



MASSACHUSETTS GAMING COMMISSION
PUBLIC MEETING #275

August 15, 2019
11:00 a.m.

Massachusetts Gaming Commission
101 Federal Street
Boston, MA



Massachusetts Gaming Commission



**NOTICE OF MEETING and AGENDA
August 15, 2019**

Pursuant to the Massachusetts Open Meeting Law, G.L. c. 30A, §§ 18-25, notice is hereby given of a meeting of the Massachusetts Gaming Commission. The meeting will take place:

**Thursday, August 15, 2019
11:00 a.m.
101 Federal Street, 12th Floor
Boston, MA**

PUBLIC MEETING - #275

1. Call to order
2. Encore Boston Harbor Update on Suitability Decision Condition –Independent Monitor RFP – Chair Judd-Stein and Commissioner O’Brien – **VOTE**
3. Ombudsman – John Ziembra
 - a. Town of Plainville Presentation
 - b. Plainridge Park Casino Quarterly Report
4. Investigations and Enforcement Bureau – Karen Wells, Director
 - a. Junket Licensing and Reporting Requirements – **VOTE**
5. Research and Responsible Gaming – Mark Vander Linden, Director
 - a. Gaming Research Update and FY20 Plan – **VOTE**
6. Administrative Update – Ed Bedrosian, Executive Director
 - General Update
7. Approval of Minutes
 - July 18, 2019 – **VOTE**



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8. Legal Division – Catherine Blue, General Counsel
 - a. Final Draft Version of 205 CMR 6.35: Pick (n) Pools and Amended Small Business Impact Statement – **VOTE** to complete the promulgation process
 - b. Final Draft Version of 205 CMR 102.02: Definitions and Amended Small Business Impact Statement – **VOTE** to complete the promulgation process
 - c. Final Draft Version of 205 CMR 143.02: Progressive Gaming Devices and Amended Small Business Impact Statement – **VOTE** to complete the promulgation process
 - d. Final Draft Version of 205 CMR 152.00: Individuals Excluded From a Gaming Establishment and Amended Small Business Impact Statement – **VOTE** to complete the promulgation process
9. Commissioner’s Updates
10. Other business – reserved for matters the Chair did not reasonably anticipate at the time of posting.

I certify that on this date, this Notice was posted as “Massachusetts Gaming Commission Meeting” at www.massgaming.com and emailed to: regs@sec.state.ma.us, melissa.andrade@state.ma.us.

08.13.19
Date


Cathy Judd-Stein, Chair

Date Posted to Website: August 13, 2019 at 11:00 a.m.



Massachusetts Gaming Commission



MEMORANDUM

TO: Massachusetts Gaming Commission
FROM: Todd Grossman, Deputy General Counsel
RE: Independent Monitor of Wynn MA, LLC
DATE: August 15, 2019

In response to the Commission's April 30, 2019 suitability decision relative to Wynn MA, LLC, *et al.*, an internal procurement team was assembled to review submissions for appointment as independent monitor for Wynn MA, LLC as described in the decision. After a comprehensive procurement process, the procurement review team recently selected the law firm Miller & Chevalier Chartered as the presumptive successful bidder. The Commission is now being asked to ratify the review team's selection.

In an effort to inform the decision, the team from Miller & Chevalier, including the proposed team lead Alejandra Montenegro Almonte, will appear before the Commission to introduce themselves, describe their backgrounds and experience, offer some brief insights into the proposed monitorship, and respond to any questions from the Commissioners. To further aid the Commission's review, the following documents have been included for the Commission's reference:

- A memorandum describing the subject procurement process;
- A copy of the RFR;
- A copy of Miller & Chevalier's response to the RFR (including the 'Fiscal Terms'); and
- A copy of the firm's PowerPoint that will be shared with the Commission.

Miller & Chevalier is a Washington, D.C. law firm that was founded in 1920. It describes itself as a law firm:

with a global perspective and leading practices in Tax, Litigation, International Law, Employee Benefits (including ERISA), White Collar Defense and Internal Investigations, and Government Affairs. Miller & Chevalier is a top-ranked firm sharply focused on targeted areas that interact with the federal government. Over the past three years, the firm's lawyers have represented more than 40 percent of the Fortune 100, one-quarter of the Fortune 500, and approximately 30 percent of the Global 100. Based in Washington, DC, a significant number of firm lawyers have held senior positions in the U.S. government and have written many of the regulations they currently help clients navigate.



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The fees associated with the monitorship are described in the 'Fiscal Terms' section of Miller & Chevalier's response to the RFR. They include the following hourly rates for the identified team members:

Name (Hourly Billing Rate)

- Alejandra Montenegro Almonte (\$810)
- Preston Pugh (\$930)
- Katherine Pappas (\$725)
- Ann Sultan (\$725)
- Nicole Gokçebay (\$435)

Miller & Chevalier has estimated that its fees for the first six months of the monitorship will range from \$575,000 to \$775,000, based on an estimate of approximately 850 to 1,150 hours. This is, however, just an estimate and subject to adjustment based on initial findings made during monitoring activities. Barring any anomalies, this first six month period during which the baseline assessment will be conducted is expected to be the most intensive period of the monitorship. After the first six months, a similar level of billable activity and spend is anticipated on an annual basis. Though not the highest or lowest cost relative to the other bidders, the review team concluded that the fiscal terms proposed by Miller & Chevalier were reasonable for the quality of services to be provided.

If the Commission ratifies the review committee's selection, one of the Commissioners should be designated to execute the contract that will outline and govern the relationship between Miller & Chevalier and the Commission. The contract would be for a term of 5 years. However, it would be subject to early termination at the request of the gaming licensee, and at the Commission's sole discretion, after the initial 3 years.



Massachusetts Gaming Commission

Memorandum

To: Chair Judd-Stein, Commissioners Cameron, O'Brien, Stebbins and Zuniga
From: Derek Lennon, CFAO and Agnes Beaulieu, Budget and Procurement Manager
Date: August 9, 2019
RE: Procurement Process for Wynn Monitoring RFR

In early May 2019, a procurement management/sourcing team (Team) was assembled for the purpose of selecting an independent monitor, consistent with condition B. 2 of the MGC's [Decision and Order](#) (pp. 50-51) pertaining to Wynn Resorts, Limited, (the "Company") and its affiliate Wynn MA, LLC (the "Licensee") dated April 30, 2019. The Team consists of the following members:

Voting Members:

- Cathy Judd-Stein, Chair of the Commission;
- Eileen O'Brien, Commissioner;
- Derek Lennon, CFAO;
- Loretta Lillios, Chief Enforcement Counsel, IEB; and
- Todd Grossman, Deputy General Counsel

Non-Voting Member:

- Agnes Beaulieu, Budget and Procurement Manager

On May 13, 2019, the Massachusetts Gaming Commission posted a notice of intent to post an RFR on CommBuys for the services of an independent monitor. Under 801 CMR 21.00 (the Commonwealth's open and competitive procurement regulation, which the Commission elects to follow) goods and services procurements with a total value of \$492,000 or greater require a minimum of forty (40) days' advance notice, pursuant to the World Trade Organization (WTO) Treaty on Government Procurement. The notice of intent met this requirement. The team met to discuss the parameters of the RFR and collaboratively drafted the request for responses to reflect the decision of the Commission.



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On May 24, 2019, the RFR was posted to the CommBuys website with a bid opening date of June 28, 2019, and was also posted on the MGC website. The timeline for the procurement is below:

<u>Procurement Activity</u>	<u>Initial Date</u>	<u>Revised Date</u>
Announcement of Intent to Procure	5/13/2019	N/A
Bid Release Date	5/24/2019	N/A
Deadline for Submission of Questions through COMMBUYS “Bid Q&A”	6/7/2019	N/A
Official Answers for Bid Q&A published (Estimated)	6/14/2019	6/18/2019
Bid Amendment Deadline / Online Quote Submission Begins. Bid documents will not be amended after this date.	6/21/2019	N/A
Deadline for Quotes/Bid Responses (“Bid Opening Date/Time” in COMMBUYS)	6/28/2019	N/A
Oral Presentations for Selected Bidder(s) (Estimated)	7/12/2019	7/23-7/25/2019

On June 28, 2019, the bid was opened and 19 responses were received and distributed to the Team for review. Throughout the week of July 15th, the Team met on multiple occasions to review and score each submission. Scoring was based on the following criteria:

- 40% Relevant Experience
- 10% Diversity (e.g. – team/company composition, use of vendors, partnerships, etc.)
- 10% Cost
- 40% Quality and Thoroughness of Response including a detailed, clear plan to achieve the goals.

Once the scoring was complete, five (5) candidates were invited to make an oral presentation to the Team. At the conclusion of the presentations, the Team scored the finalists to make a determination as to the apparent successful bidder and that candidate has been brought forward for the Commission’s approval.



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REQUEST FOR RESPONSE
 INDEPENDENT MONITOR FOR WYNN LICENSE CONDITIONS RFR
 RFR #MGC-2019-Wynn/ COMMBUYS bid# BD-19-1068-1068C-1068L-39534

ISSUE DATE:

Purchasing Department	Massachusetts Gaming Commission
Address	101 Federal Street, 12th Floor
City, State Zip Code	Boston, MA
Procurement Contact Person	Agnes Beaulieu
Telephone Number	617-979-8462
Fax Number	
E-Mail Address	Agnes.beaulieu@state.ma.us
RFR Name/Title	Independent Monitor for Wynn License Conditions
RFR Number	MGC-2019-Wynn
COMMBUYS bid Number	BD-19-1068-1068C-1068L-39534

1. Description or Purpose of Procurement:

The Massachusetts Gaming Commission (“MGC”) seeks to procure the services of an independent monitor consistent with condition B. 2 of the MGC’s [Decision and Order](#) (pp. 50-51) pertaining to Wynn Resorts, Limited, (the “Company”) and its affiliate Wynn MA, LLC (the “Licensee”) dated April 30, 2019. Details as to the scope of services sought are set forth in Section 7 below.

2. Applicable Procurement Law

Check Appropriate Box (“X”):	Type of Purchase	Applicable Laws
	Executive Branch Goods and Services	
<input checked="" type="checkbox"/>	Goods and Services	MGL c. 7, § 22; c. 30, § 51, § 52; 801 CMR 21.00
<input type="checkbox"/>	Human and Social Services	MGL c. 7, § 22, § 22N; c. 30, § 51, § 52; 801 CMR 21.00; 808 CMR 1.00
<input type="checkbox"/>	Legal Services	MGL c. 30, § 51, § 52 and § 65; c. 7, § 22; and 801 CMR 21.01(2) (b)
<input type="checkbox"/>	Grants	MGL c. 7A, § 7; St. 1986 c. 206, § 17; 815 CMR 2.00

3. Acquisition Method:

Check All Applicable (“X”):	Category
<input type="checkbox"/>	Fee-For-Service
<input type="checkbox"/>	Outright Purchase
<input type="checkbox"/>	Rental (not to exceed 6 months)
<input type="checkbox"/>	Term Lease
<input type="checkbox"/>	License

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<input checked="" type="checkbox"/>	Other: The Commission is seeking creative funding proposals that could include maximum obligation, tranche, time and materials, and/or any combination.
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4. Whether Single or Multiple Contractors are Required for Contract:

Check One ("X"):	
<input checked="" type="checkbox"/>	Single contractor
<input type="checkbox"/>	Multiple contractors

a. Estimated Number of Awards

One contract will be awarded pursuant to this procurement. However, bidders may compose their teams in any fashion necessary to ensure successful performance of the full scope of required services whether this entails joint ventures or partnerships, and/or the use of subcontractors, or otherwise.

b. Adding Contractors after Initial Contract Award

If, over the life of the contract, the MGC determines that the contractor is unable to perform the requirements under the contract, the MGC may, but is not required to, select a successor contractor by drawing from qualified companies which responded to this Solicitation but were not awarded the contract. If necessary to meet the requirements of the Commonwealth, the Solicitation may be reopened to obtain additional bids.

5. Entities Eligible to Use the Resulting Contract

Check One ("X"):	Eligible Entities
<input type="checkbox"/>	<p>Limited User Contract – Restricted to Use by Defined Entities Only. Any contract(s) resulting from this bid will be open for use by the issuing Purchasing Department and the following other entities:</p> <p>The Purchasing Department reserves the right to add or remove additional authorized users during the contract term.</p>
<input checked="" type="checkbox"/>	<p>Limited User Contract – Restricted to Use by Issuing Entity Only.</p>

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6. Expected Duration of Contract (Initial Duration and any Options to Renew):

Contract Duration	Number of Options	Number of Years/Months	Instructions
Initial Duration		<u>5</u>	Pursuant to the terms of the MGC Decision dated April 30, 2019, the Company may petition the MGC after 3 years to discontinue the monitoring that is the subject of this procurement. The discontinuation of such monitoring is at the sole discretion of the MGC. In the event that the MGC allows such petition, or determines on its own initiative that the monitoring shall be ceased, at any time after the initial 3 year period, the contract awarded pursuant to this procurement may be terminated at the sole discretion of the Commission. The monitor will be compensated solely for services performed, and expenses accrued, through the termination date.
Renewal Options	<u>0</u>	<u>0</u>	
Total Maximum Contract Duration		<u>5</u>	

7. Contract Performance and Business Specifications:

Scope of Services:

The MGC seeks to retain an independent monitor to perform the following listed services in connection with Wynn MA, LLC (the “licensee”) as the holder of the Category 1, Region A gaming license under G.L. c. 23K in order to mitigate the risk of a recurrence of the violations identified by the MGC in its [Decision](#) and Order dated April 30, 2019. The primary focus of the independent monitor’s review and evaluation is the Massachusetts licensee. In order to thoroughly evaluate the Massachusetts operation, such focus may necessarily overlap or intersect with the operations of the Company and its other subsidiaries or properties in certain areas. For example, to the extent HR policies, procedures and practices are generally applicable to all Company employees, including those in Massachusetts, they are subject to the review of the independent monitor under this RFR and related contract. The independent monitor shall not review, evaluate or otherwise assess gaming-related operations of the licensee, the Company or its subsidiaries or properties.

