for that opportunity
22 so that we would --

23 CHAIRMAN SHELTON: I think that is what we're saying.
24 Absolutely.

25 COMMISSIONER SHIMAZU: Says "on duty." I'm assuming

1 lunch is included in there.

2 Only change is in (d), change to "two," right?

3 RICHARD MUNDY: Correct. According to this compromise
4 it sounds like we would change the letter "a" to "two," and
5 I don't know at this point, were we deciding on one of
6 which shall periodically patrol or --

7 CHAIRMAN SHELTON: Just "periodically."

8 COMMISSIONER SHIMAZU: We can leave the previous
9 paragraph that provides for Tiers III to V to
10 periodically patrol the exterior. So leave that as is
11 and just change --

12 RICHARD MUNDY: My understanding is Tier V would stay
13 the same.

14 COMMISSIONER SHIMAZU: Are we taking the "lease" and
15 "rented" language out of the (e)(2) or (e)(1)?

16 RICHARD MUNDY: Yes. We already did that before.

17 COMMISSIONER SHIMAZU: Just making sure.

18 RICHARD MUNDY: Section 12396(a)(1), Page 11, line 13
19 requires surveillance systems at all cardrooms to monitor
20 and record gambling activities, the payment of player drop
21 fees, collection of drop boxes, drop count process, cage
22 and cashier activities and the interior of the cardroom
23 entrances and exists.

24 The Bureau commented the surveillance system shall
25 also monitor and record any areas used for the storage of

1 or control of gambling equipment. This will help to ensure
2 these items are not tampered with or compromised.

3 Staff recommends this comment be accepted and
4 amendments made as requested by the Bureau.

5 JOY HARN: I can still say good morning. It is still
6 morning.

7 Joy Harn on behalf of the Bicycle Casino. With regard
8 to the use of the word "gambling equipment." If we're
9 talking about chips and cards, I wholeheartedly agree.
10 Chips and cards absolutely should be stored under
11 surveillance so we know what is going on.

12 If we're talking about a group of properties, I would
13 more broadly define as furniture, a broken chair we put out
14 in the shed so we can fix it, a table that we've taken off
15 the legs so we can repair felt. We will store tables in a
16 shed. If we're talking tables and chairs, I think it is
17 burdensome. I don't know what you can do to a table that
18 would be a problem.

19 If we can narrow down "gambling equipment" to
20 excluding furniture, perhaps, I'm good. But to include
21 chairs and tables and those things that might be tampered
22 with and therefore cause a problem, I think it is a bit
23 broad. Thank you.

24 MARTY HORAN: Trying to find it. I think for some
25 reason there was already a definition of "gambling

1 equipment." That is what we're referring to. It would
2 include card shufflers, cards, tiles.

3 CHAIRMAN SHELTON: Slot machines.

4 MARTY HORAN: Yeah.

5 CHAIRMAN SHELTON: That is the interpretation I have,
6 not talking about furniture.

7 MARTY HORAN: Our intention is not for tables and
8 chairs. It is actually the gambling associated equipment
9 for the game on the table.

10 CHAIRMAN SHELTON: That work?

11 JOY HARN: Great. Thank you.

12 CHAIRMAN SHELTON: Thank you. Next?

13 RICHARD MUNDY: Section 12396(a)(3) Page 11, line 29
14 requires all cardrooms to locate surveillance recordings
15 and monitoring equipment in a secure room so that access
16 may be reasonably controlled.

17 The Bureau recommends that the phrase "so that access
18 may be reasonably controlled" not be defined and is vague
19 and the regulation should be "so that access shall be
20 controlled."

21 Staff recommends this comment be accepted and section
22 12396(a)(3) amended to read "so that access" -- we're of
23 the opinion is still just as absolute as "shall be" but
24 reads a lot better "is controlled."

25 CHAIRMAN SHELTON: Comments? Next?

1 RICHARD MUNDY: Section 12396(a)(4) on Page 12, line 2
2 requires all cardrooms functionally check their
3 surveillance systems regularly.

4 The Bureau recommends the term "regularly" is not
5 defined and is vague. Surveillance systems should be
6 checked daily to ensure appropriate operation.

7 During a recent investigation, the Bureau discovered
8 the licensee's surveillance system had been disengaged.
9 Had the system been checked on a daily basis, the licensee
10 would have obtained a critical surveillance recording of
11 the crimes being investigated.

12 Staff recommends this comment be accepted and the
13 changes made as requested by the Bureau.

14 CHAIRMAN SHELTON: Comments? Next.

15 RICHARD MUNDY: Section 12396(a)(7), on Page 12, line
16 19 requires all cardrooms to retain surveillance recordings
17 for a minimum of three complete days of operation.

18 Bureau recommends that three days of surveillance
19 recordings is not sufficient for investigative purposes.
20 Surveillance recordings should be retained for at least 14
21 days, as is required in Florida, Illinois and Mississippi.
22 The Bureau would consider phasing in compliance with those
23 cardrooms that currently utilize analog recording.

24 Staff recommends this comment be accepted and amended
25 as requested by the Bureau.

1 JOY HARN: Joy Harn for the Bicycle Casino.

2 I know this has been a recent point of inquiry. And
3 while I agree that three days is a probably not sufficient,
4 I think 14 days is a bit excessive.

5 In conversations I have had with other -- dare I bring
6 the tiers into it again -- the Tier V clubs, seven days is
7 a very standard length of time to retain videotapes. Most
8 of us are still on the if-it-ain't-broke-don't-fix-it
9 analog system.

10 For the Bicycle Casino to go to a 14-day retention
11 period would require probably more than doubling the size
12 of our current surveillance room. I don't know where we'd
13 put it -- we don't have the room -- or moving to a digital.

14 I know the Bureau has suggested a period of phasing
15 in. My concern would be that period of phasing in to allow
16 us the time to accrue the funds and get to digital would
17 have to be a lot longer than what we've seen in some the
18 other regs in six months. It probably would have to be 18
19 months to two years. It is going to be a real long
20 process. And it would have to be done all the while while
21 continuing the surveillance of ongoing gaming.

22 In the 25 years the Bike has been in business, a seven
23 day retention period has proven sufficient for our needs
24 for what we understand to be local law enforcement needs.
25 I will tell you there are some areas where 14 days is

1 retained, usually the cage.

2 So I think a seven day -- if you want 14 days at the
3 cage because it is such a limited number of windows, number
4 of areas, maybe that is a median we can get to. But I do
5 agree three is not enough and I think seven is more than
6 sufficient to retain the tapes and allow law enforcement
7 time to pick up the phone and call us and say: Hey, hold
8 on to it, which obviously we then do indefinitely or until
9 they tell us they're finished.

10 RICHARD MUNDY: Staff would like to remind the
11 Commission that we have agreed to an 18-month
12 implementation schedule for this entire --

13 CHAIRMAN SHELTON: For everything? I guess you would
14 not like my idea then because I was thinking 90 to 180 days
15 retention period.

16 Staff will tell you that I have discussed that with
17 them. And it just goes back to things coming up a month to
18 two months down the road when you have a gang going around
19 hitting different businesses or cardrooms, whatever the
20 business may be; and you're trying to do an investigation
21 and you need to retain and it's those dates after you've
22 talked to somebody that has given you great information.

23 I can see I'd probably be hung right here for that
24 kind of recommendation. That is where I was coming from.
25 14 days should sound pretty good.

1 COMMISSIONER SHIMAZU: People we have talked to when
2 I've gone out and asked how long you keep stuff with
3 digital, 30 is nothing. When you're keeping tapes --

4 CHAIRMAN SHELTON: Tapes is -- that is cumbersome.

5 COMMISSIONER SHIMAZU: Six hours, four per camera
6 times -- that is a lot of tapes.

7 CHAIRMAN SHELTON: Does the business -- this is
8 probably a dumb question.

9 Does the business ever use that, go back and look at
10 them for training purposes or maybe a suspicion of an
11 employee you want to look at to see if they're playing to
12 somebody else at the table or -- educate me.

13 KERMIT SCHAYLTZ: Good morning. Kermit Schayltz,
14 Lucky Derby Casino on behalf of small card clubs in
15 California.

16 My concern is that -- this is for all cardrooms. We
17 at one time had tapes. And because of the number of tapes
18 that we were holding that had been recorded it became
19 burdensome for us. We went digital. I'm not sure how many
20 days our recording stays on our hard drives but I'm
21 wondering if the digital equipment has that capacity on
22 your hard drives to hold 14 days. I'm not sure it does.

23 It is -- and, again, to have these smaller clubs go
24 digital, that is going to incur large costs for them. I
25 know ours is six figures and we're nine tables. Just --

1 and, again, in the small clubs, I know the customers
2 monitor the goings on in the clubs as well as our security
3 and our surveillance. Any time there is an issue, I do
4 know that whatever we have had as backup for whatever the
5 amount of time that it is recorded for has always been
6 sufficient. I can look into that and get that
7 information.

8 CHAIRMAN SHELTON: I was just curious. I'm standing
9 here alone --

10 KERMIT SCHAYLTZ: 100 and something days, I don't
11 think we can stand. Thank you.

12 MARTY HORAN: Bureau would -- I'm sorry. Go ahead.

13 ALAN TITUS: Artichoke Joe's, Alan Titus. And we,
14 too, would object to a 14-day period as being too long.

15 Artichoke Joe's did recently go digital. The problem
16 there is memory. Video actually uses a lot of memory.
17 Even though you're digital and the quality is supposed to
18 be a little bit better, the problem is storing it all.

19 And I am told that it would take prodigious amounts of
20 memory to record 14 days.

21 Just to make a couple of comments on it, California is
22 different from Illinois and Mississippi. Those are
23 Nevada-style states. Florida -- California and Florida are
24 also different. Florida does have some cardrooms but also
25 does have some Nevada-style gaming.