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- A. The independent monitor shall conduct a baseline assessment that will involve a full review and evaluation of:
- (i) The policies and organizational changes adopted by Wynn Resorts, Limited (the Company) as described by the Company in all written submissions to the Commission in connection with the three-day adjudicatory hearing held from April 2-4, 2019, including any relevant post-hearing submission, and in testimony given by representatives of the Company during that hearing (collectively the “Adjudicatory Hearing.”). The MGC decision and the Company’s “Whitepaper” are available on the MGC website (www.massgaming.com) for review by bidders in preparing their submissions. The full set of reports, submissions, and transcripts of the hearing will be made available to the winning bidder upon execution of the contract.
 - (ii) The following four specific business practices:
 - a) The implementation of and compliance with all human resource or “HR” policies applicable to the employees of the licensee to ensure that they reflect current best practices;
 - b) Use of retractions, mandatory arbitration provisions, gag orders, confidentiality clauses, and non-disparagement provisions of all employees, with particular attention to the use of such measures and their impact on non-executive employees;
 - c) Adequacy of internal reporting and communication channels throughout the Company, and with regulators, and their alignment with up-to-date organizational charts and reporting structures; and
 - d) Use of outside counsel and maintenance of and adherence to de-conflicting policies and procedures.
- B. The independent monitor shall assess and report on the structure and effectiveness of the Compliance Committee (and related Compliance Program and Plan), the Audit Committee, and the substance and effectiveness of the Company’s training programs for new and current members of the Board of Directors.
- C. The independent monitor shall recommend to the Company such measures and other changes necessary to correct any deficiencies identified through such baseline assessment; such recommendations of the monitor may be adopted as license conditions at the Commission’s discretion. The Company has been directed to comply with the recommendations of the independent monitor, unless relief is otherwise petitioned for by the Company and granted by the Commission. The Commission does not expect the monitor to substitute its judgment for that of the Company in these matters. Instead, the Commission is attempting to gain an understanding as to whether the approaches put in place by the Company are consistent with recognized best practices and are in fact effective. As stated in the Commission’s Decision and Order dated April 30, 2019 on page 50, “[o]ne of the key metrics by which we will measure that success will be the overall well-being, safety, and welfare of the employees. A second but equally important metric is the importance of compliance and communication with the regulator.” It is expected

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that the monitor will actively communicate with the Company in order to understand the Company's position and approach to the subject matter. The Commission will address requests for clarification in open meeting consistent with the requirements of the Commonwealth's open meeting law.

D. The independent monitor shall present the baseline assessment and any initial recommendations to the Commission within six months of the commencement of its engagement. The independent monitor shall continue to meet the requirements set forth in this Section 7 and make such additional recommendations to the Company that the monitor deems appropriate on an on-going basis over the course of its engagement. After its initial presentation of the baseline assessment, the independent monitor shall report to the Commission no less than annually in accord with a mutually agreed upon schedule between the independent monitor and the Commission.

Companies seeking to respond to this RFR must have a proven track record of being able to accomplish the deliverables listed above. In order to demonstrate the track record, the Commission requires resumes for all team leads proposed to be dedicated to the awarded contract as well as relevant examples of previous work that falls under one or all of the baseline categories above. Knowledge and understanding of corporate governance, non-disclosure agreements, trade secrets, SEC disclosure considerations, privileged communications, and any other protective covenants are essential for a successful response. Demonstrated experience working with Massachusetts public agencies subject to the public records law and open meeting law will be given additional weight. Demonstrated experience working as an independent monitor will also be given additional weight. The successful bidder will be required to demonstrate how it will identify and securely store protected and sensitive materials, and will enter into any non-disclosure or confidentiality agreement with the Commission that it deems necessary to ensure compliance with its legal obligations and appropriate treatment of the sensitive corporate materials the monitor will be required to review and take into its possession over the course of the contract.

The Commission strongly supports and recognizes the importance of a diverse workforce that includes women, minorities, and veterans. This is important both in vendor spend and labor composition, and is demonstrated in our scoring criteria. A bidder may demonstrate its diversity either directly or, e.g., via its engagement in a partnership arrangement or with subcontractors.

The independence of the monitor is critical to the success of this process. The bidder's degree of objectivity and independence needed to ensure effective and impartial performance of the monitor's duties will be given considerable weight. Accordingly, the proposal must include a certification that the bidder, including any joint venturer, partner, and all subcontractors, is not currently engaged in any type of relationship, whether contractual or otherwise, with the licensee, the Company or any of the Company's subsidiaries or affiliates, has not been so engaged in the two years preceding the submission of the bid, and does not presently hold any financial interest in the Company whatsoever. Any past relationship between the bidder and the Company shall be identified and explained in the bid. Further, the bidder must certify that it will not enter into any business or employment relationships with the Company for a period of two years from the date of the expiration of the contract. The Commission also shall exclude from consideration proposals submitted by bidders that had any role in the adjudicatory hearing held on April 2-4, 2019.

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Submissions should clearly articulate a plan to achieve all of the aforementioned considerations, including a description of all resources, including personnel, that the bidder anticipates assigning to this venture, and should not exceed at total length of 75 pages, inclusive of any charts, resumes or addenda. Please make sure to submit the bid in two separate attachments; one for the overall response to the scope of services and a second attachment detailing the cost and/or budget for the response.

Fiscal Terms:

The Commission is seeking quotes that are creative in nature and will provide the best overall services for the cost of the contract. While cost is always a consideration, it is not the sole driver of this procurement. Therefore, we are seeking bids that maximize diverse inclusion (both on the vendor as well as the team composition), as well as flexible funding mechanisms which can include maximum obligation, time and materials, tranche proposals or any combination thereof. The Commonwealth is tax exempt, we prefer prompt payment discounts and bills are payable in accordance with the State Comptroller's bill payment policy.

Performance Measures:

For the purposes of complying with the requirement of the independent monitor presenting the baseline assessment and any initial recommendations to the Commission within six months of its selection, selection shall mean once a contract is duly negotiated and executed between the Commission and the independent monitor.

8. Small Business Purchasing Program

N/A

9. Supplier Diversity Plan (SDP) Plan

Bidders must submit a Supplier Diversity Plan.

10. Environmentally Preferable Products

Products and services purchased by state agencies must be in compliance with Executive Order 515, issued October 27, 2009. Under this Executive Order, Executive Departments are required to reduce their impact on the environment and enhance public health by procuring environmentally preferable products and services (EPPs) whenever such products and services perform to satisfactory standards and represent best value, consistent with 801 CMR 21.00. In line with this directive, all contracts, whether departmental or statewide, must comply with the specifications and guidelines established by OSD and the EPP Program. EPPs are considered to be products and services that help to conserve natural resources, reduce waste, protect public health and the environment, and promote the use of clean technologies, recycled materials, and less toxic products. Bid responses must identify how a contractor meets these goals.

11. Evaluation Criteria

Contractors must submit responses that meet all the submission requirements of the RFR. Only responsive proposals that meet the submission requirements will be evaluated, scored and ranked by the

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evaluation team according to the evaluation criteria. Additional information may be requested for evaluation purposes.

Scoring shall be based on the following:

- 40% Relevant Experience
- 10% Diversity (e.g. – team/company composition, use of vendors, partnerships, etc.)
- 10% Cost
- 40% Quality and Thoroughness of Response including a detailed, clear plan to achieve the goals.

12. Instructions for Submission of Responses:

Only electronic quotes submitted via COMMBUYS will be accepted in response to this RFR. Responses must be sent via the “Create Quote” functionality contained in COMMBUYS. For instructions concerning how to submit a Quote, please see Appendix B.

Please make sure to submit two separate attachments; one for the overall response to the scope of services and a second attachment detailing the cost and/or budget for the response.

Any submission which fails to meet the submission requirements of the RFR will be found non-responsive without further evaluation unless the evaluation team, at its discretion, determines that the non-compliance is insubstantial and can be corrected. In these cases, the evaluation team may allow the vendor to make minor corrections to the submission.

13. Estimated Procurement Calendar

Procurement Activity	Date	Time [Indicate: AM or PM; EST or EDT]
Announcement of Intent to Procure	<u>5/13/2019</u>	<u>3:00 pm</u>
Bid Release Date	<u>5/24/2019</u>	<u>3:00 pm</u>
Deadline for Submission of Questions through COMMBUYS “Bid Q&A”	6/7/2019	3:00 pm
Official Answers for Bid Q&A published (Estimated)	6/14/2019	3:00pm
Bid Amendment Deadline / Online Quote Submission Begins. Bid documents will not be amended after this date.	6/21/2019	3:00pm

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Deadline for Quotes/Bid Responses (“Bid Opening Date/Time” in COMMBUYS)	6/28/2019	3:00pm
Oral Presentations for Selected Bidder(s) (Estimated)	7/12/2019	
Notification of Apparent Successful Bidder(s) (Estimated)	7/19/2019	
Estimated Contract Start Date	8/09/2019	

Bidders are required to monitor COMMBUYS for changes to the procurement calendar for this bid.

a. **Online Questions (Bid Q&A)**

Written Questions must be entered by pressing the “Bid Q&A” tab for the bid in COMMBUYS no later than the “Online Questions Due” date and time indicated in the Estimated Procurement Calendar (above). The MGC reserves the right not to respond to questions submitted after this date. It is the bidder’s responsibility to verify receipt of questions.

It is the responsibility of the prospective bidder and awarded contractor to maintain an active registration in COMMBUYS and to keep current the email address of the bidder’s contact person and prospective contract manager, if awarded a contract, and to monitor that email inbox for communications from the MGC, including requests for clarification. The MGC and the Commonwealth assume no responsibility if a prospective bidder’s/awarded contractor’s designated email address is not current, or if technical problems, including those with the prospective bidder’s/awarded contractor’s computer, network or internet service provider (ISP) cause email communications sent to/from the prospective bidder/awarded contractor and the MGC to be lost or rejected by any means including email or spam filtering.

Written Responses to Questions will be released on or about the date indicated in the Estimated Procurement Calendar (above).

(Written questions and responses will be posted on the Bid Q&A Tab for this bid in COMMBUYS.)

b. **Bid Amendment Deadline**

The MGC reserves the right to make amendments to the bid after initial publication. It is each bidder’s responsibility to check COMMBUYS for any amendments, addenda or modifications to this bid, and any Bid Q&A records related to this bid. The MGC and the Commonwealth accept no responsibility and will provide no accommodation to bidders who submit a Quote based on an out-of-date bid or on information received from a source other than COMMBUYS.

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c. Quotes (Bid Responses) Deadline (Bid Opening Date/Time)

See the Quotes (Bid Responses) Deadline (Bid Opening) Date and Time indicated in the Estimated Procurement Calendar (above).

d. Oral Presentations

The MGC reserves the right to request the highest scoring bidders to make oral presentations either through on-site meetings or through a video conferencing platform the week of the Date and Time indicated in the Estimated Procurement Calendar (above).

e. Contract Negotiation

The MGC reserves the right to negotiate any portion of the response with a bidder to make sure the MGC attains the scope and best value for the Commonwealth.

f. Estimated Contract Start Date

This is the approximate start date. The actual start date will be the Contract Effective Date which is the date the contract is executed by the parties.

14. Required Forms

The bidder that is selected and negotiates a successful contract will be required to complete and fill out the forms indicated below. **DO NOT SUBMIT ANY OF THESE FORMS WITH YOUR RESPONSE.**

Check if applicable ("X")	Form/Document	Notes/Instructions (If any)
	[IDENTIFY ALL APPLICABLE DEPARTMENT BID DOCUMENTS AND ADD ADDITIONAL LINES AS NEEDED]	[IDENTIFY SUBMISSION INSTRUCTIONS]
<input checked="" type="checkbox"/>	Commonwealth Terms & Conditions	Wet Ink Signature Required
<input checked="" type="checkbox"/>	Request for Taxpayer Identification Number & Certification (Massachusetts Substitute W-9 Form)	Wet Ink Signature Required
<input checked="" type="checkbox"/>	Standard Contract Form and Instructions	Wet Ink Signature Required
<input checked="" type="checkbox"/>	Contractor Authorized Signatory Listing	Wet Ink Signature Required
<input checked="" type="checkbox"/>	Authorization for Electronic Funds Transfer	Electronic Submission
<input checked="" type="checkbox"/>	Additional Environmentally Preferable Products/Practices	Electronic Submission

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Check if applicable ("X")	Form/Document	Notes/Instructions (If any)
<input checked="" type="checkbox"/>	Supplier Diversity Plan Form 1 (SDP Plan Commitment)	Electronic Submission
<input checked="" type="checkbox"/>	Prompt Payment Discount Form	Electronic Submission
<input checked="" type="checkbox"/>	Business Reference Form	Electronic Submission

The above attachments are available as part of the bid record on [COMMBUYS \(WWW.COMMBUYS.COM\)](http://www.commbuys.com).

15. RFR Attachments

Appendix A: Required Specifications [LOCATED ON OSD'S FORMS PAGE:
<http://www.mass.gov/anf/budget-taxes-and-procurement/oversight-agencies/osd/osd-forms.html>]

Appendix B: Electronic Quote Submission Instructions
<http://www.mass.gov/anf/docs/osd/forms/instructions-for-vendors-responding-to-bids.docx>

Miller & Chevalier Response to Request for Proposal to Serve as Independent Compliance Monitor

Thank you for the opportunity to present this proposal to serve as Independent Compliance Monitor for Wynn Resorts, Limited and its affiliate Wynn MA, LLC (together, the Company).

We are confident that our team is uniquely qualified to support the Massachusetts Gaming Commission's goal of ensuring the development and implementation of robust and effective human resources policies and procedures, especially with respect to matters of sexual misconduct and sexual harassment.

- ▶ **Our proposed team has significant prior in-house and monitorship experience** and includes attorneys who led legal and compliance departments at major multinationals and served as Independent Compliance Monitors across a range of industries. The proposed leader of our team, Alejandra Montenegro Almonte, served as General Counsel for the North American and Latin American Division of gategroup, the largest independent global provider of products, services, and solutions to the airline and rail industries. As General Counsel she developed and implemented compliance programs across the Division and advised senior executives all aspects of employment and workplace matters, including sexual harassment, discrimination, intimidation, retaliation, and workplace bullying. While at Miller & Chevalier, Ms. Montenegro Almonte has served as a deputy on an Independent Compliance Monitor team. In that role, she assisted the appointed Monitor in evaluating and recommending enhancements to all aspects of the company's compliance program.
- ▶ **Miller & Chevalier has extensive experience designing and testing compliance programs.** We have a long history of designing, implementing, evaluating, and enhancing compliance programs for multi-national companies. Our compliance practice pre-dates the enforcement push that began in the mid-1990s and has involved designing and implementing risk-based compliance programs for scores of multi-national clients. We were designing and implementing risk-based, multi-disciplinary assessment processes for companies well before these practices were a common part of the U.S. compliance landscape. A number of our clients have been credited by U.S. enforcement agencies for having exemplary programs, and many have avoided prosecution or received mitigation credit because of the strength of their programs.
- ▶ **Miller & Chevalier has experience advising companies in the gaming and hospitality industries.** We have deep experience in the areas central to this project, including in the gaming and hospitality industries. Miller & Chevalier conducted a whistleblower-related investigation for a company in the gaming industry and provided in-person trainings for company personnel over a period of four years. In addition, we currently represent one of the world's largest hotel companies (through its trade association) in a federal lawsuit in Washington State challenging a Seattle ordinance requiring

the provision of a certain level of health benefits to hotel employees. We have also performed licensing work for hospitality clients. In addition, multiple lawyers have decades of experience representing clients on multiple employment and compensation matters in the food, beverage, and hospitality industry, which often have similar and challenging employment issues.