1 I don't think it is appropriate to be comparing
2 California with those other states.

3 At Artichoke Joe's we have had call to look back at
4 tapes and three days has always proved sufficient. People
5 come in. If they're going to want to see a tape, it almost
6 always is instantaneous. Three days has certainly been
7 proven sufficient.

8 If this was to expand to seven days, I'm sure we can
9 live with that. That would provide lots of margin, I
10 think.

11 MARK KELEGIAN: Mark Kelegian. I want to reiterate
12 Joy Harn's comments.

13 Seven days has proven to be a sufficient amount of
14 time to review any incident or more importantly perhaps a
15 sufficient amount of time where someone comes in, whether a
16 patron complaining about an incident or local law
17 enforcement, that we still have the information on tape.

18 Our jurisdiction is policed. Our casino operations
19 are policed by the Los Angeles Sheriff's Department that
20 also police the Hawaiian Gardens, two Tier V's as well.
21 They have not had any issues with seven day retention.

22 CHAIRMAN SHELTON: I thought they shut down that unit?

23 MARK KELEGIAN: Major crimes? No.

24 CHAIRMAN SHELTON: Gambling units.

25 MARK KELEGIAN: No. It is still there. Then they're

1 going rogue. I get calls from them all of the time.

2 In any event, I think perhaps another distinction
3 might need to be made during the 18 month or whatever
4 implementation period is in place to distinguish between
5 the old video recording systems that the majority of us in
6 the larger clubs are on and digital.

7 It is just the physical requirements, the cost of
8 purchasing tapes, which is becoming increasingly difficult
9 to find tapes out there of any type of quality.

10 CHAIRMAN SHELTON: Everybody is really going to be
11 forced into digital anyway.

12 MARK KELEGIAN: At some point in time we will be. In
13 the interim until we get there, seven days is where we
14 ought to be on it.

15 MARTY HORAN: Bureau would like to make further
16 comment.

17 As you mentioned, digital is the wave of the future.
18 That is where everything is going. The analog recordings
19 are going to be phased out over the next couple of years
20 anyway.

21 For these cardrooms to maintain a system like that is
22 more costly. Many of the cardrooms in California have
23 already started the process of transitioning over to
24 digital or already digital.

25 The matter of keeping a recording over 14 days is

1 already standard in other states throughout the US that
2 have gaming. San Jose, for instance, the cardrooms in
3 their city limits are required per their Minimal Internal
4 Control Standards to retain it for 15 days, their
5 recordings.

6 We have had numerous, countless investigations where
7 evidence has been lost that is much shorter than the 14-day
8 period. It has been deleted or taped over. And we needed
9 that information to further show further conspiracy of
10 crimes occurring. Oftentimes, those types of
11 investigations involve individuals that are passing
12 counterfeit checks or cheating scams and so forth.

13 Once we put a bulletin out, we get phone calls from
14 the industry saying: We've had the same guys in here.
15 We've identified them through our footage.

16 We try to get the tapes. They've already destroyed
17 them. They were passing counterfeit checks there.

18 It is a concern of ours. It is the wave of the
19 future. We think 14 days is reasonable. Obviously, we can
20 be asking for more but 14 is reasonable. Other states are
21 doing it. They do have the capability of doing that.

22 COMMISSIONER VUKSICH: That was my question. You beat
23 me to it.

24 CHAIRMAN SHELTON: Commissioners? Comments? What do
25 you want to do?

1 COMMISSIONER SHIMAZU: I'm looking with leaving it at
2 14. I was thinking maybe trying to do the math in terms of
3 keeping the videotapes if we did 30. It gets to be a
4 pretty big number. 14 is better than 180.

5 I think when the Bureau is -- I'm not law enforcement.
6 When you're doing an investigation, it seems like a pretty
7 quick turn around to get the tapes, unless you know right
8 there it happened. If you're conducting an investigation
9 and it's not like a robbery, you know, when it happens you
10 can go in and get it. If they're investigating it, they
11 need time to go back and get the footage so --

12 CHAIRMAN SHELTON: I think so, too. I -- they have 18
13 months to implement it. If we come back and our IT people
14 or their experts come back and tell us it is too costly to
15 upgrade, then we can revisit.

16 MARTY HORAN: It is important to note the Bureau has
17 had contact with industry representatives that have had
18 concern about this transition or phase in. And the Bureau
19 is agreeable, if the Commission is, a longer period of time
20 to phase this in. We --

21 CHAIRMAN SHELTON: We're giving 18 months.

22 MARTY HORAN: We've heard estimates of two to three
23 years to phase it in. This comes mainly at a concern from
24 the largest cardrooms in the state with so many cameras to
25 convert over. That is something we can probably do further

1 research on.

2 CHAIRMAN SHELTON: Pretty fair.

3 COMMISSIONER VUKSICH: Maybe ask Joy what the
4 economics of upgrading, even if you've got a digital
5 system, of added service fees and do you have to change the
6 cameras, all of the wiring and how extensive is this?

7 JOY HARN: I haven't done the math on it. I haven't
8 been privy to it. With a smaller cardroom with 10 or 15
9 cameras, probably switch it out -- I say minimal impact.
10 I'm sure it is substantial to them. But with well over 500
11 cameras, in the current economics, we don't even put that
12 out for bid right now.

13 I think a two to three year phase in implementation
14 period would be great. We appreciate that, you working
15 with us on that. I think it is something we can do. We
16 can do it over a period of time. Don't have to do it all
17 at once. We can do it over a period of time. At the end
18 of the implementation period, we should be able to be up to
19 par.

20 Yeah, the numbers -- and as the equipment changes, the
21 numbers are changing. So --

22 MARTY HORAN: To further comment on that, if we do a
23 phase in, we may want to look at the tiers. It may be more
24 reasonable for a Tier I, Tier II to have a six-month phase
25 in or whatever. Once you get up to the Tier V, those are

1 the ones that are having the larger concern about the phase
2 in and the cost and how long it is going to take and
3 everything else.

4 I wouldn't necessarily want the Tier I or II or even a
5 III to take two to three years to phase in digital
6 recording and 14 days of tapes retained.

7 MARK KELEGIAN: Mark Kelegian. I was going to comment
8 on a graduated scale based on the tiers would be
9 appropriate. And just offer as a bit of background
10 information at Crystal we have had our estimates -- we've
11 obtained estimates in the last couple of years. We're
12 approximately 250 cameras, about half of the size of what
13 the Bicycle Casino does. Our bids have been half a million
14 dollars or more. That is just by way of background.

15 CHAIRMAN SHELTON: I know the tribal casinos put down
16 one to two million dollars to have the --

17 KERMIT SCHAYLTZ: I want to say the tier approach
18 would be good for the small clubs also. This is going to
19 be a six figure number for the small clubs for certain. We
20 had to move some of our surveillance equipment. We
21 enlarged our surveillance room. This in itself was
22 \$50,000.

23 It is -- again, my concern is the amount of time that
24 the digital hard drive will allow us to record. If we have
25 to upgrade to something else, that is another cost. I'm

1 concerned with the way the economy is, a lot of us smaller
2 clubs are really struggling. Something to keep in mind.
3 Appreciate that.

4 CHAIRMAN SHELTON: I think the whole thing can be
5 phased in. We're not here to put people out of business.
6 At the cost of the -- you know, sure. The big cardrooms
7 are going to cost more money but if I've got one or two
8 tables, it hits me in the pocket book just as hard as 160
9 tables, you know.

10 Let's do something that is pretty reasonable here and
11 let the tiers -- let's give it up to the -- everybody says
12 we can phase it in. If it was me, I'd say 24 to 36 months
13 for everybody. Treat everybody the same. I don't know.
14 Commissioners?

15 COMMISSIONER SHIMAZU: I'm trying to think of tiers.

16 Do we want to separate those who have analog still and
17 those who have digital? It's going to take them more time.

18 CHAIRMAN SHELTON: I don't think so. It has to be
19 kept simple and give it an appropriate amount of time for
20 people.

21 Businesses do a better job than the state with their
22 budgets but they're on a yearly budget. They say: This is
23 where we're going to go. This is going to be our capital
24 outlay for this period of time. We need to plan ahead.

25 So say in six months it may not give somebody the time

1 to have that money available and go out and move into it.

2 That is why I'm saying I'm open to 24 to 36 months for
3 all tiers to graduate into it.

4 COMMISSIONER SHIMAZU: Makes it easy and uniform if
5 everybody had to be on the same schedule.

6 RICHARD MUNDY: Mr. Chairman, staff would like to
7 remind 12396(a)(7) does already apply to all tiers with the
8 respect to this provision of retaining tapes or recordings.
9 There is no distinction currently.

10 CHAIRMAN SHELTON: Okay. So we can go afield from the
11 18 months from everything else in this one particular item?

12 RICHARD MUNDY: Certainly.

13 CHAIRMAN SHELTON: Give longer, definite time to --

14 COMMISSIONER VUKSICH: This is the big ticket item.

15 CHAIRMAN SHELTON: All right with you, Commissioners?

16 MARTY HORAN: What the Bureau would like to see is
17 sticking with the 18 months but figuring out where the tier
18 break would be for the larger replacement systems. 18
19 months would be plenty of time for a Tier I or Tier II or
20 even III. We need to figure out where the tier break is
21 going to be. I don't know if it is --

22 CHAIRMAN SHELTON: I was walking away from the tier
23 break.

24 MARTY HORAN: I know. Just 24 to 36 months for a Tier
25 I cardroom that has two tables, they should be able, if

1 they haven't already done so from what we're seeing, have
2 the capability of the 14-day retention.

3 CHAIRMAN SHELTON: It is my belief if it's laid out
4 there people are not going to hesitate to comply as soon as
5 they can. If you're forced to do something, you're going
6 to drag your feet at the last minute because you have been
7 told you have to do it.

8 MARTY HORAN: Are we saying effective immediately upon
9 implementation of this regulation they will all be required
10 seven day retention but by the end of two or three years a
11 system upgrade and a 14-day retention? Is that what we're
12 talking about?

13 CHAIRMAN SHELTON: That's what we're trying to do.

14 COMMISSIONER SHIMAZU: Also thinking separate the
15 days. So right now it says three. So to seven?

16 CHAIRMAN SHELTON: Move it up to seven. At the end of
17 the three years it would be 14.

18 MARTY HORAN: Bureau would be okay with that.

19 RICHARD MUNDY: So the phase in schedule would read
20 something like right now the regulations would say seven
21 days effective in 18 months because the whole section is
22 effective in 18 months. And then 14 days effective in 36
23 months?

24 CHAIRMAN SHELTON: Yes, sir. Didn't get my 180. Move
25 on.

1 RICHARD MUNDY: Section 12396(a)(8), Page 12, line 25
2 allows the Bureau to take custody of original video
3 recordings or copies of the digital recordings pursuant to
4 Business & Professions Code subparagraph (D) paragraph one,
5 subdivision (a) of Section 19827.

6 David Fried representing CGA and endorsed by Crystal
7 Casino comments that the seizure of property requires a
8 warrant where other statutory schemes as per the
9 Constitution and case law, referenced below, under both the
10 scope of the Bureau's authority must be defined and the
11 discretion of the Bureau's officers must be limited.

12 Further, the B&P Section 19827 contains another
13 paragraph two that requires the Bureau to obtain an
14 inspection warrant pursuant to Code of Civil Procedures
15 Section 1822.60. As a result, the regulations should
16 incorporate both paragraphs, one and two, of Section 19827
17 (a).

18 Staff recommends this comment be referred to
19 Commission and Bureau legal staff for further research and
20 analysis. The difference between subsections one and two
21 of Business & Professions Code 19827 should be established
22 by some legal opinion. If this issue cannot be resolved,
23 staff recommends deleting this provision from Section 12396
24 (a)(8).

25 JASON POPE: For the next six minutes it is still

1 morning. So good morning, Commissioners. Jason Pope,
2 legal staff.

3 Initial observations (a)(1) and (a)(2) of 19827 are
4 currently distinguishable; (a)(1) applies to highly
5 regulated establishments and gambling premises, including
6 the actual facility as well as manufacturers and
7 distributors; (a)(2), however, would apply to a larger
8 swath of area where the Bureau might be able to access
9 information. For those areas, (a)(2) would envision a
10 warrant procedure. This is related to a warrant exception
11 under California law for -- and federal law for closely
12 regulated industries, such as gambling enterprises, as
13 these most definitely are.

14 The comments as given by David Fried and Mark Kelegian
15 in these sections here, legal has reviewed this and does
16 not necessarily disagree with the statements about a
17 warrant or other statutory scheme. However, the Gambling
18 Control Act has placed that statutory scheme.

19 The other qualifiers as far as time, scope and place
20 can all be placed in this section to alleviate those
21 concerns, including access during normal business hours, as
22 well as placing in a purpose for what the Bureau of
23 Gambling Control wants to access the records for. This is
24 all -- this is --

25 CHAIRMAN SHELTON: Bureau, did you have a comment on

1 that?

2 MARTY HORAN: Yes, the Bureau of Gambling Control
3 would like to have comments submitted on behalf of us from
4 the Indian Gaming Law section attorneys.

5 NEIL HOUSTON: Good morning, Mr. Chairman, and
6 Commissioners. Neil Houston, H-o-u-s-t-o-n, deputy
7 attorney general speaking on behalf of the Bureau of
8 Gambling Control.

9 We would concur with Mr. Pope's comments with respect
10 to the constitutionality of this statutory inspection
11 scheme that would be implemented under this proposed
12 regulation and feel it does meet the requirements that
13 appear in case law that relate to this type of inspection
14 within a closely regulated industry, which no one can
15 dispute the gambling industry is in California.

16 I don't have anything to add beyond that, beyond what
17 staff's recommendation is except that we do concur with it.
18 And I'd be happy to answer any questions you may have about
19 that, if you have any.

20 CHAIRMAN SHELTON: Mr. Titus, I think you had
21 something to say?

22 ALAN TITUS: Thank you Mr. Chairman. Alan Titus for
23 Artichoke Joe's.

24 We have previously objected to this and we continue to
25 object to this.

1 I have submitted a letter in this morning.
2 Unfortunately, I was not aware of the procedure you were
3 going to follow today. I was not aware if I got it in
4 early you would allow for comments and this kind of
5 treatment. I apologize for that but they are in.

6 It is our belief that the constitutional problem with
7 this is multiple. There are three problems here.

8 First is the constitutional rights of the customers to
9 privacy under the California Constitution. That has not
10 been addressed yet.

11 Second, there is a problem under the US Constitution,
12 First Amendment rights to association. That has not been
13 addressed.

14 The third issue that is raised by this is the
15 violation of the search and seizure rules. That was
16 addressed.

17 I believe what I heard from Mr. Pope is that you could
18 add in rules for time, manner, scope -- time, place and
19 scope and then this would be legal. That might be but
20 those -- I did not hear any suggestions for adding in that
21 language. Until that is added in, there is a problem here
22 under current case law. And I think that should be looked
23 at further.

24 Getting back to our main concerns which are the
25 privacy rights of our customers, I think that -- that I'm

1 going to leave the law as stated in my letter and not
2 burden you with that today.

3 But I do want to lay out a little bit of a factual
4 situation with cardrooms. You have to understand that
5 there -- that society has a lot of disfavor of gambling.
6 This was said very explicitly in the Gambling Control Act
7 many years. It was changed a couple years ago but it
8 reflects more on the lobbying of the legislature than maybe
9 societal opinions. There still is a great deal of disfavor
10 of gambling. And so cardrooms often -- they are
11 sanctuaries for the players against that attitude.

12 At Artichoke Joe's, if you just look at the physical
13 layout, Artichoke Joe's is in a less prominent location,
14 not standing out there in the most frequented area. It is
15 a little bit off to the side. The building is a big
16 building. It is unmarked at street level. You walk by and
17 wouldn't know what is in there. There are no windows. You
18 can't look in. The doors are actually pretty small for a
19 facility like that. You'd be surprised as you go in and
20 you look at the doors. You'd think, well, why don't they
21 have a big entrance? Well, they are trying to remain low
22 key. All of this creates a feel of privacy inside.

23 So inside the customers -- we have done a poll a few
24 years ago and found that 75 percent of the customers play a
25 few times a week. 21 percent more play at least a few

1 times a month. So all but four percent are there
2 regularly. These players know one another. They play
3 against one another regularly. There is very much of a
4 clubish environment there. The cardroom rules are no
5 photographs.

6 Now, imagine walking into Macy's and telling them you
7 couldn't take photographs in there. It wouldn't happen.
8 But here in an attempt to create a private, welcoming
9 environment for people, no photographs are allowed.

10 The players are not required to identify themselves to
11 the house. You come in and play. There is privacy in that
12 way.

13 Then the players also respect us and create this
14 attitude and this atmosphere. They, for the most part,
15 will mind their own business and hope that the other
16 players around are minding theirs.

17 All of this creates an expectation that when you're in
18 this facility you have got a fairly private situation.

19 There is one case that I do want to mention. I
20 discuss it a lot in my letter. It has to do with the
21 Pacific Union Club in San Francisco. There was an attempt
22 by the tax authorities to get a list of their club members
23 and the Pacific Union Club resisted, and said: No, we
24 can't give you those names. People come here and they
25 expect their privacy.

1 The Court reviewed that. Many of the things that I
2 just said are repeated in that case. There is an
3 expectation of privacy. You can go and get a warrant and
4 get names but you just can't request the names like that.

5 Similarly here, the idea that the Bureau can go in and
6 look at the tapes and maybe identify customers, that is
7 invasion of privacy. And we believe that that is -- it is
8 unconstitutional.

9 COMMISSIONER VUKSICH: Mr. Titus, I'm a little
10 confused. Is Artichoke Joe's a private club like the PU
11 club is?

12 ALAN TITUS: No.

13 COMMISSIONER VUKSICH: Pacific Union is --

14 ALAN TITUS: No, it is not private. I don't think
15 that is a very important distinction.

16 COMMISSIONER VUKSICH: It is. Because when you have
17 paid a membership and I know it is a men-only club but
18 Artichoke Joe's is a publicly accessible entertainment
19 venue. And I think most people in this day and age presume
20 when you walk into any casino or any public entertainment
21 venue -- when I go to Metreon Center in San Francisco, I
22 know I'm under surveillance. Most people do. And actually
23 I'm glad of it. In case something happens, they can go
24 back and look at the tapes.

25 And so any time you walk out of your own home I think

1 there is a reasonable expectation now on the part of the
2 public that you're being surveilled in some way, shape or
3 form.

4 So I'm not buying your privacy --

5 ALAN TITUS: I think you have to make a distinction
6 between being under surveillance at a commercial
7 establishment versus having the government be able to seize
8 that surveillance without warrant. And especially when it
9 is activity like this that has this history of being
10 disfavored. There is going to be a concern that the
11 purpose of this is not just to address crime.