This expertise will allow us to quickly identify risks specific to the Company's business and suggest mechanisms for guarding against those risks that are both best practice and tailored to the Company's industry and business.

Our proposal describes our firm, proposed details of the engagement, our proposed team, estimated costs, and our qualifications for this work. We hope you find this overview helpful. We are enthusiastic about the possibility of this appointment and are available to answer any questions you may have.

Sincerely,



Alejandra Montenegro Almonte

1. Executive Summary

As the Monitor team, we would seek to ensure that by the end of the monitor term, the Company has in place a compliance program designed to ensure a workplace free from harassment and intimidation of any kind, specifically based on gender, and that effectively responds to and anticipates the risks presented by the Company's business environment.

Our primary objective will be to comply with the priorities outlined by the Massachusetts Gaming Commission in its Decision and Order of April 30, 2019:

- ▶ We will seek to ensure that the compliance culture throughout the Company internalizes lessons learned from past occurrences and evolves such that the program survives beyond the monitor term.
- ▶ Our team will focus on reviewing the design, implementation, enforcement, and effectiveness of human resources policies and procedures, with special attention to communications and trainings on those policies and procedures.
- ▶ We will review the use of retractions, mandatory arbitration provisions, gag orders, confidentiality clauses, and non-disparagement provisions.
- ▶ We will also evaluate and test the Company's internal reporting and communication channels and ensure that the response and investigation to such reports is independent and impartial, whether the response and investigation is led internally or through outside counsel.
- ▶ We will assess the selection and use of outside counsel and ensure maintenance of and adherence to de-conflicting policies and procedures.

We would approach these objectives through the lens of our decades of experience building compliance programs from clients across industries and through our extensive internal investigations experience which has given us a front-line view to issues of first impression and how to prevent recurrence.

We would seek to fulfill these objectives, mindful that a monitor's role is defined and limited by the Massachusetts Gaming Commission's (the Commission or the government) Decision and Order of April 30 and that a monitor's responsibilities should be no broader than necessary to address and reduce the risk of recurrence of misconduct. Accordingly, we would ground the monitorship on three inter-related principles: independence, efficiency, and transparency.

Independence. A monitor must carefully maintain his or her independence. However, this independence does not mean that a monitor must keep either the Company or the government at arm's length or in the dark. Indeed, based on our experience, we believe an effective monitor facilitates open communication and constructive dialogue among the monitor, the government, and the Company. We would seek to engage in healthy and productive dialogue both with the Company and the Commission throughout the monitor term. This kind of open dialogue will not keep an effective monitor from reaching his or her own objective conclusions based upon first-hand observation, focused testing, and close collaboration with Company thought leaders, Company counsel, and Commission officials.

A properly executed monitorship provides benefits to the Company beyond the Company merely

complying with its obligations to the Commission. An independent monitor does more than provide guidance and testing and all that is entailed in the obligations under the Company's agreement with the Commission. The monitor should also provide, when apt, a sounding board for the difficult decisions a Company must make about its compliance program—its costs, its effectiveness, its management, its tone. The conversations and consultations about the details of the Company's compliance systems should involve give-and-take about best practices and lessons learned from approaches that have succeeded with other companies facing similar risk profiles. As the included profiles of the firm and our proposed team members suggest, we have decades of proven experience working with companies to develop, test, and strengthen their compliance programs. As we develop our recommendations regarding compliance program elements and related controls and culture-building tools, we would welcome the opportunity to engage in collaborative discussion about the merits of various approaches and the viability of innovations the Company might consider during the monitorship term or thereafter.

Efficiency. An ideal monitor balances efficiency with thoroughness. While the monitor does not have a client in a traditional sense, we believe a monitor should view the role as akin to protecting the Company's shareholders and employees who will benefit in the long run, and, ideally, even in the short run, from effective – and cost-effective – compliance. It is not in the shareholders' or employees' interest for the monitor to waste time or money, or to recommend measures that impose costs and burdens on the Company's operations without commensurate reduction in risk. It is also not in the shareholders' interest to permit shortcuts at the expense of unnecessary risk to the business.

In past monitorships that Miller & Chevalier has successfully executed, we have faithfully honored the defined scope of our role, which has driven overall efficiency, controlled costs, and avoided scope creep. We would employ lessons learned in those previous monitorships. For example, we would design appropriate site visits to observe the Company's approach to training on harassment, intimidation, and discrimination, the availability and promotion of its internal reporting channels, investigations procedures, and other HR compliance components. During site visits we would also test the Company's commitment to compliance through interviews of key management and personnel regarding the Company's compliance ethics, program, and risks. We would also hold discussions with employee focus groups comprised of a cross-section of the Company's rank and file personnel. But those visits would not include broad, unfocused interviews on issues outside the scope of the monitor's duties. They would also not involve teams larger than necessary to get the job done.

Transparency. Two-way transparency is key to the success of a monitorship. Just as we would expect, and indeed would require, transparency from the Company on key issues, the Company should expect the same from us. For example, during site visits, we would schedule time with the relevant Company representatives to discuss observations and would commit to providing contemporaneous feedback so that areas of concern could be immediately considered by the Company. These discussions would be structured in order to maintain confidentiality where appropriate, and there will undoubtedly be circumstances in which we would need to meet separately with Company employees to explore particularly sensitive issues. But where interviews reveal areas of concern, we would find ways to address those areas with the Company while protecting the integrity of our function.

As another example, it is difficult to imagine a circumstance in which a monitor's report would be issued without comment and input from the Company and its counsel. A monitor's legitimacy is based, in part,

on willingness to share significant conclusions and consider well-founded feedback from the Company. While agreement may not be reached on every issue, important issues deserve robust discussion and the monitor should consider the impact of his or her various recommendations, including how those recommendations are worded, and whether there are alternatives which accomplish the compliance objectives without unfairly burdening the Company. Accordingly, in our monitorships, as we move toward initial and final reports, we exchange with the Company a working list of close-out items. In connection with the instant monitorship, if we were chosen, we would work closely with the Company to ensure there were no surprises when reports were finalized. At the same time, and consistent with the kind of transparency discussed herein, we would make sure the respective government agencies also had visibility into this process and approach.

2. Proposed Team

The following lawyers will comprise the core monitorship team:

Alejandra Montenegro Almonte: Ms. Montenegro Almonte would serve as the monitor and team lead. Ms. Montenegro Almonte served for five years as General Counsel to the North American and Latin American Division of gategroup, the world's largest independent airline services provider. In that capacity, she provided senior executives legal and compliance advice on all aspects of employment and workplace matters, including sexual harassment, discrimination, intimidation, retaliation, and workplace bullying. She also led and managed dozens of wide-ranging sexual harassment investigations, defended the company in Equal Employment Opportunity Commission (EEOC) actions, and partnered with outside counsel in defense of employment litigation. She has also conducted numerous harassment trainings and audits to test the effectiveness of the company's policies and procedures. In collaboration with the Vice President of Human Resources, Ms. Montenegro Almonte drafted and implemented workplace policies, managed the company's internal reporting channels, and provided periodic reports to senior executives and the Board of Directors. Ms. Montenegro Almonte's experience as General Counsel not only gives her unique insight into the challenges companies face day-to-day in ensuring a workplace free from harassment, but more importantly, arms her with effective and practical solutions to proactively address those challenges.

While at Miller & Chevalier, Ms. Montenegro Almonte has served as a deputy on an Independent Compliance Monitor team pursuant to an Foreign Corrupt Practices Act (FCPA) disposition arising out of conduct in Latin America following extensive vetting by the U.S. Department of Justice (DOJ) and U.S. Securities and Exchange Commission (SEC). Ms. Montenegro Almonte assisted the appointed Monitor in assessing all aspects of the company's compliance program, including protocols for and execution of internal investigations and responses to external government inquiries and recommending improvements. The company is a foreign company, but listed on a U.S. exchange, and thus subject to multiple United States laws.

Ms. Montenegro Almonte's experience leading investigations from both in-house and external counsel roles provides her unique experience and a broad perspective. She is also experienced in managing teams across multiple business lines and corporate functions and swiftly triaging situations to minimize client exposure. Ms. Montenegro Almonte is not only an experienced internal investigator; she also understands crisis management and protecting her clients' interests vis-a-vis multiple stakeholders.

Preston Pugh: Mr. Pugh would serve as a deputy to the monitor. He was the federal court-appointed Monitor in one of the EEOC's largest racial harassment monitorships to date, *EEOC v. Roadway Express*, No. 1:10-cv-05304 (N.D. Ill. 2010), which lasted five years and was focused on YRC's implementation of a \$20M consent decree at two facilities in the Chicagoland area. The issues in that monitorship included significant improvements to the company's internal investigations protocol, internal reporting avenues, and ensuring the company's systems for assignments and discipline was nondiscriminatory. At the conclusion of the monitorship, based on Mr. Pugh's recommendation, the federal court found that the Company complied with the consent decree.

Mr. Pugh was also the first Monitor (or Independent Private Sector Inspector General (IPSIG)) appointed by the Waterfront Commission of New York and New Jersey Harbors. In that role, he was responsible for overseeing the compliance of a stevedore with the regulatory licensing requirements of the Commission, including certain employment aspects and ensuring the stevedore was in no way associated with organized crime.

Lastly, Mr. Pugh was appointed by the American Bar Association (ABA) to serve on the ABA's Task Force for Corporate Monitors, the first of its kind. In that role, Mr. Pugh helped draft the ABA's first set of standards that apply to the ethical conduct of corporate Monitors, as well as recommend steps that all parties involved in a monitorship can take to ensure that it is effective and without real or perceived conflicts of interest.

Katherine Pappas: Ms. Pappas would serve as a senior member of the core Monitor team. She has significant experience in complex investigations, including in advising clients regarding violations of employee codes of conduct. She was a core team member in representing an international company in an enforcement action prosecuted by the DOJ, SEC, and international enforcement agencies. Ms. Pappas has also advised a labor organization in connection with an internal investigation into allegations of internal fraud. She has represented companies and individual witnesses, both current and former employees, in witness interviews with the authorities.

Ann Sultan: Ms. Sultan would serve as a senior member of the core Monitor team. She has considerable experience in advising both U.S. and non-U.S. clients in investigations into accounting, internal governance, human resources, and anti-corruption compliance issues, as well as in conducting anti-corruption compliance risk assessments. Ms. Sultan played a key role in an internal investigation and representation of an international company in negotiating a deferred prosecution agreement with the DOJ, SEC, and an international enforcement agency. Ms. Sultan has also assisted companies with reporting investigation results to external auditors. Prior to joining Miller & Chevalier, Ms. Sultan practiced law in Massachusetts and gained experience with issues under the jurisdiction of the Massachusetts Gaming Commission.

Nicole Gökçebay: Ms. Gökçebay would be a junior member of the core Monitor team. Her practice involves international corporate compliance and internal and government investigations. Ms. Gökçebay's experience includes advising a restaurant and nightclub on European licensing requirements and assisting with licensing requests and submissions.

As this case involves the payment of legal settlements with complainants, we would recommend utilizing independent forensic accounting expertise to assist the monitor team in reviewing and testing

the Company's internal controls as they relate to review, approval, and payment disbursements. We have previously worked with a few very talented forensic accountants who are not with Big Four accounting firms and who can be exceptionally cost-effective additions to the team.

The following lawyers would act in an advisory capacity for the core monitorship team:

Mary Lou Soller: Ms. Soller focuses her practice on complex criminal and civil issues as well as investigations. She represents corporations and individuals in government fraud investigations and has extensive experience dealing with issues of privilege and ethics. She is a member of the Board of Professional Responsibility for the District of Columbia Court of Appeals and is a member (and former Co-Chair) of the Ethics, Compliance, and Professional Responsibility Committee, Section of Public Contract Law, of the ABA.

Kathryn Cameron Atkinson: Ms. Atkinson is the Chair of Miller & Chevalier's International department and a member of the firm's Executive Committee and Pro Bono Committee. Her practice focuses on international corporate compliance, including, in particular, the FCPA, as well as anti-money laundering laws, export controls and economic sanctions, and corporate social responsibility. She advises clients on corruption issues around the world. This advice has included compliance with the FCPA and related laws and international treaties in a wide variety of contexts, including transactional counseling, formal opinions, internal investigations, enforcement actions by the DOJ and the SEC and resulting monitorships, and commercial litigation raising improper payment issues.

Ms. Atkinson has twice been selected as a government-appointed Independent Compliance Monitor. She currently serves as a DOJ/SEC-appointed Monitor pursuant to an FCPA deferred prosecution agreement (DPA). She previously served as Monitor for KBR, Inc. in an FCPA matter settled with the DOJ and SEC. Ms. Atkinson is among the youngest, as well as one of only two women, appointed to serve as a Monitor. She is also the only woman ever appointed as a Monitor twice, according to publicly available sources. In a 2013 article in the *Wall Street Journal*, KBR General Counsel Andrew Farley praised Ms. Atkinson's work.

3. Respondent's Firm

Founded in 1920, Miller & Chevalier has represented more than 40 percent of the Fortune 100, one-quarter of the Fortune 500, and approximately 30 percent of the Global 100 over the past three years. Miller & Chevalier is a trusted partner to clients in the United States and around the world, providing solutions to their most complex problems and counsel that enables them to seize new opportunities.

Our Experience. Our experience includes compliance program development, compliance training, internal investigations, employment litigation, global due diligence investigations, government enforcement actions, formal opinions, litigation and arbitration, and many novel legal and compliance issues. We have helped develop more than 100 compliance programs for clients; been selected as Independent Compliance Monitors in six cases and served as counsel to an additional eight companies navigating a monitorship; conducted well more than 100 independent internal investigations; advised on due diligence and other issues in transactions exceeding \$90 billion in total value; testified as expert witnesses; and represented clients in enforcement actions presenting a variety of factual circumstances and issues of first impression.

Independent Compliance Monitor Experience. Miller & Chevalier has significant independent monitorship experience and our attorneys have worked in compliance at major multinationals and served as Independent Compliance Monitors across a range of industries.