12 COMMISSIONER VUKSICH: It is no longer disfavored. It
13 is an entertainment venue.

14 ALAN TITUS: It is disfavored. I think the polls will
15 bear me out. There is a lot of disfavor of gambling still.

16 COMMISSIONER VUKSICH: Why do so many people do it?
17 It is a big business.

18 ALAN TITUS: You know, it could be that one day you
19 will be right and there will be no privacy expectations of
20 the customers. But right now I think those expectations
21 are very significant and I think that our customers would
22 tell you that they feel the same as the members of the
23 Pacific Union Club and are entitled to the same treatment.
24 Cardrooms have been known as card clubs for years.

25 COMMISSIONER VUKSICH: But there is no club entry fee

1 for club membership. It is a publicly -- I can walk in the
2 door right now and sit at a table and play.

3 ALAN TITUS: The question is the expectation of the
4 person. The courts look to expectations. Is there an
5 expectation of privacy?

6 COMMISSIONER SHIMAZU: I'm not familiar with the case
7 but here we have a statute that specifically authorizes the
8 Bureau to take the action where they don't need a warrant.

9 You have a problem with the -- with the statute itself
10 because --

11 ALAN TITUS: Subdivision (a) allows warrantless
12 seizure.

13 We talked about (a)(1) and (a)(2). Subdivision (b)
14 says that subdivision (a) shall not be construed to violate
15 the Constitution.

16 So it only allows it to the extent the Constitution
17 does. It puts it right back in your lap: What is
18 constitutionally allowed?

19 CHAIRMAN SHELTON: Well, let's move on.

20 ALAN TITUS: Yeah, I -- thank you.

21 CHAIRMAN SHELTON: Getting tired of this.

22 COMMISSIONER VUKSICH: Agree to disagree.

23 NEIL HOUSTON: Can I respond?

24 CHAIRMAN SHELTON: Please.

25 NEIL HOUSTON: It is well established that the public

1 has no expectation of the privacy on the premises of
2 businesses that are open to the public.

3 In fact, as it has been put in a California case, this
4 is a quote: What is observable by the public is observable
5 without warrant by the government inspector as well.

6 That is from case People v. Doty here in California.
7 It is cited in the Potter case, which is referred to in
8 Mr. Fried's letter.

9 The Potter case is probably the most helpful case on
10 this particular subject because it has to do with
11 warrantless searches conducted under a Vehicle Code statute
12 here in California.

13 The issues that are involved here are really, I think,
14 two primary ones with respect to the patrons. The first is
15 Mr. Titus presumes that the Bureau will misuse the
16 information that it acquires off of these surveillance
17 tapes for the purpose of identifying customers generally in
18 cardrooms. And the fact is that the purposes to which the
19 Bureau may put this information are not limited by the
20 Bureau's duties as set forth in Section 19826. Randomly
21 identifying cardroom patrons is certainly not one of those
22 things the Bureau is authorized to do.

23 The other issue is seizure of the tapes. And our
24 position is that with this regulation in place, these tapes
25 become a record of the activities of the gambling operation

1 and as such are directly subject to warrantless seizure
2 under Section 19827.

3 These tapes are not random property belonging to the
4 cardroom and, therefore, subject to general principles of
5 search and seizure. These are specifically required
6 records under the requirements of licensure in the state.
7 And, therefore, clearly fall within the statutory
8 authorization for the warrantless seizure provided that the
9 statutory scheme meets the requirements of defining in
10 scope sufficiently as we have already discussed.

11 The fact of the matter is that the patrons of these
12 cardrooms, as much as Artichoke Joe's might like to sell as
13 a sort of intangible product, the sense of confidentiality
14 and clubbiness is not a legally cognizable right of privacy
15 in California.

16 Moreover, I point out that the proposed regulation has
17 a section, Section 9, actually requiring conspicuous public
18 posting of the notice that surveillance is taking place;
19 that is, public areas, entrances and exits in the
20 establishment subject to video recording. So that no one
21 who comes into a cardroom, if this regulation is passed,
22 has an expectation of privacy in these places from this
23 particular type of surveillance.

24 CHAIRMAN SHELTON: Then you're satisfied with the
25 wording of the regulation at this time?

1 NEIL HOUSTON: I think an argument can be made it
2 could be somewhat more focused with respect to the scope of
3 the seizures -- of the inspection and seizure.

4 Now, one thing is the language in the proposed section
5 to some extent tracks 19827. It provides for the leaving
6 of a copy, if requested, by the licensee and so forth. But
7 what the section could do is be specific with respect to
8 when these inspections can occur. For instance, during
9 normal business hours -- that is one thing not stated
10 here -- unless there is a valid law enforcement purpose for
11 extending it beyond normal business hours. I'd let
12 Mr. Horan comment upon that, if he wishes to.

13 I think otherwise the scope of the inspections is
14 quite specific. It is for the tapes, the location of the
15 search and the place where the tapes are kept. The people
16 who are going to do this search are agents of the Bureau of
17 Gambling Control or other law enforcement officers. In
18 that sense, it meets the requirements of specifying time,
19 place and manner.

20 The other requirements for the regulatory scheme are
21 that it serves a substantial government interest, which I
22 think is indisputable in this case and that warrantless
23 inspections are necessary to further the regulatory scheme.

24 I think a strong case can be made for the fact that in
25 some instances, at least the kind of conduct that is sought

1 to be reviewed by the tapes, may involve employees or
2 conceivably the owners of cardrooms from time to time and
3 that a warrantless search makes it possible to get evidence
4 of that particular activity that would not be possible to
5 get if warrants or any kind of advanced notice needed to be
6 given of the seizure.

7 The last thing I'd like to point out is the Gambling
8 Control Act provides certain protections with respect to
9 information that the Bureau requires. In 19828 subsections
10 (b) and (c), for instance, it provides that any evidence
11 that is obtained by the Bureau pursuant to its
12 investigatory powers to which some privilege exists under
13 the California Evidence Code, those privileges are retained
14 and maintained and the Commission cannot disclose the
15 information without the written consent of the holder of
16 those privileges. Whatever information is obtained from
17 the security tapes falls within the protection of that
18 section as well with respect to the holders of whatever
19 privileges there might be to the information contained on
20 them.

21 CHAIRMAN SHELTON: Thank you. Mr. Titus?

22 ALAN TITUS: I was -- excuse me. I want to respond to
23 the two comments made.

24 As far as the Doty case and the rule that was
25 observable by the public, there is no expectation of

1 privacy.

2 Here, the tapes are not observable by the public.
3 They're not allowed to look at those at their pleasure.

4 Second, I'm not presuming that the Bureau is going to
5 misuse their authority. But rules are for a different
6 purpose. You're passing a lot of rules today. You're
7 passing MICS on the cardrooms. You don't do that because
8 you presume we're going to violate the law and do all sorts
9 of awful things. We haven't in the past. But you pass the
10 rules to set up a framework. And, similarly, there are
11 limits on government in order to provide a framework, not
12 because there is a presumption government is going to abuse
13 their power, but to make sure they don't. So rules here
14 are necessary for that reason, not because I am presuming a
15 problem but just to prevent one.

16 CHAIRMAN SHELTON: Thank you. Commissioners, I think
17 I'm prepared to give direction to Mr. Pope to work with
18 legal, administrate and come back with some wording.

19 I want to go on record. I support the Bureau's right
20 to go and retrieve this information. This is gambling and
21 I understand that and it is a different business and I'm
22 not trying to say anything derogatory about gaming but I
23 think they have the right to do this and the necessity to
24 do this.

25 Your comments?

1 COMMISSIONER SHIMAZU: We're going to -- Mr. Houston
2 went through the time, place and manner. All of the law
3 school stuff came back. Looking at the normal business
4 hours and things like that, that could narrow it and keep
5 it a little cleaner but --

6 CHAIRMAN SHELTON: Mr. Titus, I couldn't agree more
7 about government intrusion. I respect what you had to say.
8 And it is, to me, just a different set of circumstances
9 going on.

10 COMMISSIONER VUKSICH: I agree that the Bureau has the
11 right to go in and have access to these tapes. I also want
12 to be clear that I cherish privacy above all else. But we
13 already have given up tons of it. And I, you know, believe
14 as just a normal person out on the street Google has taken
15 every bit of privacy away from everybody that has ever used
16 it. We're already in that day and age and I think that our
17 law enforcement folks need to be able to navigate that
18 world as best as possible and everyone adjusting to the new
19 tools. But definitely privacy is a cherished right.

20 ALAN TITUS: Mr. Chairman, can I make one more little
21 comment?

22 CHAIRMAN SHELTON: Certainly.

23 ALAN TITUS: The only thing that bothers me about the
24 comments I've heard is you haven't seen my letter. And I
25 do understand that your attempt here to have a different

1 procedure was to get letters early to have staff summarize
2 them for you, make comments. The two attorneys here have
3 not seen my arguments yet.

4 CHAIRMAN SHELTON: I'm assuming they will. When
5 they're redoing it, the assumption is they will review
6 that.

7 ALAN TITUS: It might be they do have comments for you
8 later on.

9 CHAIRMAN SHELTON: Commissioners, we have more time to
10 go. I'm willing to stay. You want to break for lunch?
11 Some of you -- do you have planes to catch? You need to
12 get out?

13 JOY HARN: I want to go home like nobody else. A
14 couple of us after -- a couple of us have planes to catch.
15 If we can maybe hang in a little longer and finish this up?

16 CHAIRMAN SHELTON: That is my desire. If everybody is
17 willing to go along. All right. I will suggest we
18 continue.

19 MARTY HORAN: The Bureau has one quick comment
20 relative to the scope.

21 With the reference to business hours provided that
22 business hours, normal business hours is being referred to
23 as the hours they're open for operation, not limiting us to
24 the 9:00 to 5:00 or 8:00 to 5:00 normal business hours.

25 CHAIRMAN SHELTON: You're not going to be left out.

1 We'll be inclusive in doing that, including Mr. Titus'
2 expressed concern. We want to get it right because it will
3 probably end up in court.

4 MARTY HORAN: Thank you.

5 CHAIRMAN SHELTON: You'll have to defend us over there
6 so. Next?

7 RICHARD MUNDY: Section 12396(b)(2) Page 13, line 17
8 requires Tiers II to V cardrooms to have dedicated table
9 cameras which record with reasonable clarity patrons,
10 dealers, wagers, cards and the outcome of the game. This
11 regulation also permits the use of overhead cameras.

12 The Bicycle Casino and endorsed by the Commerce Casino
13 comment that this requirement should not include
14 demonstrational, instructional or tournament tables when no
15 cash is being wagered, won or lost. We currently have a
16 sufficient number of fixed cameras to cover all live tables
17 and those tournament tables where the game's outcome
18 determines the winner of a cash prize. This regulation
19 should be limited to these types of tables, for example,
20 when cash is wagered, won or lost.

21 Staff recommends this comment be accepted and the
22 language of Section 12396(b)(2) be amended to require
23 cameras only at those tables where cash or prizes are being
24 wagered, won or lost.

25 CHAIRMAN SHELTON: Comments?

1 MARTY HORAN: The Bureau has comments, if I can just
2 find the letter.

3 In Joy's letter, she referred to an option (a) and (b)
4 I believe it is, if I can find it here.

5 The Bureau has disagreement with the issues that are
6 made in the sense that, you know, tournament tables should
7 be covered. The argument that there is nothing of value
8 being wagered, we believe, is not an accurate description
9 of that.

10 And that in after review of Joy's options (a) and (b)
11 we believe that option (a), the wording that she has
12 submitted would be reasonable; but, again, it is the
13 understanding that the addition of "live gambling table" or
14 "live gambling" is what is added there covers tournament
15 play. Obviously, in our opinion, it would not cover the
16 training tables or the demonstration tables. But a live
17 gambling table would include tournament play that is
18 happening out there.

19 I think there is a need not only for the cardroom for
20 the industry but for the patrons to have recordings,
21 adequate coverage and recordings of that activity.

22 CHAIRMAN SHELTON: Commissioners?

23 COMMISSIONER SHIMAZU: Just to clarify, you'd rather
24 go with option (a), live gambling?

25 MARTY HORAN: That's correct.

1 JOY HARN: Good afternoon. Joy Harn for the Bicycle
2 Casino.

3 This is, I think, one of the areas where the terms of
4 art we use has been -- it may cause confusion.

5 Live gambling is a term of art used to differentiate
6 tournament gaming from live gaming, live gaming including
7 those games where there is live cash involved or live chips
8 as opposed to tournament chips. I appreciate the Bureau's
9 interpretation but that was not the interpretation that was
10 intended by option (a).

11 What may be useful is option (b) would include where
12 the outcome of the hand will determine the winner or
13 recipient of a cash award or prize. That will allow not
14 only live gaming, as it is used in the industry, to include
15 cash or chips but also the final tournament table where the
16 outcome of that final table does determine those
17 individuals that are in a position to receive part of the
18 prize pool. It would also include any time we have a
19 giveaway or prize. That only happens on -- I hate to use
20 the term live -- but live gambling.

21 Tournaments are a tricky situation. Tables are moved
22 and shuffled around and frequently up to minutes before the
23 tournament. And you get hundreds of people that flow into
24 the room and are playing with tournament chips. There is
25 nothing of value. It is not really until you get to the

1 final table, maybe the final two or three tables at most,
2 where there is really a situation where the outcome of the
3 game or outcome of a hand in particular will determine
4 whether you're in the prize pool or out of the prize pool;
5 and if in the prize pool, at what level. That is the area
6 where we would like to see the regulation limited.
7 Obviously, not to include demonstration tables or training
8 tables but to only include the tables where you have a game
9 going on that the winner is going to get an actual prize,
10 whether cash pot or be involved in the prize pool of a
11 tournament.

12 So with that understanding of how the term "live
13 gambling" is used in the industry, maybe option (b) would
14 be better. That would include the final table or tables of
15 a tournament where the outcome is more meaningful.

16 MARK KELEGIAN: Mark Kelegian. I concur with her
17 comments. And I want to make a couple other quick points.

18 The reason that we have dedicated cameras on the live
19 tables is because the outcome of any particular hand can
20 be -- it involves real money. And more importantly, it is
21 something a decision can be made later with respect to.
22 You can always go back and review the tape of a live table
23 and decide, well, the dealer made a mistake; a dealer
24 should have paid the person the money and then that
25 transaction can be corrected at a later point in time.

1 That is one of the primary purposes, I think, of having an
2 overhead camera on every live action table.

3 In a tournament scenario, unfortunately, because of
4 its -- the very nature of a tournament in its progressive
5 action, once a decision has been made by the floor staff or
6 however it might get resolved, that decision is done. It
7 is over. You can't go back to it. You can't come around
8 the next day or hour later and say: Well, that was a
9 mistake that was made. Those 20,000 tournament chips need
10 to transfer to this player.

11 You can't unwind it. The nature of the tournament is
12 it all comes down to the very end, whose got what at that
13 point.

14 The other thing to keep in mind is in even in our
15 smaller establishment, we may normally set up for 12 or 13
16 tournament tables. But at any point in time an additional
17 six, seven, eight tables of players could show up. We'd
18 have to put them in various parts of the casino where there
19 may or may not already be stationary cameras available.

20 And the one last comment is when it comes to
21 tournaments, as far as knowing how many players are going
22 to be paid, that is a decision that is made very early on
23 in the day. As a matter of fact, in the tournament -- in
24 the rules and -- the rules of the tournament that are
25 approved by the Bureau, there is already a schedule in

1 there that says if you have a hundred players, this many
2 players are going to get paid. If you have 200 players,
3 this many players are going to get paid. It is a finite
4 number of tables that we know in advance are subject to
5 someone being paid out at.

6 It is easy to set up three or four tables maximum in a
7 largest of tournaments and having live cameras on those and
8 those only. That is just simply what I wanted to add.

9 Thank you.

10 CHAIRMAN SHELTON: I have some dumb questions. You're
11 allotted so many tables. If you have a tournament, you go
12 to the Bureau and they approve additional tables, right,
13 for the tournament? So you move them out on the playing
14 field, the room, and none of those -- there is no
15 availability to have cameras for those? Is that what
16 you're saying? They're not under surveillance?

17 MARK KELEGIAN: They would be under surveillance. We
18 would never put a table in an area that is not covered by
19 surveillance. The issue is a dedicated table -- a
20 dedicated camera overhead for each individual table. Even
21 in the tournament rooms --

22 CHAIRMAN SHELTON: If you added ten extra tables for
23 the tournament, you'd have to have ten dedicated extra
24 cameras?

25 MARK KELEGIAN: More importantly, they'd have to go

1 where "x" marks the spot on the floor; otherwise, there is
2 always camera coverage overhead, whether PTZ's or just
3 broader angled shots. But as far as direct overhead, that
4 becomes an issue for that aspect of this.

5 CHAIRMAN SHELTON: Thank you.

6 MARTY HORAN: Bureau would like to comment.

7 The industry is stating there is no value basically to
8 these tournaments and these tournament chips until you get
9 to the end table. The Bureau disagrees.

10 There is an amount of money that is paid up front in
11 order to play in the tournament and there are a certain
12 amount of chips you get. And if I as a player am able to
13 steal chips from another player, if I'm able to add chips I
14 brought with me to my stack, if I'm able to cheat at the
15 game, if I'm in collusion with the dealer or other players
16 at a table, all of that gives me a significant advantage
17 over other players to make it out of that table to another
18 table, which gets me to a winning slot in a final game or
19 payment of a winning.

20 The Bureau believes those tables are or should be
21 considered as live gambling tables, live operations
22 occurring and they should have a dedicated camera overhead.

23 CHAIRMAN SHELTON: Players buying in to the tournament
24 create the pot?

25 MARTY HORAN: Correct.

1 CHAIRMAN SHELTON: The establishment takes the
2 administrative costs out of it?

3 MARTY HORAN: Correct.

4 CHAIRMAN SHELTON: I'm trying to learn. I have --

5 COMMISSIONER SHIMAZU: Yeah, well, I was going to say
6 that I guess the prior tables before you get to the end
7 tables where a prize is actually allocated, those are
8 important because it allows you to move on. But Mark came
9 up and said, you know, if there is cheating or something
10 then that does not count if you still progress anyway.

11 Is there still some value in being able to look and
12 see who is cheating during the tournaments, even though
13 that may not impact who gets to the final round? I mean,
14 for the Bureau to --

15 CHAIRMAN SHELTON: You think the Commission should
16 turn their head for a little bit of cheating over here and
17 not pay attention to it?

18 COMMISSIONER SHIMAZU: No, you're missing --

19 CHAIRMAN SHELTON: If we said we're not going to do
20 that, there might be a problem over here but --

21 COMMISSIONER SHIMAZU: Right. We can't do anything
22 about it now. We don't look at it. There seems to be some
23 other value to see people playing in tournaments, hey, if
24 they're cheating and we have this information or in
25 subsequent tournaments we can watch out for these people.

1 Am I missing something?

2 CHAIRMAN SHELTON: I have to side with the Bureau.
3 I'm sorry but I have to side with the Bureau on it. It is
4 part of the gaming. It should be inspected and should be
5 clean. And if people are going to cheat, they will cheat
6 there just as much as on regular table, wouldn't they?