Our firm is distinguished in that we have four separate attorneys who have served as Independent Compliance Monitors. We have represented numerous companies under monitorship in responding to Monitor inquiries and advising companies on how to meet Monitor expectations and are currently managing client interactions with Monitors and the U.S. enforcement agencies. This high volume of monitorship experience is notable for any law firm, particularly for one of our size, and is a testament to our deep bench, efficient and communicative teams recognized for their global experience, business acumen, and strong working relationship with government officials.

Compliance Experience. Our proposed team has significant prior monitorship and in-house experience and includes attorneys who have led a legal and compliance department at a major multinational company and served as Independent Compliance Monitors across a range of industries. Our proposed Monitor and team lead, Alejandra Montenegro Almonte, and our proposed deputy Monitor, Preston Pugh, both bring this dual experience. Ms. Montenegro Almonte served five years as General Counsel for the North American and Latin American Division of gategroup, a global provider of products, services, and solutions related to the onboard experience of airline and rail passengers, where she developed and implemented compliance programs across the region. Mostly recently she served as a deputy to an Independent Compliance Monitor appointed by the DOJ and SEC. Mr. Pugh has been twice-appointed as a compliance Monitor, including in employment-related matters, and has held senior in-house compliance roles at two Fortune 50 companies.

Sexual Harassment and Employment-Related Investigations Experience. More than 45 of our lawyers specialize in handling investigations across a wide range of issues, including allegations of sexual harassment and other legal and ethical violations. Nearly half of our investigations experts are women.

Our team includes former federal prosecutors, public defenders, court-appointed compliance Monitors, and in-house counsel whose investigative skills and litigation experience help companies quickly and efficiently establish the facts. Ms. Montenegro Almonte and Mr. Pugh have both conducted dozens of sexual harassment and other employment-related investigations. In their in-house roles, they not only investigated matters, but also designed and implemented corrective measures to mitigate the risk of recurrence. This longstanding and deep experience makes our firm – and our proposed team – uniquely situated to handle this appointment.

Distinguished Clients. Our clients, representing more than 15 different industries, are perhaps our strongest credential. Our corporate clients range from start-ups to many of the world's largest corporations. We frequently advise their boards of directors, Audit Committees, and senior management, as well as individual executives, accounting and auditing firms, governmental entities, and other law firms.

Partnership. While independence is critical, it does not come at the expense of partnering with our clients and their inhouse legal teams. Here, too, our experience as court-appointed Monitors helps us maintain the right balance between independence and a collaborative working relationship.

Rankings and Recognition

- ▶ *Chambers Global*: Corporate Crime & Investigations (USA), 2016 - 2019
- ▶ *Chambers Global*: Corporate Investigations (Global-wide), 2017 - 2019
- ▶ *Chambers Global*: Corporate Investigations (Latin America-wide), 2015 - 2019
- ▶ *Chambers Global*: FCPA (United States), 2015 - 2019
- ▶ *Chambers USA*: Corporate Crime & Investigations (National), 2015 - 2019
- ▶ *Chambers USA*: Litigation: White-Collar Crime & Government Investigations (District of Columbia), 2011 - 2019
- ▶ *Chambers USA*: FCPA (National), 2014 - 2019
- ▶ *Chambers Latin America*: Corporate Investigations (Latin America-wide), 2015 - 2019
- ▶ *Global Investigations Review*: GIR 30 Top Global Investigations Practice, 2015 - 2018
- ▶ *Global Investigations Review*: Boutique or Regional Practice of the Year, 2016
- ▶ *Latinvex*: Latin America's Top 10 FCPA & Fraud Firm, 2015 - 2019
- ▶ *Legal 500*: Dispute Resolution: White-Collar Criminal Defense (U.S.), 2011 - 2019
- ▶ *U.S. News - Best Lawyers*® "Best Law Firms": Criminal Defense: White-Collar (District of Columbia), 2011 - 2018

4. Track Record

Miller & Chevalier has a proven track record of conducting and resolving internal investigations and assisting companies in designing and implementing compliance programs that detect, respond to, and resolve issues. Full firm biographies for each team member are attached to this submission. In addition, examples of previous work across the firm relevant to this RFR include:

Monitorship Experience

Miller & Chevalier has considerable experience serving as an Independent Compliance Monitor and representing companies before their compliance monitors.

Independent Monitorship: Our firm is distinguished in that we have four separate attorneys who have served as Independent Compliance Monitors. We have represented numerous companies under monitorship in responding to monitor inquiries and advising companies on how to meet monitor expectations and are currently managing client interactions with monitors and the U.S. enforcement agencies. This high volume of monitorship experience is notable for any law firm, particularly for one of our size, and is a testament to our deep bench, efficient and communicative teams recognized for their global experience, business acumen, and strong working relationship with government officials. Specifically:

- ▶ While at Miller & Chevalier, Ms. Montenegro Almonte served as the deputy to the Independent Compliance Monitor pursuant to an FCPA disposition arising out of conduct in Latin America following extensive vetting by the DOJ and SEC. Ms. Montenegro Almonte assisted the appointed monitor in assessing all aspects of the company's compliance program, including protocols for and

execution of internal investigations and responses to external government inquiries, and recommending improvements. The company is a foreign company but listed on a U.S. exchange, and thus subject to multiple anti-corruption and other relevant laws.

- ▶ Also, as noted above, Preston Pugh was the first compliance Monitor (IPSIG) appointed by the Waterfront Commission of the State of New York, part of the Commission's effort to root out organized crime.
- ▶ Mr. Pugh was also appointed as a monitor by a federal district court in Chicago to oversee the implementation of a five-year, \$20M EEOC consent decree, one of the largest of its kind directed towards harassment and systemic bias.
- ▶ Mr. Pugh was a member of the ABA's Task Force on Corporate Monitors and contributed to the first-ever set of ABA Standards for Corporate Monitorships.
- ▶ Kathryn Cameron Atkinson was appointed to serve as an Independent Compliance Monitor pursuant to an FCPA DPA following extensive vetting by the DOJ and SEC. This is the second time Ms. Atkinson has been selected to serve as a government-appointed Independent Compliance Monitor. Monitorship team members draw upon their Spanish, Portuguese, and Mandarin Chinese language skills for on-the-ground interviews during compliance assessments conducted in various countries.
- ▶ Ms. Atkinson's work involved evaluation of all aspects of the compliance program and related internal accounting controls, including evaluation of investigation and audit practices, and regular coordination with the DOJ and SEC.
- ▶ Homer E. Moyer, Jr. served as the Independent Compliance Consultant to Titan Corporation pursuant to its 2005 FCPA resolution with the SEC, one of the first FCPA monitorships.

"Buffer Counsel" Experience: In addition to serving as independent compliance monitors, Miller & Chevalier lawyers have also served as "buffer counsel" by advising and representing companies before their monitors:

- ▶ Represented VimpelCom, a major European telecommunications company, in connection with resolution of government investigations by the United States and multiple European countries into FCPA-related activities in the former CIS region; negotiations followed a multi-year investigation that involved multiple interviews in Uzbekistan, Kazakhstan, Tajikistan, Georgia, Armenia, Russia, and other countries, as well as managing document collection and review from a variety of jurisdictions whose laws presented complicated data privacy issues; led the compliance Monitor selection process and assisted the company in establishing mechanisms to address significant data privacy and national security law challenges to accommodating the Monitor's need to access company information; continue to provide ongoing advice as investigations counsel and co-counsel with regard to compliance and transactions issues.
- ▶ Currently serve as FCPA compliance counsel for a client with a newly-appointed compliance Monitor; work involved drafting and revising compliance policies and coordinating with the Monitor through his three-year term, including working through draft reports.

- ▶ Negotiated a novel settlement for a client and then served as counsel in connection with the three-year monitorship, which was completed successfully. During that time, we assisted the company in the creation and staffing of a new compliance function and in rolling out a new compliance program.
- ▶ Engaged by a client to serve as buffer counsel with a Monitor and respond to aggressive and burdensome requirements the Monitor sought to impose. The client completed the monitorship on time.
- ▶ Represented a client in the oilfield services sector that engaged us after entering into what was then the largest FCPA settlement to date asked us to assist in dealing with the Monitor and the agencies, and in upgrading its compliance program. Over the course of a three-year monitorship, we assisted the company with its preparation for the Monitor's arrival, coordinated disclosures of compliance issues to the Monitor, accompanied the Monitor on site visits, and advised the Company regarding program improvements. The company and its Chief Compliance Officer have since been honored and frequently cited as having an exemplary FCPA compliance program. We have since continued as FCPA counsel to the company for more than a decade.

Compliance Experience

- ▶ Miller & Chevalier has designed and implemented dozens of corporate governance programs and have observed the implementation of them in the monitorships described above. In addition, we routinely advise clients on the design and implementation of their compliance programs.
- ▶ Conducted an investigation for a company in the gaming industry providing review of third-party relationships and whistleblower-related internal investigation. Conducted several trainings over the four years (2007-2011) in Macau and the People's Republic of China.
- ▶ Conducted a global review of a multinational energy company's compliance program and related internal accounting controls against applicable statutory standards and best practices, in the context of ongoing investigations in multiple jurisdictions. The ongoing review involves an assessment of the company's existing compliance program, document review, forensic analysis, interviews of senior management and compliance personnel, and compliance reviews of major operations in various geographical locations. In parallel, we researched the history of the company's compliance systems to inform the company's legal and factual defenses in ongoing non-U.S. enforcement actions.
- ▶ For a health care industry provider, conducted an investigation and worked with the client on a variety of compliance issues, including FCPA, sanctions, export controls, and money laundering, for more than a decade. The investigation involved a review of select communications and transactional records, and interviews with employees and outside parties on-site in a foreign country.
- ▶ Conducted compliance due diligence related to a multi-billion dollar significant acquisition of a global technology transportation entity operating in 12 countries in the Middle East. Our work involved identifying high risk third parties and conducting compliance due diligence into the same, as well as evaluating and managing sanctions and export controls risks presented in the transaction, conducting in-country interviews of the target's senior management and other business personnel, ERP systems and internal controls review, and forensic analysis of compliance-sensitive transactions.

Investigations Experience

Miller & Chevalier has extensive experience in acting as independent counsel in the context of internal investigations. Our White Collar Defense practice has been recognized by *Chambers USA* and *U.S. News – Best Lawyers® "Best Law Firms"*, and members of the practice have been recognized by the American College of Trial Lawyers, *The Best Lawyers of America®*, *Legal 500*, *Washingtonian Magazine*, Ethisphere Institute's *Attorneys Who Matter*, and others for their talent and experience. The firm's strength and breadth in internal investigations is reflected in the fact that ten of its lawyers were recognized in the *Who's Who Legal: Investigations* (2015 - 2019) and have also led investigations as federal prosecutors and former members of the in-house bar.

Sexual Harassment Experience

- ▶ Engaged by a client to provide crisis management support following the public disclosure of sexual harassment complaints against a company executive. During that time, assisted the company in its public and internal response and advised on human resources policies and communications.
- ▶ Conducted an internal investigation on behalf of a large law firm regarding alleged sexual harassment by a top manager.
- ▶ Engaged by the Audit Committee of a Fortune 500 Company to investigate claims of retaliation and harassment by the Chief Compliance Officer arising out of prior investigations into FCPA allegations.

Non-Disclosure Agreements

- ▶ Our team has experience drafting and negotiating non-disclosure agreements, as well as employment separation agreements that include waiver and release provisions, and confidentiality and non-disparagement clauses.

Other Related Experience

- ▶ Miller & Chevalier has advised employers on noncompete and non-solicitation agreements, and whether they complied with state pre-Uniform Trade Secrets Act (UTSA) laws.
- ▶ Miller & Chevalier regularly advises clients involved in litigation or enforcement actions. As a result, the firm continually analyzes communications to determine whether they are subject to any privilege protections.

Data Security

For nearly a century, organizations have entrusted Miller & Chevalier with their most complex matters. Often these matters require the storage and transfer of highly sensitive information. Maintaining the confidentiality, availability, and integrity of this information is required to preserve that trust and ensure the delivery of elite legal services. To further these requirements, the firm is in the process of obtaining ISO 27001 certification, which involves the development and implementation of a comprehensive information security management program. The most critical components of the firm's information security program are outlined in the sections below.

Security Awareness Training. All personnel are formally trained at least annually to reinforce good security practices and raise awareness of the latest cyber-security trends. Personnel are reminded of the reasons law firms are targeted, the methods used by hackers, and approaches to reduce our risk. Between training sessions, security bulletins are disseminated via email to continually remind personnel of common threats.

Periodic Information Security Audits. Third-party auditing is fundamental to helping ensure the firm's systems are properly designed and patched and policies are developed according to industry standards. Miller & Chevalier performs a comprehensive audit annually with vulnerability scans, which are performed at least monthly. The annual audit consists of four phases:

- ▶ Comprehensive Vulnerability Assessment
- ▶ ISO/IEC 27003:2010(E) (ISO 27003) Compliance Roadmap
- ▶ ISO/IEC 27005:2011(E) (ISO 27005) Risk Assessment
- ▶ ISO/IEC 27002:2013(E) (ISO 27002) Controls Assessment

The annual audit delivers a report containing a SWOT analysis, an ISO 27001 compliance scorecard, and a gap analysis identifying specific findings and recommendations aimed at achieving and/or maintaining ISO 27001 compliance. Information security initiatives are then planned and prioritized based on the results of the comprehensive vulnerability assessment.

Hardware and Software Systems. The firm continually researches advanced hardware and software systems that might improve the security of the firm's data. Examples of such systems that have been implemented at Miller and Chevalier include:

- ▶ Data loss prevention
- ▶ Next-Generation Anti-malware/anti-virus
- ▶ Intrusion detection and prevention
- ▶ Patch automation
- ▶ Hard drive encryption
- ▶ TLS email encryption
- ▶ Two-factor authentication
- ▶ Malicious email prevention
- ▶ Continuous automated monitoring of security systems
- ▶ Authentication control
- ▶ Comprehensive security information and event management

Policies and Governance. Policies are developed by a team that includes the Executive Director, General Counsel, Director of Human Resources, and IT senior leaders. The group works to continually improve upon existing policies and develop new policies to help reduce the risk of a security incident. Examples include:

- ▶ Acceptable Use

- ▶ Backup
- ▶ Business Continuity
- ▶ Confidential Data
- ▶ Disaster Recovery
- ▶ Email
- ▶ Encryption
- ▶ Incident Response
- ▶ Information Security
- ▶ Mobile Device
- ▶ Network Access and Authentication
- ▶ Network Security
- ▶ Organization of Information Security
- ▶ Outsourcing
- ▶ Password
- ▶ Physical Security
- ▶ Wireless Access

5. Proposed Activities

Scope of Work

Timeline estimates are incorporated into the work plan set forth below. We have structured the work plan to position us, with the Company's full cooperation, to present the baseline assessment and initial recommendations at the six-month mark. Accordingly, the plan that follows is aggressive, and will necessarily involve multiple teams working simultaneously in order to allow sufficient time for potential site visits and program testing. Following the baseline assessment, the duration of the monitorship would focus on field testing and program evaluation tailored to the monitor's recommendation and any outstanding issues.

Our review would initially focus on understanding the Company's current risk profile, with particular focus on any legacy compliance issues given the recurrence risk they can present. This would include learning about the issues that led to the Commission's Decision and Order and understanding the Company's current human resources compliance structure and operations. Simultaneously, we would evaluate the Company's culture, use of retractions, mandatory arbitration provisions, gag orders, confidentiality clauses, non-disparagement clauses, internal reporting and communication channels, internal controls related to payment disbursement, and policies regarding the use of outside counsel. We would then move on to targeted field testing of the Company's compliance program at apt locations. Finally, we would focus on the preparation of a report, which would involve extensive consultation with the Company about issues relevant to the monitorship.

Throughout the first three phases, and particularly during the field work activity, we would share

feedback regarding our observations and any suggested recommendations regarding the compliance program and related internal controls. Part of our on-going review would be an evaluation of the Company's response to this feedback. Prior to submission of the baseline assessment, we would share drafts, discuss any areas of concern with the Company, and incorporate feedback as appropriate.

Phase One: Background, Company Structure, and Risk Profile

This phase, which would occur during the initial three months of the monitorship, would focus on reviewing relevant background information, understanding the Company's present structure and integration status, and identifying and describing the Company's risk profile, to which its compliance programs and internal controls must be tailored.

A. Review of Facts Leading to the Commission's Decision and Order

This step would involve reviewing the facts and circumstances of the past violations, which provides background relevant to assessing whether the Company has taken steps to prevent reoccurrence of violations. This would not be a reinvestigation of those issues. A monitorship is an inherently forward-looking enterprise. However, the understanding of past issues will show us where to focus as to going-forward risk. Such activity would include:

- ▶ Review of resolution documents and non-privileged material related to the investigation.
- ▶ Briefings with the Company's outside counsel regarding relevant background, results of the investigation, and aspects relevant to going-forward compliance, including the initial monitorship.
- ▶ Meeting with the Commission to discuss background, including expectations of the monitorship and proposed work plan.

B. Review of Company's Current Structure and Operations

This step would involve learning about the Company's current business structure and operations in order to evaluate the Company's risk profile. Such activity would include:

- ▶ Review of public filings, including annual reports, state or federal filings (including with the SEC), press releases, and news stories.
- ▶ Meetings with senior management in key functions to discuss business structure, operations, current state of HR compliance program, and specific HR compliance risks. Sessions are likely to involve some or all of the following, depending on preliminary determinations of relevance to issues within the scope of the monitorship:
 - President and Chief Executive Officer
 - Head of Human Resources
 - General Counsel
 - Chief Financial Officer
 - Corporate Controller and/or Chief Accounting Officer
 - Leads of other relevant business/regional units

- Meetings with members of the Board of Directors, including the chairs of the Board's Compliance Committee and Audit Committee
 - Discussions with members of the Human Resource team regarding the structure and scope of the Company's implementation and compliance with human resource policies and other risk- reduction mechanisms.
 - Members of key gatekeeper functions, such as Legal Affairs, Human Resources, Global Compliance, and Internal Audit to understand and assess the risk profile analysis that underlies current policies and procedures (meetings could be integrated with those mentioned above or scheduled separately).
- ▶ Review of existing presentations (*e.g.*, reports to management, Board, analysts, etc.) describing the business.
 - ▶ Review of corporate and operational structure and organizational charts.
 - ▶ Request and review information and non-privileged documents relating to:
 - reporting structures;
 - human resource policies;
 - use of retractions, mandatory arbitration provisions, gag orders, confidentiality clauses, and non-disparagement provisions;
 - internal reporting channels, including investigation and resolution of employee complaints; and
 - use of outside counsel and related conflict of interest policies.

Phase Two: Assessment of Culture, Compliance Program, and Internal Controls

This phase would start in parallel with Phase One and is designed to be completed by the end of the third month of the monitorship. Building synergistically on the information gathered in Phase One, we will assess the Company's compliance culture and tone at top. This phase will also involve assessment of the Company's written compliance program and internal controls, and record-keeping as they relate to the Company's compliance with internal human resource, reporting, and de-confliction policies. Such activity would include:

A. Assessment of Culture and Tone at Top

This step includes:

- ▶ Meetings with senior management to discuss their approach to developing and promoting the Company's culture of integrity and compliance. Where possible, culture and tone at the top themes will be integrated into discussions detailed in the prior phrase to avoid undue burden on senior management.
- ▶ Review of Board and senior management communications to employees and third parties regarding the Company's core values, and commitment to compliance.
- ▶ Interviews of key management personnel not included in Phase One

- ▶ Conduct focus groups with rank and file employees representing a cross-section of the Company regarding the Company's values, commitment to compliance, and tone at the top.

B. Review of Human Resource Policy and Compliance Program

This step includes:

- ▶ Request and review of materials relating to the Company's human resources program, such as:
 - written communications, policies, procedures, and guidelines;
 - training materials, schedules, and completion reports;
 - employee certifications;
 - review of employee complaints through the company's internal hotline or other reporting channels (including written, verbal, and email reports);
 - compliance reports to the Board or Board committees;
 - mechanisms for responding to allegations involving misconduct;
 - compliance organization structure, staffing, and accountability;
 - hiring and onboarding processes for employees;
 - management and employee goal-setting and performance evaluation processes;
 - employee disciplinary policies and procedures, including discipline matrices; and
 - other material relating to the compliance program.
- ▶ Shadowing key compliance activities, such as a training session(s) covering relevant human resources policies.

C. Use of Retractions and Related Measures

This step includes:

- ▶ Discussions with members of the Compliance Committee, Human Resource, and Legal Teams regarding the structure and scope of the Company's use of retractions, mandatory arbitration provisions, gag orders, confidentiality clauses, and non-disparagement provisions.
- ▶ Request and review the company's policies and procedures (including authority matrices) for the review, approval, and execution of employee agreements and legal settlements.
- ▶ Request and review of materials relating to the Company's use of retractions, mandatory arbitration provisions, gag orders, confidentiality clauses, and non-disparagement provisions of all employees, such as:
 - written communications, policies, procedures, and guidelines;
 - training materials, schedules, and completion reports; and
 - sample contracts reflecting the use of such measures, including documentation regarding the impact on non-executive employees

D. Monitoring and Reporting Mechanisms

This step includes:

- ▶ Assessment of the efficacy of internal reporting and communication channels throughout the Company and with regulators, including the efficacy of any hotline and other reporting mechanisms, including employee awareness, coverage of third parties, and the rigor of processes for responding to compliance issues identified through those systems.
- ▶ Review of Human Resources and Compliance function's monitoring mechanisms, such as certifications, questionnaires, and testing.
- ▶ Review of other monitoring mechanisms (*e.g.*, internal audit reviews).

E. Use of Outside Counsel

This step includes:

- ▶ Discussions with members of the Legal Team regarding the selection and use of outside counsel and maintenance of and adherence to de-conflicting policies and procedures
- ▶ Request and review of materials relating to the Company's selection and use of outside counsel, such as:
 - written communications, policies, procedures, and guidelines;
 - authority matrices; and
 - conflict of interest policies.

Phase Three: Field Testing

Prior to the commencement of this Phase, we would generate a more specific list of requests for on-site visits, including meetings with company personnel and the Commission, as needed, to discuss the rationale for the proposed visit plans. Obviously, the Massachusetts business will be the primary focus; but visits to other sites may be necessary based on the risk profile, business and integration conclusions, and other results drawn from Phases One and Two of the review.

Some site visits will be coordinated with the designated Company representative for this monitorship to allow us to evaluate relevant aspects of the human resources program while minimizing the disruption to the business.

While specific pre-, during-, and post-visit activities will be determined based upon the specific reason for the site visit, testing will generally include the following:

- ▶ Request and review updated material relating to the Company's compliance program and system of internal reporting and controls to inform various assessment and testing activities.
- ▶ Request and review human resources risk profile information relevant to specific site visit locations.
- ▶ Request and review Human Resources activities and plans regarding specific site visit locations where the Monitor team will accompany in order to understand the Company's approach and properly assess the Company's compliance program at work in real-time.

- ▶ Potentially coordinate with forensic accountants to plan and properly scope data analytics, payment procedures, and reporting.
- ▶ Conduct interviews of personnel at selected sites to evaluate on-going and foreseeable future human resources compliance risks.
- ▶ Test various issues related to program function, including but not limited to communication among compliance-related functions, resources, training, and issue response.
- ▶ Assess compliance culture penetration (*e.g.*, extent to which the Company's tone at the top reaches personnel in the field, employees' understanding of compliance directives and level of adherence to day-to-day procedural requirements, whether employees are held accountable for compliance failures or violations, etc.)
- ▶ Evaluate monitoring and self-reporting systems.

Phase Four: Baseline Assessment and Recommendations

The fourth phase of the first six months of the monitorship would be focused on the preparation of the baseline assessment. To assist the Company in promptly addressing any issues that emerge in the course of the monitorship, recommendations would be provided on a rolling basis. The assessment will track such recommendations and the Company's response, in addition to setting out any additional recommendations. The length of the assessment and the nature of the recommendations will obviously depend on what is revealed by the review that precedes it. A draft assessment would be provided to the Company to provide an opportunity for feedback in advance of submission of the final to the Commission and the Company.

Meetings would be held with the Commission in conjunction with the issuance of the assessment to discuss the findings and obtain feedback.

Phase Five: Continuing Reporting

Following the first six months of the monitorship, the independent Monitor would continue to assess and make recommendations to the Company on an on-going basis, as informed by Phases One through Four. As necessary, the team would conduct additional review of policies and procedures and other documentation requested and reviewed in Phase Two to ensure compliance with the Monitor's recommendations. We would convene additional focus groups and site visits to test the effectiveness of policy and procedure implementation. The Monitor would meet with and report to the Commission on an agreed upon schedule, but at least annually over the remaining two and a half years of the Monitor term.

6. Diversity

Our Commitment to Diversity and Inclusion. Sophisticated clients bring us their most complex legal problems and expect answers that reflect creative thinking and diverse perspectives. We see strength in our differences and continuously seek to enhance the depth and diversity of our talent at all levels.

Promoting the diversity of the firm takes many forms. The firm has earned the Vault Seal of Approval for

its participation in the diversity partnership between Vault and the Minority Corporate Counsel Association (MCCA) in support of the Call to Action, an effort developed by top general counsel to advance diversity in the legal profession. The firm is a member of the Leadership Council for Legal Diversity (LCLD), an organization of more than 240 corporate chief legal officers and law firm managing partners who are dedicated to creating a truly diverse U.S. legal profession. Each year, the firm chooses three attorneys to participate in LCLD's Pathfinders and Fellows programs, which provide participants with exclusive professional development and networking opportunities. We continue to focus on diverse hiring on law school campuses through events and support of local diverse student groups, and we encourage our lawyers to spend time with those groups, speaking on a variety of topics.

We believe that a key aspect in the firm's development and promotion of diverse attorneys is the formal mentoring program, which is designed to assist lawyers transitioning into the firm. Firm mentors are expected to assist all young associates define and pursue professional goals and maximize their potential for success across an array of practice areas.

Our ultimate goal is to create a workplace environment that fosters open and honest communication and supports each member of the community in his or her quest to thrive professionally. Continuing and expanding on such successes remains a constant and key priority of the firm's strategic planning. The efforts are coordinated by the firm's Committee on Diversity and Inclusion, which is made up of a cross-section of members and associates, plus the Director of Attorney Recruiting and Professional Development.

7. Certification of Independence

Miller & Chevalier, in the submission of this response, makes the commitment that we are not engaged in any type of relationship, whether contractual or otherwise, with the licensee, the Company, or any of the Company's subsidiaries or affiliates, has not been so engaged in the two years preceding the submission of the bid, and does not presently hold any financial interest in the Company whatsoever. Further, we certify that we will not enter into any business or employment relationships with the Company for a period of two years from the date of the expiration of the contract.

8. Environmentally Preferable Products

In compliance with Executive Order 515, issued October 27, 2009, Miller & Chevalier works to reduce our environmental footprint by making eco-friendly decisions across our daily operations. The firm carefully selects the products and services we use in order to reduce waste and pollution, preserve water and energy resources, recycle whenever possible, and decrease our impact on the global environment. Miller & Chevalier earned a Leadership in Energy and Environmental Design (LEED) Gold rating certification and the building we occupy earned a LEED Platinum certification from the U.S. Green Building Council in 2016, indicating a commitment to the design, construction, and operation of our high-performance green building.

Additionally, Miller & Chevalier sources environmentally-friendly, "green" kitchen products—including some cleaning products (where available) and all cutlery, cups, plates, and compostable coffee stirrers—and our kitchen appliances are ENERGY STAR® certified. Management also gifted every employee with a stainless steel hot/cold water bottle to reduce the use of cups at the firm on a daily basis. We have

energy-efficient, motion sensor lights in use throughout the firm and use an in-house water filtration system. From a technology perspective, the firm uses state-of-the-art video conferencing to reduce travel and leverages the use of virtual technology to substantially reduce power consumption. We recycle all electronic devices at the end of their lifespan. From January through April of this year, Miller & Chevalier recycled 8.7 tons of discarded paper collected in recycling consoles and shred bins throughout the firm.

Core Team Biographies



Alejandra Montenegro Almonte

MEMBER

VICE CHAIR, INTERNATIONAL DEPARTMENT

aalmonte@milchev.com
202.626.5864

PRACTICES

FCPA & International Anti-Corruption

Internal Investigations
Securities Enforcement

EDUCATION

J.D., Harvard Law School, 2001
B.A., Columbia University, 1998

LANGUAGES

Spanish

Alejandra Montenegro Almonte's practice focuses on regulatory compliance, internal investigations, and government enforcement actions across a variety of business-critical areas, including anti-corruption and internal controls violations. Ms. Montenegro Almonte also has extensive experience investigating ethics and codes of conduct violations and advising clients on remediation to prevent their recurrence. Ms. Montenegro Almonte is a native Spanish-speaker and regularly conducts legal matters in both English and Spanish.

Before joining Miller & Chevalier, Ms. Montenegro Almonte was General Counsel for the North American and Latin American Division of gategroup, a global provider of products, services, and solutions related to the onboard experience of airline and rail passengers. In that role, she oversaw all legal affairs for eight of gategroup's subsidiaries and was the strategic advisor to the senior and executive management teams of the United States, Canada, and Latin America on all legal, regulatory, and employment matters arising in North America and Latin America. While at gategroup, Ms. Montenegro Almonte developed and implemented compliance programs across her Division, including on anti-corruption and employment. As Chair of gategroup's North American and Latin American Business Compliance Committees, she led a cross-functional management team to proactively manage compliance matters across the Americas.