7 COMMISSIONER SHIMAZU: Yeah. It is an investigative
8 tool watching the gambling.

9 I thought we were saying the same thing, right?
10 You're looking at me like you're saying a different thing.
11 That is why I was --

12 RICHARD MUNDY: We're still dealing with Section 12396
13 (b)(2) but progressing on to the Bureau's comments. The
14 Bureau suggests adding a subsection (b)(3) that would
15 require Tiers II through V cardrooms to have a surveillance
16 system that includes audio recordings of the cage, vaults
17 count room and any gambling equipment storage areas.

18 Collusion has been revealed in recent investigations
19 as a result of audio recordings in the non-public areas of
20 the cardroom.

21 Staff remains neutral on this issue and defers this to
22 the Bureau.

23 MARTY HORAN: The Bureau would like to see audio in
24 all of these locations that we've mentioned; but in further
25 discussions with the industry, the Bureau is willing to

1 relax that a little bit.

2 I think what we -- looking at other industries they
3 have had, let's say -- and even our tribal industry here in
4 California, they've had audio recording in the high limit
5 rooms or audio recordings in the count room. The cage
6 would be nice also to have. However, it sounds like there
7 is background noise that is sufficient to drown out a lot
8 of the communication if there was collusion going on.

9 The Bureau would like to see audio recordings in all
10 of these areas, if possible; but if there is significant
11 concern with the industry or the Commission, the Bureau
12 would like to at least see at a minimum audio recording in
13 the count room in addition to live video recording.

14 CHAIRMAN SHELTON: Comments?

15 JOY HARN: Joy Harn for the Bike. This was the first
16 I saw of this. So just off of the cuff there is a lot of
17 ambient noise. We do have some locations where there is
18 audio recording. And while we do attempt to utilize it
19 when we can, there is a substantial amount of ambient
20 noise, especially in the areas like the cage were you're
21 dealing with chips that are clinking and clanking. That
22 said, in a casino the size of the Bike we have a main cage
23 and any number of satellite cages. To do that would be a
24 bit of a burden. I'm not saying it is not beneficial. I
25 appreciate the areas where law enforcement may be able to

1 utilize it but it is a burden.

2 I appreciate the Bureau's willingness to meet us in
3 the middle. I think the count room is probably an area for
4 all of the reasons we've discussed in surveillance and
5 count and drop regulations where there might be the largest
6 benefit.

7 If the Commission was of a mind to move forward with
8 audio to limit it to a minimum or at a maximum the count
9 room, I think that is something we can probably live with.
10 But to start expanding it into all of these additional
11 areas is just going to get to a point where, unfortunately,
12 they're just not going to talk. They're going to come up
13 with some kind of sign language. I hate to be cynical.
14 You figure out a way to stop them and they figure out three
15 ways to get around you.

16 And in addition to the fact you're not going to get
17 the recording you need, I don't really think you're going
18 to achieve the goal. But to put it in a count room where
19 it is a very limited area, I think is probably a middle
20 ground we can agree on.

21 ALAN TITUS: Alan Titus at Artichoke Joe's.

22 We have a machine in our count room that counts the
23 chips. One of you has been in that room and heard that
24 machine. And it would seriously interfere with any
25 attempts to record. It might mitigate the need for

1 recording audio anyway.

2 I wonder if I can get the Bureau to consider that. If
3 there were a count machine in the count room, chip counter,
4 would that mitigate the need for audio?

5 You're not going to hear above it anyway. The machine
6 is very noisy.

7 MARTY HORAN: I would say if it say going to be
8 included in the regulations for the count room, I would say
9 that would be a minimum standard, regardless of whether
10 they have a count machine or not.

11 ALAN TITUS: Previously you recognized the value of
12 having a machine count chips and in your regulations you
13 made accommodations for that. I would think this is an
14 appropriate one for that, too.

15 MARTY HORAN: I don't recall off of the top of my head
16 on that regulation whether in the count room -- the
17 Bureau's opinion and concern was if there is a count room
18 that utilized an automated counter that we still wanted two
19 individuals in that count room. I don't recall what
20 happened on that regulation.

21 ALAN TITUS: As long as the machine is called Hal, it
22 is allowed to do it all alone.

23 CHAIRMAN SHELTON: I think for Tier IV you have two in
24 the count room, unless you have a chip counter, you have
25 one. Tier V you have to have three.

1 MARTY HORAN: I guess at this point that would be an
2 area we would be willing to consider and talk about further
3 amongst ourselves at the Bureau and with the Commission and
4 industry.

5 CHAIRMAN SHELTON: Putting people out of work, huh,
6 using machinery.

7 MARTY HORAN: For the larger cardrooms, do you also
8 have a vault? And, again, I am looking at the Tier IV's
9 and V's. If there is a vault involved, we would like to
10 have audio recording in the vault.

11 We have had an instance in a criminal investigation
12 where an individual went into the vault and was in
13 collusion with the security manager and they were
14 communicating on the phone whether it was clear to come out
15 of the vault to leave. That would be another area of
16 concern. I know some of the medium- to small-sized
17 cardrooms don't have a vault.

18 MARK KELEGIAN: Mark Kelegian on behalf of Crystal and
19 Oceans 11, another Tier IV.

20 There aren't separate vault rooms you might find in a
21 bank. It is more there is a vault or better yet even a
22 large safe that is within the cage area in the count room
23 area. It is in that general area. It is not a segregated,
24 separate room or anything like that.

25 CHAIRMAN SHELTON: So it can be vault and/or count

1 room or --

2 MARTY HORAN: Vault and count room.

3 CHAIRMAN SHELTON: If we struck out "cage" and we
4 struck out "gambling equipment storage."

5 RICHARD MUNDY: Next we have Section 12396(c) on Page
6 13, line 21 which requires Tier III through V cardrooms to
7 provide surveillance cameras in all parking areas owned,
8 leased, rented, operated and/or otherwise controlled by the
9 licensee for use by its patrons.

10 Crystal Casino commented for the same reasons as noted
11 earlier. This regulation should be amended to require
12 surveillance cameras only in those parking areas owned,
13 operated or otherwise controlled by the licensee, deleting
14 the "lease" and "rented" language.

15 Staff recommends this comment be accepted and 12396(c)
16 be amended to require surveillance cameras only in those
17 parking areas that are owned, operated or otherwise
18 controlled by licensee, deleting the "lease, "rented"
19 language.

20 This would be consistent with the lighting
21 requirements we discussed earlier.

22 CHAIRMAN SHELTON: Any comments? Okay.

23 RICHARD MUNDY: Section 12396(d) Page 13, line 25
24 requires Tier V cardrooms to have an independent
25 surveillance unit that meets specified criteria and that is

1 staffed during all business hours of gambling activity.

2 The Bureau comments that Tier IV should be included in
3 this requirement. This is consistent with drop collection
4 and count room MICS that require Tier IV cardrooms to live
5 monitor the drop collection and the drop count.

6 Staff recommends that this comment be rejected;
7 although MICS I regulations were amended to included Tier
8 IV in the requirement to live monitor the drop collection.
9 This was accomplished without the need for a manned
10 surveillance unit.

11 This change in the MICS I regulations was accomplished
12 with the understanding that these MICS II regulations would
13 not require a manned surveillance unit for Tier IV
14 cardrooms.

15 CHAIRMAN SHELTON: Comments?

16 MARTY HORAN: The Bureau would like to comment, again,
17 on what is actually happening in the industry.

18 The state of Nevada, for instance, requires manned
19 surveillance in their surveillance room for category (a)
20 and (b) gambling establishments. And those are gambling
21 establishments with a gross gaming revenue of 15 million
22 dollars or more which would be equivalent to Tier IV. And
23 just for note, the tribal casinos here in California have
24 live surveillance monitoring for their casinos that are
25 below five million dollars in gross gaming revenue.

1 CHAIRMAN SHELTON: Commission?

2 MARK KELEGIAN: Mark Kelegian. Just on a point just
3 raised, I believe the Tier IV designation is much closer to
4 10 million than 15 million.

5 Tier IV is obviously tables but I think the casinos
6 and that world live more on a 10 million dollar than a 15
7 million dollar. I could be mistaken but that is my
8 understanding.

9 That aside, I agree with the staff on this that
10 24-hour monitoring by dedicated surveillance staff we
11 believe is unnecessary. The harsh reality of the use of
12 surveillance in at least Tier IV size casinos is 99 percent
13 of all acts of criminal conduct are really caught by gaming
14 floor personnel or other players.

15 I can't think of a single example in the three and a
16 half years of -- we took over the Crystal Casino where
17 surveillance has ever come to us in advance as first notice
18 or first discovery of an incident of cheating on a casino
19 floor. It is not really something that happens. To that
20 extent, the surveillance function is primarily
21 investigatory, instead of discovery.

22 Simply put, the volume of tape reviews don't warrant
23 24 hours dedicated security staff.

24 I discussed it with our staff and other Tier IV clubs.
25 Two times a day may be all the tape requests are even made

1 by anyone in the casino. The equipment operation, whether
2 it be video recording or surveillance, does not require
3 24-hour dedicated staff. Tape changes can be done by
4 virtually anyone. It's simply the same process you would
5 do at your own home. DVD obviously does not require tape
6 changes. Maintenance needs are very minimal and are
7 usually performed by IT staff or audio specialist.

8 The cost for dedicated 24-hour surveillance staff is
9 tremendous. Well over \$300,000 for any Tier IV type club.
10 And, again, existing staff can easily be trained to operate
11 the equipment.

12 You know, the only possible compromise I can see
13 between the Bureau's position and the industry and staff's
14 position would be perhaps to simply require that someone on
15 the premises have the ability to operate the equipment in
16 the event there is a tape review that is required.

17 As long as someone there knows how to go to the
18 equipment, review the tape and, of course, make a copy or
19 give the original to law enforcement when they show up, I
20 think that should satisfy the needs for Tier IV clubs.

21 And I request that -- I'd like to again say 24-hour
22 dedicated staff is a concept that should be rejected for
23 Tier IV.

24 Thank you.

25 ALAN TITUS: Alan Titus for Artichoke Joe's.

1 I want to concur with the prior comments and give a
2 little more operational insight.

3 At Artichoke Joe's if there is concern about a certain
4 person, I know that at times they have followed that person
5 more closely. I don't know if they follow by manning
6 surveillance but there will be a general alert to watch
7 somebody. This can happen at a table if there is a
8 combination of people.

9 I think that all of those things are where the real
10 security lies. And what we're talking about here is not
11 where you're really going to have what is needed at the
12 club.

13 I think this is -- this is sort of a wasted effort.
14 Would be a wasted effort at Tier IV clubs. And I'm
15 certainly open to requiring other types of things,
16 requiring the type of surveillance they do now. But it
17 would be very hard to put it in words how they do that.

18 CHAIRMAN SHELTON: Thank you. Appears that we already
19 said what we were going to do in the previous regulations.

20 RICHARD MUNDY: The MICS I regulations were adopted in
21 compliance with Business & Professions Code 19840, which
22 requires the Commission to take into account the size of
23 the cardroom, small versus large. That compromise, for
24 example, drop collection was to allow Tier IV cardrooms to
25 call another manager or employee -- key employee to go to a

1 monitor and at that point call up those cameras; and, thus,
2 avoiding the need to have a manned surveillance room.

3 CHAIRMAN SHELTON: It will be very inappropriate to
4 walk away from what we've already agreed to.

5 COMMISSIONER SHIMAZU: Yeah, just the drop collection
6 and count that needs to be -- they don't need a separate
7 unit but there needs to be someone from the establishment
8 to go and watch to make sure everything is okay when it is
9 happening.

10 MARTY HORAN: If the Bureau can further comment or
11 rebut some of the arguments that were made.

12 We do have the 2008 gross gaming revenue breakdown for
13 the cardrooms -- excuse me. And, again, Tier IV and V
14 cardrooms there is 13 of them. The lowest one is at
15 14,711,000. The next cardroom from that jumps to 25
16 million.

17 So they are basically 15 million and above up to about
18 175 million that they're making.

19 Now, an additional comment was made about crime being
20 discovered by the floor. That would be the case in casinos
21 or cardrooms that don't have a manned surveillance room.

22 It is quite contrary when you have an actual manned
23 surveillance room. Those are the individuals that are
24 watching all of the cameras, watching patrons that are
25 coming in, watching their behavior, individuals looking

1 over their shoulders looking for security, individuals that
2 come in the cardrooms or casinos together that then split
3 up. The manned surveillance is able to review tapes, back
4 up and look at what car they came into, follow them from
5 some sort of a cheating scam or theft that occurred through
6 the casino and out to a vehicle for further identification.
7 All of that is because you have somebody manning the
8 surveillance room to zoom in and get the critical detail of
9 what is going on.

10 The manned surveillance room is not only criminal
11 activities from patrons but catching the employees of the
12 cardroom where they're in violation of their own policies,
13 not clearing their hands, not doing certain things they're
14 supposed to be doing with dealing of cards. Those are all
15 areas that could make the cardroom vulnerable to
16 embezzlement and collusion with other players and so forth.
17 Those are not things typically spotted by a floor
18 supervisor walking around. Those are things the manned
19 surveillance room is actually catching and observing of the
20 employees that are playing or dealing on the floor.

21 You have any further comment, Aaron?

22 AARON WONG: Aaron Wong with Bureau of Gambling
23 Control, W-o-n-g.

24 We currently have an investigation -- I don't want to
25 disclose too much of it -- that involves a Tier IV cardroom

1 where there is large amount of illegal activities going on
2 on the gaming floor.

3 And I would hope if we had a surveillance unit
4 upstairs being manned would definitely catch a lot of the
5 illegal activity that is going on right under the nose of
6 the general manager, the casino manager, the Asian gaming
7 manager. It is amazing the activity going on on the floor
8 that would indicate illegal activities if it was caught by
9 a manned surveillance room operator.

10 I don't want to go any further about that. Just be
11 aware this is unbelievable activity. Anybody can walk in
12 and have seen this on the floor would immediately raise a
13 red flag.

14 MARK KELEGIAN: Mark Kelegian again. We're still
15 having a distinction between somebody being there 24 hours
16 a day and these incidents that are being described that can
17 simply be reviewed at any later time.

18 If there is a particular for -- let's say there is a
19 particular investigation going on. Someone can be assigned
20 to the surveillance room to do it. But I think we're
21 talking about the bigger picture of 24 hour a day dedicated
22 staff not -- does -- should the casino have someone who has
23 the ability to review tape and investigate incidences.
24 This is the -- I think this is the distinction here that I
25 believe is being lost.

1 And also the reference I was making to who catches it
2 99 percent of the time, the first discovery is our unmanned
3 surveillance operations. This is not CIA or FBI or any of
4 these surveillance offices. It would be great but you
5 would need a staff of four or five security surveillance
6 staff simply taking the place of an overhead camera to be
7 able to catch things in advance. It is only when things
8 are brought to surveillance's attention by someone that
9 this comes to play. And as long as the staff of the casino
10 has someone to do the recordings and review it, that is all
11 that is necessary in the situation.

12 MARTY HORAN: One quick final comment. The Bureau
13 strongly believes there needs to be a separation of duties
14 and responsibilities from the surveillance room staff and
15 the gaming floor staff.

16 If you have a problem with your gaming floor staff in
17 collusion with criminal activity that is occurring
18 widespread on the floor, if you have a separate unit
19 department -- surveillance department that is picking up on
20 that activity, they can bring it to the attention of the
21 ownership what exactly is going on on the floor. We've got
22 certain monies being exchanged, people coming in and not
23 playing but doing business in our cardroom. What is going
24 on?

25 The surveillance is the eye in the sky that catches

1 that stuff and brings it to the attention of the ownership
2 in the cardroom.

3 CHAIRMAN SHELTON: You sat in on some of these. You
4 want to comment?

5 COMMISSIONER SHIMAZU: We spent a lot of time on where
6 the line should be drawn. Again, Tier IV starts at 31. It
7 was something -- it was a difficult decision but we
8 balanced it. If there are 31 tables out there and a whole
9 separate department, a unit, you've got to train the people
10 so they know what to look for. It is going to be 24 hours
11 a day.

12 We tried to find a compromise. What are we concerned
13 about? Let's make sure someone sits there. The industry
14 didn't like it and Tier IV did not like the monitoring of
15 the drop and the count.

16 I see where the Bureau is coming from. Certainly in a
17 perfect world we would like surveillance teams in every
18 department. But it was an attempt to try and separate the
19 tiers and address only what needed to be addressed.

20 Again, I mean, they are regs. We can go back and
21 amend them later because there is a problem. We can do
22 that.

23 COMMISSIONER VUKSICH: Do the Tier IV clubs have
24 managerial staff, not necessarily on the floor, that can --

25 MARK KELEGIAN: Mark Kelegian. Yes, they do. I was

1 going to say that that element was out of the equation that
2 was brought up. It was simply surveillance and gaming.
3 There is no mention of referral to the ownership, who in a
4 Tier IV club is -- not that I'm not involved in Tier V but
5 in a Tier IV club there is obviously ownership management,
6 much more hands on. There is other layers. There is
7 security. There is other layers that are involved.

8 I think it is just a practical matter that the gaming
9 staff whether dealers or whomever, they're there. They're
10 the ones to spot things more often than not. Generally if
11 they're not the ones spotting it, it is another player that
12 is going to spot it as well.

13 CHAIRMAN SHELTON: Well, first off, I don't want to be
14 setting regs by income. That should not come into play at
15 all. We're setting regulations for specific reasons.
16 Certainly, it isn't a monetary makings of what the club is
17 making.

18 Second, Mr. Horan is correct. If you get into the
19 major casinos, the eye in the sky is completely separate
20 from the rest of the security for those purposes that
21 separate the collusion so you don't have it. They don't --
22 for that reason, when we go out and visit you have to sign
23 in and sign out. You go into a surveillance room.

24 And I -- I'm weighing on the side to do this; however,
25 because we said at the beginning when we did MICS I we

1 weren't going to do it, I'm not going to do it. I'll stay
2 with staff's recommendation.

3 If in the future it comes back and we're proven wrong
4 and -- and we probably will be, then we can correct it and
5 move into -- I'm not arguing with the premises and the
6 statements you've made here today.

7 I think if we get up front on the issues and say we're
8 going to do this, we should do it. I would also -- I know
9 you didn't do it on purpose but what money they make
10 shouldn't come into play. The public safety is the issue
11 we're here for.

12 I get kind of worked up with this kind of stuff
13 because a lot of this we're protecting them and they're
14 fighting us on it. Theft is going on within the casino.
15 It is not to get after the Bureau for going out and finding
16 the crime but most of this stuff is to clean up the act
17 now.

18 I realize you folks been in business a hundred years
19 and been doing it a long time and you know a lot more about
20 it than I do. I also know these regs are going to help you
21 more than they're going to help your players coming in.
22 Absolutely. Are we going to get it all right?

23 COMMISSIONER VUKSICH: No.

24 CHAIRMAN SHELTON: No, we're not. But we're going to
25 do the best we can.

1 With your permission, Commissioners, will you accept
2 staff's recommendation and move on. Thank you.

3 RICHARD MUNDY: Section 12396(d)(7) Page 15, line 16
4 requires Tier V cardrooms to use Pan/Tilt/Zoom cameras to
5 pan the faces of patrons and dealers once per hour. One
6 Pan/Tilt/Zoom camera is required for every ten tables.