Ms. Montenegro Almonte's roles as in-house and external counsel provide her unique experience and a broad perspective. She has first-hand experience in advising legal and business teams across multiple business lines, corporate functions, and jurisdictions, and swiftly triaging situations to minimize client exposure. Ms. Montenegro Almonte understands crisis management and protecting her clients' interests vis-a-vis multiple stakeholders.

Ms. Montenegro Almonte began her career as a litigation associate at two Am Law 100 firms. While at Harvard Law School, she served as president of the Harvard Legal Aid Bureau.

Ms. Montenegro Almonte is a frequent speaker on compliance and litigation issues at national and international conferences, including the American Conference Institute (ACI) and American Bar Association (ABA).

REPRESENTATIVE ENGAGEMENTS

- Represented a multinational technology and manufacturing company before the U.S. Securities and Exchange Commission and the U.S. Department of Justice in an investigation of alleged FCPA violations arising from its Southeast Asian operations.
- Represented a Latin America-based national oil company before the U.S. Securities and Exchange Commission and the U.S. Department of Justice in an investigation into allegations of \$4B in cost overruns in connection with the construction of a refinery by one of its subsidiaries.
- Represented one of the world’s largest multinational food producers in an internal review of certain cross-border transactions and food quality operations in Latin America.
- Led a global review of a Fortune 10 energy company’s anti-corruption compliance program and related internal accounting controls against applicable statutory standards and best practices, in the context of ongoing investigations in multiple jurisdictions.
- Led a review of Fortune 100 information technology company’s global anti-corruption program, with the goal of tailoring the compliance program to fit the company’s needs following a corporate restructuring.
- Represented a multinational company in relation to alleged OFAC sanctions violations arising from its Latin American operations.
- Represented a European company with worldwide subsidiaries in a criminal proceeding under the International Traffic in Arms Regulations (ITAR). The matter was resolved in favor of client with no criminal charges.
- Defended the Republic of Ecuador in an investor-state arbitration alleging a breach of the Canada – Ecuador Bilateral Investment Treaty. The Tribunal dismissed the case against Ecuador.

IN-HOUSE EXPERIENCE

Division General Counsel, gategroup, 2011 - 2016

RANKINGS AND RECOGNITION

DCA Live Emerging Women Leaders in Private Practice, 2019

Latinvex Latin America's Top 100 Female Lawyers: FCPA & Fraud, 2017 - 2019

AFFILIATIONS

Leadership Council on Legal Diversity (LCLD) Fellow, 2017

Board Member, DC Law Students in Court, 2015 - present

Member, Global Legal Task Force Meeting, District of Columbia Bar, 2015 - 2018

Board Member, Lagniappe Education Foundation, 2006 - present

Co-Coordinator of HBA-DC Mentorship Program, Hispanic Bar Association, 2001 - 2002

BAR ADMISSIONS

District of Columbia

New York

Virginia



Preston L. Pugh

MEMBER

EXECUTIVE COMMITTEE MEMBER

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202.626.5842

PRACTICES

Complex Civil Litigation
False Claims Act Litigation
FCPA & International Anti-Corruption
Government Contracts Counseling & Litigation
Internal Investigations
Securities Enforcement
Supreme Court & Appellate Litigation
White Collar Defense

EDUCATION

J.D., New York University
School of Law, 1997
B.A., Cornell University, 1994

Preston Pugh is a Member in Miller & Chevalier's Litigation Department and leads the firm's Complex Civil Litigation practice. A skilled trial lawyer, he advises clients in high-stakes investigations and litigation in a variety of industries, including those that are international in scope. As a former senior in-house compliance investigations counsel at two Fortune 50 companies, twice-appointed compliance monitor, and former Assistant U.S. Attorney, he also assists clients with crisis management, regulatory disputes and substantial reputational concerns.

An important part of Mr. Pugh's practice involves helping companies that face challenges raised by internal stakeholders, such as whistleblower claims, False Claims Act actions in healthcare and government contracting, and trade secrets cases. Recognized by *The Legal 500* for corporate investigations, he has led dozens in the United States, and has investigated foreign bribery issues in China, Brazil, Korea, and several parts of Europe. He has also successfully tried numerous cases to verdict and is licensed in Washington, DC, New York, and Illinois. In addition to his investigations and trial work, he has successfully briefed and argued civil appeals in the First, Fourth, Sixth, Seventh, Eighth, Ninth, and DC Circuits in the United States Courts of Appeals.

Mr. Pugh has published several articles and been quoted on issues regarding corporate compliance. He is a co-chair of the American Bar Association Criminal Justice Section Committee (ABA CJS) on Global Anti-Corruption and a co-chair of the ABA CJS *Qui Tam* Subcommittee. He was a trial instructor at the National Institute of Trial Advocacy for many years and has served as an adjunct appellate advocacy professor.

Immediately prior to joining Miller & Chevalier, Mr. Pugh was a partner at a prominent trial boutique in Chicago. He was recognized as an "Illinois Super Lawyer" from 2011 to 2017, and he received multiple Special Service Awards during his time at the U.S. Attorney's Office in Chicago.

REPRESENTATIVE ENGAGEMENTS

- Currently represents a major institution in a significant crisis triggered by the tragic homicide of an employee.
- Defended three executives of a large Wall Street financial institution in a nationally-publicized trade secrets and non-solicitation lawsuit filed by their former employer/financial institution.

- Represented an executive in a trade secrets dispute with her previous employer, resulting in the former employer lifting the restriction on the executive.
- Represented a shipping logistics company that filed a trade secrets dispute in Illinois Chancery Court.
- Led the internal investigation for a Fortune 100 airline implicated in an industry-wide False Claims Act and false statements investigation by the United States Department of Justice and United States Postal Service.
- Defended FCA and criminal false statement allegations against a Division I university following a well-publicized 2013 dawn raid by 54 agents of the FBI, U.S. Departments of Education and Housing and Urban Development, and Illinois State Police. After considerable work, the DOJ closed the investigation with no charges filed.
- Investigated alleged rigging of the hiring process for senior pilots at a Fortune 100 airline.
- Served as lead counsel for a Fortune 10 company investigation into allegations of insider trading.
- Wrote the successful argument in one of the leading implied certification cases in the Seventh Circuit, *U.S. ex rel. Bragg v. SCR*, part of the circuit split that led to the United States Supreme Court's decision in *Universal Health Services v. U.S. ex rel. Escobar*.
- Led the internal investigation of a biotech company regarding allegations by a former employee made to the company's CEO and board of directors detailing alleged false "named patient program" information provided to European clinical regulators.
- On behalf of a board of directors, led a team that investigated numerous code of conduct complaints against the CEO of a large hospital, including conflicts of interest and other allegations.
- Investigated a corporate sales leader for numerous alleged procurement violations.
- Investigated a head of HR for numerous alleged code of conduct breaches.
- Co-led an investigation and drafted the report in a major independent investigation of the University of Illinois into highly publicized allegations by student-athletes in its basketball program.

GOVERNMENT EXPERIENCE

Assistant United States Attorney, Northern District of Illinois, 1999 – 2002
(Recipient of Special Service Award in 2000 and 2001)

National Labor Relations Appellate Court Branch, 1997 – 1999

IN-HOUSE EXPERIENCE

Senior Counsel, Litigation and Global Investigations, GE Healthcare

Seconded Counsel, Integrated Defense Systems, Boeing

RANKINGS AND RECOGNITION

Legal 500: Dispute Resolution: Corporate Investigations and White-Collar Criminal Defense, 2019

DC Bar Capital Pro Bono Honor Roll, 2018

DC Bar Capital Pro Bono High Honor Roll, 2017
Leading Lawyer in Commercial Litigation, *Chicago Daily Law Bulletin*, 2012 - 2017
"40 Attorneys Under 40 to Watch," *Chicago Daily Law Bulletin*, 2004
Department of Justice Special Act of Service Award, 2000 - 2001

AFFILIATIONS

American Bar Association, Co-Chair, Global Anti-Corruption Committee
American Bar Association Criminal Justice Section, Co-Chair, *Qui Tam* Subcommittee
American Bar Association's Task Force on Corporate Monitors
Leadership Greater Chicago, Class of 2012
Former Member, Character and Fitness Committee, Illinois Attorney Registration and Disciplinary Committee
Former Chair, Chicago Bar Association Labor and Employment Committee
Link Unlimited, Mentor

BAR ADMISSIONS

District of Columbia
Illinois
New York

COURT ADMISSIONS

United States Supreme Court
United States District Court for the Northern District of Illinois, including the Trial Bar
United States Court of Appeals for the First Circuit
United States Court of Appeals for the Fourth Circuit
United States Court of Appeals for the Seventh Circuit
United States Court of Appeals for the Eighth Circuit
United States Court of Appeals for the Ninth Circuit
United States Court of Appeals for the District of Columbia Circuit



Katherine E. Pappas

COUNSEL

Katherine Pappas focuses her practice on white collar and internal investigations, and complex civil litigation. She has conducted internal investigations on behalf of corporate clients stemming from allegations of fraud, anti-competitive practices, and violations of the Foreign Corrupt Practices Act. Ms. Pappas routinely conducts witness interviews and manages the review and analysis of large numbers of documents often associated with internal corporate investigations. In addition, she has represented individuals and corporations in connection with enforcement actions brought by the Department of Justice and the Securities and Exchange Commission. Ms. Pappas has also represented corporate clients in federal district and appellate courts in connection with complex civil litigation matters.

Prior to joining Miller & Chevalier, Ms. Pappas served as a law clerk to the Honorable Todd E. Edelman on the Superior Court of the District of Columbia and to the Honorable Catharine F. Easterly on the District of Columbia Court of Appeals. While at Harvard Law School, Ms. Pappas was an Executive Editor of the *Harvard Civil Rights-Civil Liberties Law Review*.

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PRACTICES

Cartel – Government
Investigations & Litigation
Complex Civil Litigation
FCPA & International Anti-
Corruption
Internal Investigations
Securities Enforcement
White Collar Defense

EDUCATION

J.D., Harvard Law School, *cum laude*, 2011

B.A., Duke University, *magna cum laude*, *Phi Beta Kappa*, *Phi Alpha Theta*, 2008

LANGUAGES

French

REPRESENTATIVE ENGAGEMENTS

- Representing international company in enforcement action brought by the Department of Justice, Securities and Exchange Commission, and international enforcement agencies. Representing the Company and individual current and former employees in witness interviews.
- Represented small business in challenge to federal agency action brought in federal court pursuant to the Administrative Procedure Act.
- Advised labor organization in connection with internal investigation into allegations of internal fraud.

GOVERNMENT EXPERIENCE

Clerk, Civil Division, United States Attorney's Office for the District of Columbia, 2009
Intern, International Prisoner Transfer Unit, Department of Justice, 2007

RANKINGS AND RECOGNITION

Washington, DC Super Lawyers®: Rising Star, Civil Litigation, 2019

AFFILIATIONS

Member, Superior Court of the District of Columbia Magistrate Judge Advisory Merit Selection Panel

Member, Children's Law Center Advisory Board

BAR ADMISSIONS

District of Columbia

Maryland

COURT ADMISSIONS

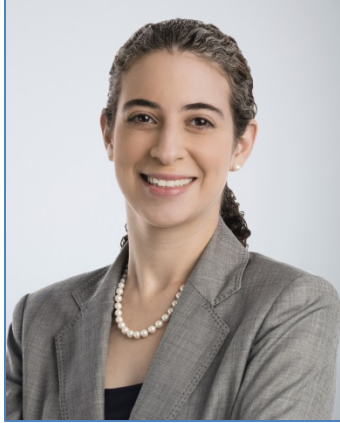
United States Court of Appeals for the Second Circuit

United States Court of Appeals for the Sixth Circuit

CLERKSHIPS

Clerk, the Honorable Todd E. Edelman, Superior Court of the District of Columbia

Clerk, the Honorable Catharine F. Easterly, District of Columbia Court of Appeals



Ann Sultan

COUNSEL

Ann Sultan's practice focuses on internal and government investigations, international corporate compliance, and white collar defense related primarily to the Foreign Corrupt Practices Act (FCPA) and anti-money laundering laws and regulations. Ms. Sultan advises clients, including public companies and senior executives, on a wide range of topics, such as compliance assessments, due diligence, risk management, Department of Justice (DOJ) and Securities and Exchange Commission (SEC) enforcement actions, and interacting with external auditors in the context of accounting and financial reporting matters.

As a Russian speaker, Ms. Sultan often assists companies doing business in Eastern Europe and Central Asia. While at Miller & Chevalier, Ms. Sultan has spent time detailed to a client's European headquarters to assist on FCPA internal investigation and compliance matters.

Prior to joining Miller & Chevalier, Ms. Sultan practiced as a corporate attorney specializing in corporate governance and mergers and acquisitions and financings at an international firm. After graduating from Columbia Law School, Ms. Sultan completed a Postdoctoral Fellowship in Mediation at Columbia Law School.

While at Columbia Law School, Ms. Sultan served as the East European Law Editor of the *Columbia Journal of European Law*. Ms. Sultan was also the president of IMPACT, Columbia's student group dedicated to electoral participation and empowerment, and an officer of the Columbia Law Women's Association. During college, Ms. Sultan was a visiting student in Politics, Philosophy and Economics at St. Peter's College of Oxford University.

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PRACTICES

Anti-Money Laundering
FCPA & International Anti-Corruption

Internal Investigations
International Trade Remedies
Securities Enforcement
White Collar Defense

EDUCATION

J.D., Columbia Law School,
2011

B.A., Barnard College, Columbia
University, *magna cum laude*,
2008

LANGUAGES

Hebrew, Russian

REPRESENTATIVE ENGAGEMENTS

- Core team member on a large FCPA internal investigation, which involved the collection of relevant data across a range of nations in Europe and Central Asia, disclosures to the relevant government agencies and external auditor, related remediation efforts, coordination with counsel for board and other jurisdictions, representation of multiple employees in government interviews, and eventual multi-lateral international resolution including a 45 percent reduction from Sentencing Guidelines fine range.
- Investigation into accounting and internal governance/compliance issues at a non-U.S. headquartered company and its U.S. subsidiary, reporting results to the company's external auditor.
- Investigation into allegations of improper payments by employees and a third party of a U.S. company's Ukrainian subsidiary. Representation

included reporting to the DOJ and resulted in no action taken against our client, the parent company, and its subsidiary.