7 The Bicycle Casino and endorsed by the California
8 Gaming Association comments that it is not possible to
9 successfully scan the faces of all patrons and dealers once
10 every hour with the use of the Pan/Tilt/Zoom cameras.

11 The only way to be certain all faces are captured is
12 to have surveillance persons perform the scan manually.

13 Further, the Bicycle Casino conducted a dry run of
14 manually scanning faces and was able to capture the faces
15 of patrons and dealers at only 20 tables in one hour, far
16 less than the 190 tables licensed at the casino.

17 Further, Bicycle Casino would need to hire additional
18 staff, nine per shift, at an annual cost of 1.5 million
19 dollars and invest in additional equipment at a one-time
20 cost of one million dollars.

21 They feel the casino entrance/exit cameras should be
22 sufficient to capture faces of patrons. As a result the
23 second sentence in 12396(d)(7) requires Pan/Tilt/Zoom
24 cameras should be deleted.

25 The Commerce Casino also commented that they have

1 actually retained Consulting and Training Services, a
2 Nevada firm, with expertise in surveillance. And their
3 review produced similar results of the practicality. That
4 it is not practical to expect this amount of tables to be
5 scanned in such a short time and various other issues
6 involving costs that is similar to the Bicycle Casino's
7 comments.

8 And as a result of the CTS study the Commerce Casino
9 recommends deleting the requirements of Pan/Tilt/Zoom
10 cameras pan the faces of patrons and dealers once per hour,
11 as entrance and exit cameras would also suffice.

12 The Bureau has reviewed the comments and they
13 recommend deleting the requirement that Pan/Tilt/Zoom
14 cameras pan the faces of patrons and dealers once per hour
15 as this could be considered excessive and may not be an
16 industry standard practice.

17 Staff recommends these comments be accepted in part by
18 deleting the requirements of the Pan/Tilt/Zoom cameras pan
19 the faces of patrons and dealers once per hour.

20 The requirement that Tier V cardrooms have at least
21 one Pan/Tilt/Zoom camera for every ten tables would remain.

22 CHAIRMAN SHELTON: One for every ten tables?

23 RICHARD MUNDY: One per every ten tables but the
24 requirement that they actually pan a number of tables in an
25 hour would be deleted.

1 CHAIRMAN SHELTON: Comments?

2 MARTY HORAN: The Bureau has comment.

3 The Bureau has been in discussion with industry on
4 this and, you know, has agreed to remove that. However, a
5 reasonable option was suggested in the wording to leave it
6 in to the extent it is not "per hour." Something more to
7 the extent that Tier V cardrooms shall make reasonable
8 attempts to use Pan/Tilt/Zoom cameras to pan the faces of
9 patrons and dealers per shift or something like that was a
10 more reasonable alternative.

11 JOY HARN: Joy Harn for the Bicycle Casino.

12 I want to start by saying I really appreciate the
13 Bureau's staff, Mr. Horan and your staff. I actually got
14 an e-mail Sunday night from Mr. Horan. So really
15 appreciate your efforts on this to meet in the middle.

16 And we discussed this very briefly. I think some
17 language to suggest that the PTZ's be used to scan the
18 participants on the gaming floor, at a reasonable level or
19 per daily, per shift.

20 One of my concerns is when you talk about scanning the
21 faces, people will sit at a gaming table not -- I don't
22 know if is intentionally to conceal their face from the
23 camera, more likely to conceal their tells from the other
24 players, and to suggest we scan the faces to me --
25 reasonable minds in this room maybe we understand but five

1 years down the road when maybe some of us have moved on to
2 greener pastures, that may be misinterpreted.

3 To have a regulation that requires that the club uses
4 their Pan/Tilt/Zoom cameras to scan the gaming floor on a
5 regular basis one time per shift, something of that nature,
6 or scan the individuals or the participants on the gaming
7 floor is much more workable and has achievable results.

8 To limit it or focus on the faces, even if it does not
9 say for identification purposes, is setting everybody up
10 for failure. That is where I'm having difficulty.

11 MARTY HORAN: To comment on that, if it was just going
12 to be panning the cardroom floor, not specifically focusing
13 on the faces or actual identification of these people,
14 would that be more reasonable to do hourly if you're -- if
15 it is just a regulation to say it is just going to just pan
16 the floor?

17 JOY HARN: I think the requiring ten PTZ's per table
18 or one PTZ -- that would be a lot. One PTZ for every ten
19 tables is very reasonable. To suggest that those are used
20 to scan the floor or roam the floor or whatever the
21 appropriate terminology would be at least once per shift or
22 something of that nature is reasonable.

23 When you really start getting into once an hour, one,
24 I don't know what you're going to get. People move. It is
25 a very transient type of thing. I don't think you're going

1 to get anything other than frustrated surveillance staff.

2 To suggest they do it to scan the floor at least once
3 per shift, we have three shifts a day. I don't have a
4 problem with it. When we have the cameras that we have
5 that are dedicated cameras that all of the entrances and
6 all of the exits, you can't come into the casino without a
7 pretty good, quite frankly, facial recognition shot.

8 When you're on the floor whether we use the
9 Pan/Tilt/Zoom once an hour or half hour on a continual
10 ongoing basis, you're not going to get anything of value
11 because either they're shielded, moving, went to the
12 restroom, taking a smoke break.

13 I think at some point we're reaching a level of where
14 we're putting a huge burden on and the benefit, although it
15 is hopeful, is just not going to be there.

16 As we suggested earlier, if in a year down the road we
17 think for whatever reason we need to try it or be a little
18 more stringent with it, certainly we can go back to the
19 drawing board on that one. But to do it at the outset, it
20 does not seem like a Minimum Internal Control Standard. It
21 seems like a maximum standard or burdensome standard that I
22 don't think is going to achieve the desired result.

23 CHAIRMAN SHELTON: Commissioners?

24 MARTY HORAN: I was going to say instead of the gaming
25 floor, that the camera to pan the individual patrons and

1 dealers per shift. It is not specifying it must be their
2 faces.

3 JOY HARN: Per shift?

4 MARTY HORAN: Per shift.

5 JOY HARN: I think we can live with that.

6 MARTY HORAN: You want me to read it again? Tier V
7 cardrooms shall make reasonable attempts to use
8 Pan/Tilt/Zoom cameras to pan the individual patrons and
9 dealers per shift.

10 CHAIRMAN SHELTON: I'm listening. We're industry out
11 here.

12 They're with it. That is okay. You're writing it
13 down.

14 As long as the Commissioners agree.

15 COMMISSIONER VUKSICH: Fine with it.

16 MARTY HORAN: Okay.

17 RICHARD MUNDY: Mr. Chairman, there may be comments
18 since this is the official 45-day public hearing for these
19 regulations. There may be comments we haven't covered here
20 today. And that opportunity should be provided at this
21 time.

22 CHAIRMAN SHELTON: You have 15 days for additional
23 comment after today?

24 RICHARD MUNDY: No. This is the official public
25 hearing for this regulation and there may be -- for

1 example, Mr. Titus gave us a letter that we haven't seen
2 yet. So if there is anything he wants to mention here now,
3 it would be the right time to do it.

4 CHAIRMAN SHELTON: Mr. Titus, do you want to comment
5 on your letter or do you want to --

6 ALAN TITUS: I'll stand.

7 CHAIRMAN SHELTON: Okay. You want us to adopt what
8 we've done today?

9 RICHARD MUNDY: At this point there would be -- staff
10 would recommend a vote for a 15-day change as per the
11 discussions here today.

12 CHAIRMAN SHELTON: So moved.

13 COMMISSIONER SHIMAZU: Second.

14 CHAIRMAN SHELTON: Call for the vote.

15 JOY CALKIN: Commissioner Shimazu?

16 COMMISSIONER SHIMAZU: Aye.

17 JOY CALKIN: Commissioner Vuksich?

18 COMMISSIONER VUKSICH: Aye.

19 JOY CALKIN: Chairman Shelton?

20 CHAIRMAN SHELTON: Aye.

21 JOY CALKIN: Motion carried.

22 CHAIRMAN SHELTON: Thank you everybody for living
23 through it with us. It's been a long morning for us.

24 JAMES ALLEN: James Allen. One thing before we
25 adjourn.

1 I wanted to take this opportunity to specifically
2 thank everyone, Bureau, staff, industry, everyone who has
3 participated in this project for their participation,
4 assistance, cooperation.

5 And I also want to particularly acknowledge and thank
6 Rich Mundy, who is on my staff, for his efforts in this
7 matter. He was thrown into the mix so-to-speak -- no pun
8 intended -- sort of in the middle of things. And he has
9 just done a terrific job of coming up to speed and
10 addressing these issues and putting together these
11 summaries and suggested responses.

12 I think he mentioned earlier he was up until 11:00
13 something last night e-mailing this to me.

14 So I wanted to thank him.

15 CHAIRMAN SHELTON: We appreciate that and appreciate
16 Rich's work.

17 I've always wanted to do that. Adjourned.

18 (End of proceedings.)
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CERTIFICATE

OF

CERTIFIED SHORTHAND REPORTER

The undersigned certified shorthand reporter of the state of California does hereby certify:

That the foregoing deposition was taken before me at the time and place therein set forth, at which time the witness was duly sworn by me;

That the testimony of the witness and all objections made at the time of the deposition were recorded stenographically by me and thereafter transcribed, said transcript being a true copy of my shorthand notes thereof.

In witness whereof, I have subscribed my name this date September 25, 2009

Debra C. Taylor
Certificate Number 12414