- Investigation into multiple allegations of wrongdoing from various employees against senior management at a Russian subsidiary of a multinational oilfield services company, at the direction of its American parent company.
- Anti-corruption compliance risk assessment for an international oil company.
- Pro bono representation of a client who was unjustly discharged from the Army under "other than honorable" conditions. Miller & Chevalier secured a discharge upgrade, which enabled our client to receive needed medical benefits.

RANKINGS AND RECOGNITION

Washington, DC Super Lawyers®: Rising Star, Criminal Defense: White Collar, International, 2019

DC Bar Capital Pro Bono Honor Roll, 2017 - 2018

DC Bar Capital Pro Bono High Honor Roll, 2016

Harlan Fiske Stone Scholar, Columbia Law School

AFFILIATIONS

Website Officer, Anti-Corruption Committee, International Bar Association

Member, Steering Committee, and Newsletter Editor, Russia/Eurasia Committee, Section of International Law, American Bar Association

Member, Steering Committee, Anti-Corruption Committee, Section of International Law, American Bar Association

Member, U.S.-Russia Business Council

Member, Young Lawyer's Committee, Women's White Collar Defense Association

BAR ADMISSIONS

District of Columbia

Massachusetts

COURT ADMISSIONS

United States Court of Appeals for the Sixth Circuit



Nicole Gökçebay

FELLOW

Nicole Gökçebay* is a Fellow in the International Department. She focuses her practice on international corporate compliance and internal and government investigations related primarily to the Foreign Corrupt Practices Act (FCPA) and other anti-corruption and human rights standards.

Prior to law school, Ms. Gökçebay interned at Thomson Reuters in Istanbul, Turkey where she worked in news and media during Turkey's 2011 General Election. Prior to joining the firm, Ms. Gökçebay lived in Dublin, Ireland, where she was a summer associate at a commercial law firm and focused on banking and regulatory litigation arising out of the 2008 Irish Banking Crisis. She also served as a law clerk for Ireland's Refugee Legal Services and most recently at the Department of Homeland Security's Transportation Security Administration (TSA) in Washington, DC.

**Admitted in New York. Not admitted in the District of Columbia. Practicing under the supervision of a member of the DC Bar.*

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202.626.1488

PRACTICES

Business & Human Rights
FCPA & International Anti-Corruption
Internal Investigations
Securities Enforcement

EDUCATION

J.D., The George Washington University Law School, 2018
B.A., University of California at Berkeley, 2014

LANGUAGES

Spanish

GOVERNMENT EXPERIENCE

Law Clerk, Department of Homeland Security, Transportation Security Administration, 2017
Law Clerk, Refugee Legal Services, Legal Aid Board – Dublin, Ireland: 2016, 2017

BAR ADMISSIONS

New York

Additional Team Biographies



Kathryn Cameron Atkinson

MEMBER
FIRM CHAIR

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202.626.5957

PRACTICES

Anti-Money Laundering
Business and Human Rights
Economic Sanctions & Export Controls
FCPA & International Anti-Corruption
Internal Investigations
Securities Enforcement
White Collar Defense

EDUCATION

J.D., Cornell Law School, 1992
B.A., Johns Hopkins University,
Departmental Honors, 1989

Kathryn Cameron Atkinson is the Chair of Miller & Chevalier and a member of the firm's Executive Committee. Her practice focuses on international corporate compliance, including, in particular, the Foreign Corrupt Practices Act (FCPA), as well as economic sanctions and export controls, and anti-money laundering laws. She advises clients on corruption issues around the world. This advice has included compliance with the FCPA and related laws and international treaties in a wide variety of contexts, including transactional counseling, formal opinions, internal investigations, enforcement actions by the U.S. Department of Justice (DOJ) and the Securities and Exchange Commission (SEC) and resulting monitorships, as well as commercial litigation raising improper payment issues. Ms. Atkinson has twice been appointed as an Independent Compliance Monitor by the DOJ and SEC. She was a member of the original Transparency International task force that developed a compliance toolkit for small and medium-sized entities. She co-produced, with Homer E. Moyer, Jr., "Comply But Compete," a versatile, video-based FCPA training program.

On the compliance side of the practice, Ms. Atkinson focuses in particular on the design and implementation of custom-tailored international regulatory compliance programs for large and small companies in a wide range of industries. Her compliance practice includes performing compliance due diligence in mergers and acquisitions, designing and performing compliance audits and assessments, training company personnel and third parties, and working with companies to design tailored safeguards in complex business transactions and relationships with third parties.

RANKINGS AND RECOGNITION

Chambers Global: FCPA (United States), 2015 - 2019

Chambers USA: FCPA (Nationwide), 2014 - 2019

Chambers Global: International Trade: FCPA Experts (United States), 2014

Chambers USA: International Trade: FCPA Experts (Nationwide), 2012 - 2013

Latinvex Latin America's Top 100 Female Lawyers: FCPA & Fraud, 2017 - 2019

Ethisphere Institute's *Attorneys Who Matter* (Specialists: Private Practice), 2015, 2017

Ethisphere Institute's *Attorneys Who Matter* (Top Guns), 2014
Ethisphere Institute's *Attorneys Who Matter* (Up and Comers/Rising Stars), 2012 - 2013
Legal 500: Dispute Resolution: International Trade, 2013 - 2019
Global Investigations Review: Women in Investigations, 2015
Who's Who Legal: Business Crime Defence, 2017 - 2018
Who's Who Legal: Investigations, 2016 - 2019

AFFILIATIONS

Creator and Co-Chair, Forum on International Corporate Compliance, Institute for International and Comparative Law, Center for American and International Law

Member, Executive Committee, Institute for International and Comparative Law, Center for American and International Law

Member, International Bar Association, Anti-Corruption Committee

Member, International Bar Association, Corporate Social Responsibility Committee

Member, President's Council of Cornell Women

BAR ADMISSIONS

District of Columbia

Pennsylvania



Mary Lou Soller

MEMBER
FIRM COUNSEL

msoller@milchev.com
202.626.5849

PRACTICES

Complex Civil Litigation
Congressional Investigations &
Campaign Finance
Government Contracts
Counseling & Litigation
White Collar Defense

EDUCATION

J.D., Stanford Law School, 1977
B.A., Wellesley College, *with
honors*, 1974

Mary Lou Soller concentrates her practice primarily on complex criminal and civil issues and investigations. She focuses on the representation of corporations and individuals in government fraud investigations. She has represented clients in cases involving civil and criminal fraud, False Claims Act (FCA) and Foreign Corrupt Practices Act (FCPA) allegations. In addition, she has extensive experience dealing with all aspects of federal procurement and health care fraud investigative authorities, including auditors, investigators, federal and state prosecutors and civil attorneys and grand juries, on a wide variety of issues.

Early in her career, Ms. Soller was in private practice in the District of Columbia, focusing on energy litigation. She then joined the District of Columbia Public Defender Service, where she was a Trial Attorney and Director of Training. Ms. Soller also served as the Senior Investigative Counsel of the Special Committee on Investigations of the U.S. Senate.

Ms. Soller has taught in trial advocacy programs, including the National Institute of Trial Advocacy, Continuing Legal Education for the Maryland Bar, the Federal Bar Association and at Harvard Law School. She has also conducted training programs on privilege and professional responsibility for a number of firm clients.

REPRESENTATIVE ENGAGEMENTS

- Represented defense contractor in FCA case in U.S. District Court in the District of Columbia (motion to dismiss granted and affirmed on appeal).
- Represented defense contractor in FCA case in E.D. Virginia (case resolved without payment of any damages or fines).
- Provided advice on attorney-client privilege and work product issues in connection major FCPA cases.

GOVERNMENT EXPERIENCE

Senior Investigative Counsel, Special Committee on Investigations, U.S. Senate
Trial Attorney and Director of Training, Public Defender Service for the District of Columbia

RANKINGS AND RECOGNITION

The Best Lawyers in America®: Ethics and Professional Responsibility Law, 2013 - 2019

AFFILIATIONS

Current Positions

Board Member, Board of Professional Responsibility, District of Columbia Court of Appeals

Member, Women White Collar Criminal Defense Lawyers

Member, Committee on White Collar Crime, American Bar Association

Member, National Association of Criminal Defense Lawyers

Member, Procurement Fraud Committee, Section of Public Contract Law, American Bar Association (former Chair)

Member, Ethics, Compliance, and Professional Responsibility Committee, Section of Public Contract Law, American Bar Association (former Co-Chair)

Board Member, Legal Aid Society of the District of Columbia

Former Positions

Vice Chair, District of Columbia Commission on Judicial Disabilities and Tenure

Member, Practitioners' Advisory Group to the United States Sentencing Commission

Board of Directors, BNA Criminal Practice Manual

Adjunct Professor, Criminal Trial Practice, The Catholic University of America Columbus School of Law

Chair, Committee on the Rules of Professional Responsibility, District of Columbia Bar

Chair, Hearing Committee, Board of Professional Responsibility, District of Columbia Bar

Member, Ethics Committee, District of Columbia Bar

Chair, Sentencing Guidelines Committee, Criminal Justice Section, American Bar Association

Member, Steering Committee, Criminal Law and Individual Rights Section, District of Columbia Bar

BAR ADMISSIONS

District of Columbia

Virginia

COURT ADMISSIONS

United States Supreme Court

District of Columbia Superior Court

Supreme Court of Virginia

United States Court of Appeals for the District of Columbia Circuit

United States Court of Appeals for Virginia

United States District Court for the District of Columbia

United States District Court for the Eastern District of Virginia

Miller & Chevalier Response to Request for Proposal to Serve as Independent Compliance Monitor: Fiscal Terms

It is difficult to provide a precise budget at this point, because the exact scope and details of the monitorship will be significantly impacted by the current state of the Company's human resources compliance program into which we have limited insight at this time. So while we will provide some projections for the various phases of the Work Plan, please note that the projections are subject to change based upon the factors that will become clear after the monitorship commences and that could evolve as the work progresses.

Over the past several years, Miller & Chevalier has demonstrated sensitivity to the need of our clients by crafting fee arrangements specific to the engagement. This has included using alternative fee agreements where it has made sense to do so and would result in the best value and overall legal spend for our clients. We believe the incentives inherent in a fixed-fee arrangement are ill-suited to a monitor's role and obligations and would strongly recommend a traditional hourly billing structure. The specialized focus of our practice and team members will ensure you receive high value as a result of their expertise and ability to execute matters efficiently.

Exact staffing would depend on the particular demands of each Phase, and decisions would be based on factors, such as schedule challenges presented by potential double-tracking in each phase. While each of the Miller & Chevalier Members profiled in this response has a comprehensive background in monitorship, compliance and investigations work, each brings different skills to bear. For example, Alejandra Montenegro Almonte has recent in-house compliance program design and implementation experience as well as recent experience as a senior member of an Independent Compliance Monitor team. Preston Pugh has served as a Monitor in two separate matters and has experience evaluating corporate compliance programs.

Our guiding principle would be to staff each task as leanly as possible while making sure that each member of the team adds distinct and specific value. Thus, for periods of the monitorship we anticipate that we may actively involve only one lawyer at a particular level of experience. The core team includes five lawyers with varying levels of seniority. Given the time frames involved in the monitorship, this team will permit us to operate in parallel work streams during certain periods as may be required. Two of the members of our team would be available should we need to conduct visits, focus groups, or interviews at several locations simultaneously, or if we find that their experience on a particular set of issues makes them best suited to the task.

Given the significant potential for an unusually busy first six months of this monitorship, we propose to rebate five percent of the legal fees received in excess of \$1.5 million. We propose to offer the following

rates for this matter for core team members:

Name	Hourly Billing Rate
Alejandra Montenegro Almonte	\$810
Preston Pugh	\$930
Katherine Pappas	\$725
Ann Sultan	\$725
Nicole Gokçebay	\$435

As noted above, the Monitor team may also call upon Ms. Atkinson and Ms. Soller for strategic advice on areas specific to their expertise. Ms. Atkinson's hourly billing rate is \$1,045. Ms. Soller's hourly rate is \$760.

We are pleased to offer prompt pay discounts on our hourly rates as follows:

Days after Invoice	Discount Rate
10 days	5%
15 days	4%
20 days	3%
30 days	2%

With regard to travel, our general practice is to fly coach for domestic trips. We attempt to reserve background reading and document review for travel where possible, so that clients are not paying for dead time, and we do not generally record non-working travel time.

With the foregoing caveats in mind, here is a rough estimate of how we see various phases of the Work Plan breaking down in terms of cost:

Phases One and Two: These phases consist of background briefings with counsel and members of Legal and Compliance, document review, and interviews with company leaders. To accelerate the pace of the work, it may make sense to have one team involved in interviews, meetings, and consultations while a second, smaller team coordinates document reviews, and analyzes Monitor materials. Assuming that heightened level of staffing and engagement throughout initial two phases, legal fees for this three-month-plus period could fall in the range of \$300,000 to \$400,000, including relatively low-level costs primarily associated with travel. Whether costs fall on the lower or higher end of this range will be affected by factors such as the number of relevant personnel needing to be interviewed and volume and complexity of available documentation.

Phase Three: The fees and costs for Phase Three, which would consist largely of site visits and program testing, additional meetings with business personnel and employee focus groups would depend largely on the number of visits and interviews required. For the reasons set forth earlier in this response, it is impossible at this point to identify with any precision the number of visits that would be conducted.

We can, however, provide some guidance on what a typical site visit might cost. Barring unusual circumstances, we expect our visits would include no more than two Miller & Chevalier lawyers, most

likely Ms. Montenegro Almonte or Mr. Pugh, and then one counsel or associate. That staffing would be partly to control costs, but also to maintain a non-intimidating dynamic conducive to effective communication. The visits are likely to last between three to five days but would involve attorney time preparing for the visits and then preparing immediate feedback, both orally and in writing where appropriate, to Company employees regarding issues relevant to the review. Assuming those basic contours, the average site visit would likely generate legal fees in the range of \$75,000 to \$125,000, and associated costs could fall in the \$10,000 to \$25,000 range depending on the cost of air travel and accommodations. Again, the ultimate costs of this Phase Three will be impacted by similar factors as those noted in Phase One and Two. Additionally, an aggressive schedule could warrant multiple tracks during this Phase, and that is where others might be able to step in to lead site visit teams.

Some site visits will largely consist of shadowing the Company's compliance or audit teams, with only minimal independent review. In those instances, the staffing of lawyers will be leaner (*e.g.*, one or two lawyers), and fees and costs will drop accordingly.

Aside from the site visits, Phase Three will likely include additional work on issues requiring follow-up from the earlier phases, as well as extensive coordination with Company leaders on issues separate and apart from the site visits. At this time, it is not possible to project the extent, or resulting cost, of that work. As a practical matter, we will need to quickly identify any areas needing improvement and communicate recommendations. Phase Three will almost certainly include communication with the Company through formal or informal mechanisms regarding potential areas for improvement or follow-up regarding those efforts. These considerations will also inform our thoughts on the potential staffing and costs of the first six months.

Phase Four: This final phase will focus on the creation of the baseline report. As with Phases One and Two, we expect this will be a particularly busy period for Ms. Montenegro Almonte, Mr. Pugh, and perhaps two of our younger lawyers, as this process will involve extensive communications with the Company, synthesizing the findings from the various reviews, interviews, and site visits, and likely follow-up on close-out items with business unit leaders and other relevant points of contact throughout the Company. The length of the report and its content will obviously depend on what is revealed by the review that precedes it and expectations of the Company and the government. Based on our prior experience, we anticipate that legal fees for this Phase could fall in the range of \$200,000 to \$250,000, with minimal costs likely because travel would be largely concluded. Fees and expenses from other team members during this period would depend entirely on the level of assistance that we require in preparing the report but can be expected to be significantly lower than the level projected for the initial three months of the project.

Throughout the project, we would commit to providing advance notice of likely fees and costs, especially if there were unanticipated spikes in activity or some development that altered the focus or chronology of the Work Plan. If the Commission wishes, we would also be in position to submit a more formal budget upon completion of the background briefings and our analysis of the universe of outstanding issues for the current assignment. It is important to us that the Company sees the direct relationship between the cost of our legal services and the overall value received, and we view a monitorship as requiring the same commitment to financial responsibility and professional integrity as in a client relationship.

Phase Five: Phase Five would consist largely of a second and third round of site visits to monitor the

development and implementation of policies, procedures, and other programmatic changes recommendation by the monitor, as well as periodic meetings and reporting to the Commission. In addition, we would produce interim reports as agreed to by the monitor and the Commission. We estimate that the costs of site visits would be consistent with the estimate provided for Phase Three. However, the costs for the interim reports would likely be slightly higher than the baseline assessment report as they would include more robust recommendations and assessments program development. The estimated range for interim reports would be in the range of \$350,000 to 450,000.

Miller & Chevalier

Summary MGC Monitorship Overview

Alejandra Montenegro Almonte

(with Preston L. Pugh, Ann K. Sultan, Katherine E. Pappas, and Nicole D. Gökçebay)

August 15, 2019

Monitor Team



Alejandra Montenegro
Almonte
Vice Chair,
International Department

- Extensive experience evaluating and designing regulatory compliance programs both as in-house and external counsel
- Deputy to compliance monitor in a Federal enforcement action
- General Counsel with extensive experience investigating sexual harassment allegations and other code of conduct violation, advising and training on Human Resources policies, conducting compliance audits, advising on suitability of new hires and existing employees, and managing multiple stakeholders in crisis



Preston L. Pugh
Member

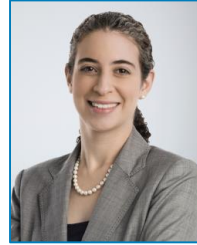
- Extensive experience with compliance and employment investigations, including as an Assistant US Attorney, head of global compliance investigations for GE Healthcare, investigations counsel at Boeing's Integrated Defense Systems, and as outside counsel
- Twice appointed Monitor, including in an employment matter in a 5-year \$20B monitorship and in the first-ever monitor by the Waterfront Commission of the NY/NJ Harbor
- 20-years of employment and labor experience

Monitor Team



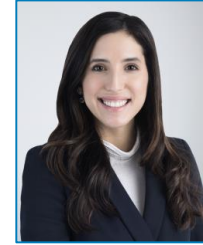
Katherine E. Pappas, Counsel

- Experience conducting internal and government investigations, including investigations related to code of conduct violations
- Experience navigating complex privilege considerations



Ann K. Sultan, Counsel

- Compliance and investigations experience, including on employment and retaliation issues
- Detailed to in-house role to advise client on high profile investigation, including building compliance program and communication with regulators
- Previously practiced in Massachusetts



Nicole D. Gökçebay, Associate

- Experience in internal investigations, including high profile investigation with significant public relations concerns
- Assisted nightclubs with licensing applications

A Holistic Approach to Compliance Programs

- An effective compliance program must be tailored to the Company's particular operations, risk profile, resources and culture, but must also be informed by enforcement expectations
- We bring an independent, experienced, and critical eye to each company's program, which enables us to identify, design, implement and test program enhancements
- We not only determine whether certain elements of a compliance program exist, we evaluate how they work in concert with other components of the programs and how they are embedded into the day-to-day cadence of the operations

Goals of the Monitorship

- Ensure that the Company has Human Resources policies, procedures, and corporate governance structures designed to prevent, detect, and respond to violations (“Human Resources compliance program”)
- Ensure that the Human Resources compliance program effectively mitigates the risk of sexual harassment and other misconduct that could compromise the welfare, safety, and security of employees
- Ensure that the Company maintains internal controls with respect to engagement of and payment to third parties
- Ensure that the Company has an ethical business culture that:
 - Encourages speaking up and transparency across all levels of the organization
 - Ensures the uncompromised implementation of the Human Resources compliance program
- Ensure that the Human Resources compliance program and business culture endure beyond the term of the monitorship
- Safeguard the public trust

Workplan Overview

- Review Facts Underlying the Commission’s Decision and Order
- Review Company’s Current Structure and Operations
- Assessment of Compliance Program and Culture
 - High-level Commitment
 - Oversight and Independence
 - Policies and Procedures
 - Third Party Relationships
 - Training and Guidance
 - Internal Reporting and Investigation
 - Enforcement and Discipline
 - Risk-Based Review
 - Monitoring and Testing
 - Internal Controls
- Baseline Report and Recommendations
- On-going Monitoring and Reporting

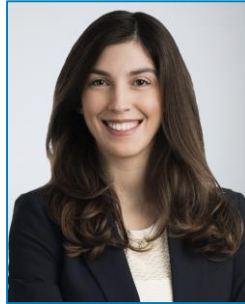
Questions?



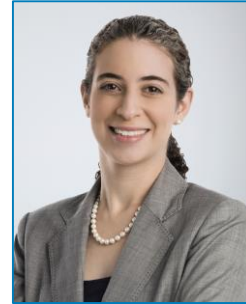
Alejandra Montenegro
Almonte
Vice Chair,
International Department



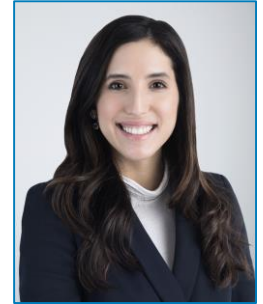
Preston L. Pugh
Executive Committee
Member



Katherine E. Pappas
Counsel



Ann K. Sultan
Counsel



Nicole D. Gökçebay
Associate

TOWN OF PLAINVILLE



Municipal Complex

Presentation to the Massachusetts Gaming Commission

August 15, 2019

PLAINRIDGE PARK CASINO



- Opened in June 2015
- 1250 Slot Machines
- \$250 million dollar investment in Plainville and Massachusetts
- Largest Taxpayer in Town
- Created over 500 Jobs in the Region

HOST COMMUNITY AGREEMENT

Prior to Opening, Plainridge and Town of Plainville Negotiated a Host Community Agreement:

- 2.5 Million on Real Estate & Property Tax with 2.5% increase each year
- Community Impact Fees:
 - Years 1-5, 2.7 million per year
 - Years 6-10, 1.5% of Gross Gaming Revenue
 - Years 11+, 2% of Gross Gaming Revenue
- Community Impact Fees Deposited into Gaming Capital Stabilization Fund

WHY CREATE A CAPITAL FUND?

- Lessons Learned from Landfill
- Significant Need for Capital Investments – Aging Infrastructure and Facilities
- Create Tangible & Material Benefits for the Town



EXISTING FACILITY CONDITIONS



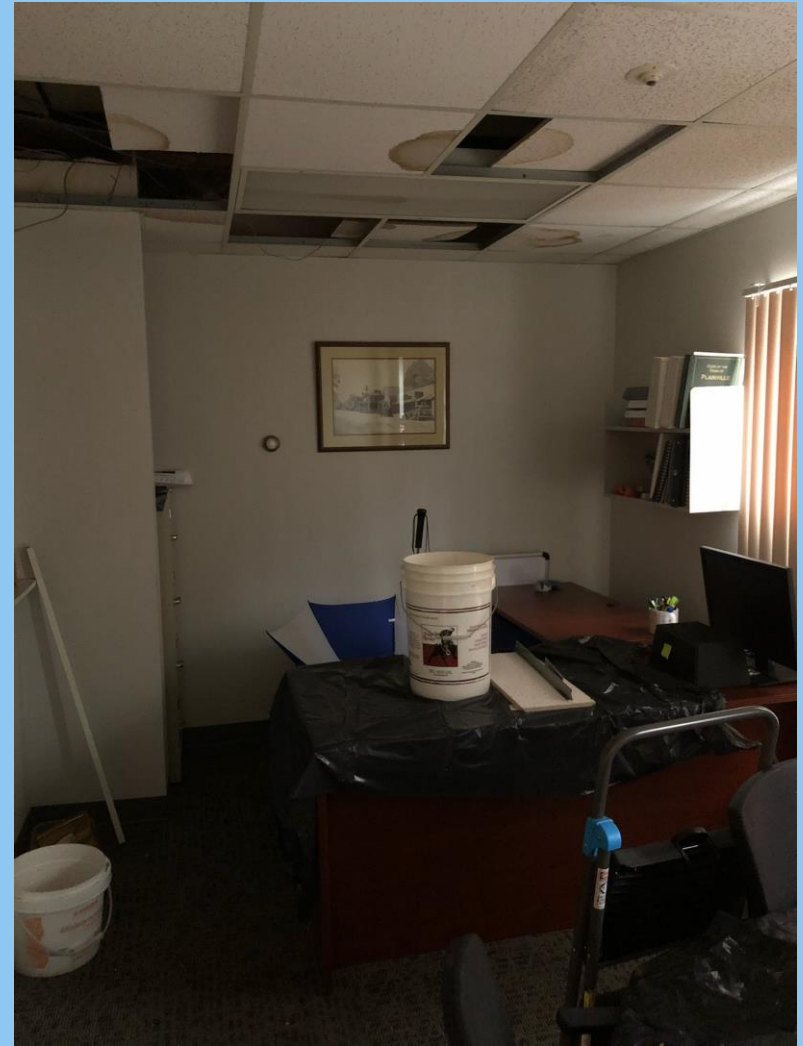
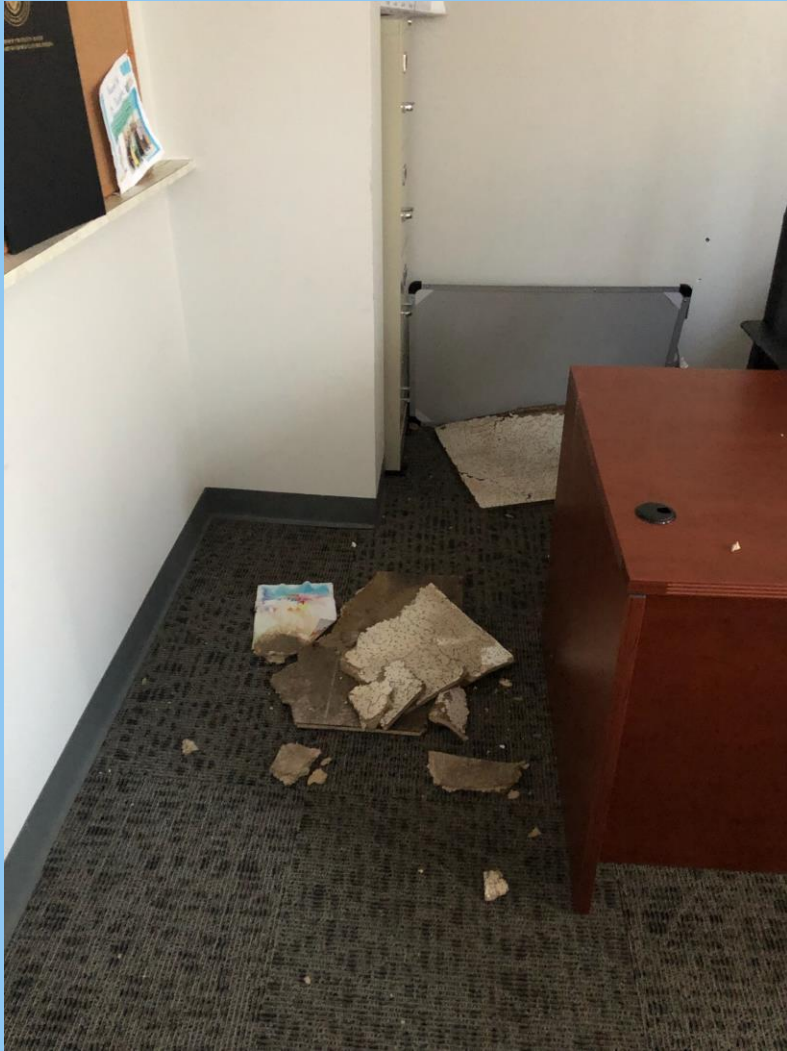
EXISTING FACILITY CONDITIONS



EXISTING FACILITY CONDITIONS



EXISTING FACILITY CONDITIONS



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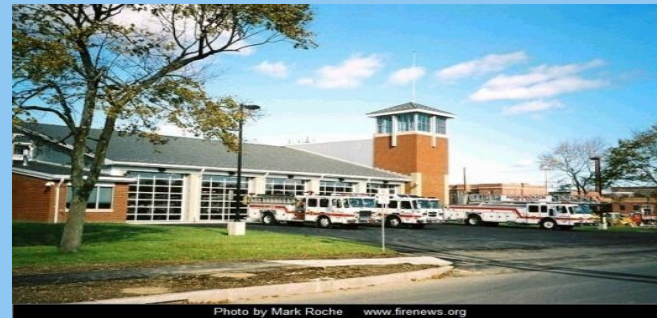


EXISTING FACILITY CONDITIONS





2016 PRESENTATION VISIONS FOR OUR FUTURE





PROPOSED LOCATION – 200 SOUTH ST

- Eliminate Land Cost – Town owned
- Proximity to Town Center
- Anchor to Anchor/Village setting
- Symmetry to Library façade/decor
- Creates a community service center





EVALUATION OF THE OLD WOOD SCHOOL





EVALUATION OF THE OLD WOOD SCHOOL





EVALUATION OF THE OLD WOOD SCHOOL





EVALUATION OF THE OLD WOOD SCHOOL



2017 PRESENTATION

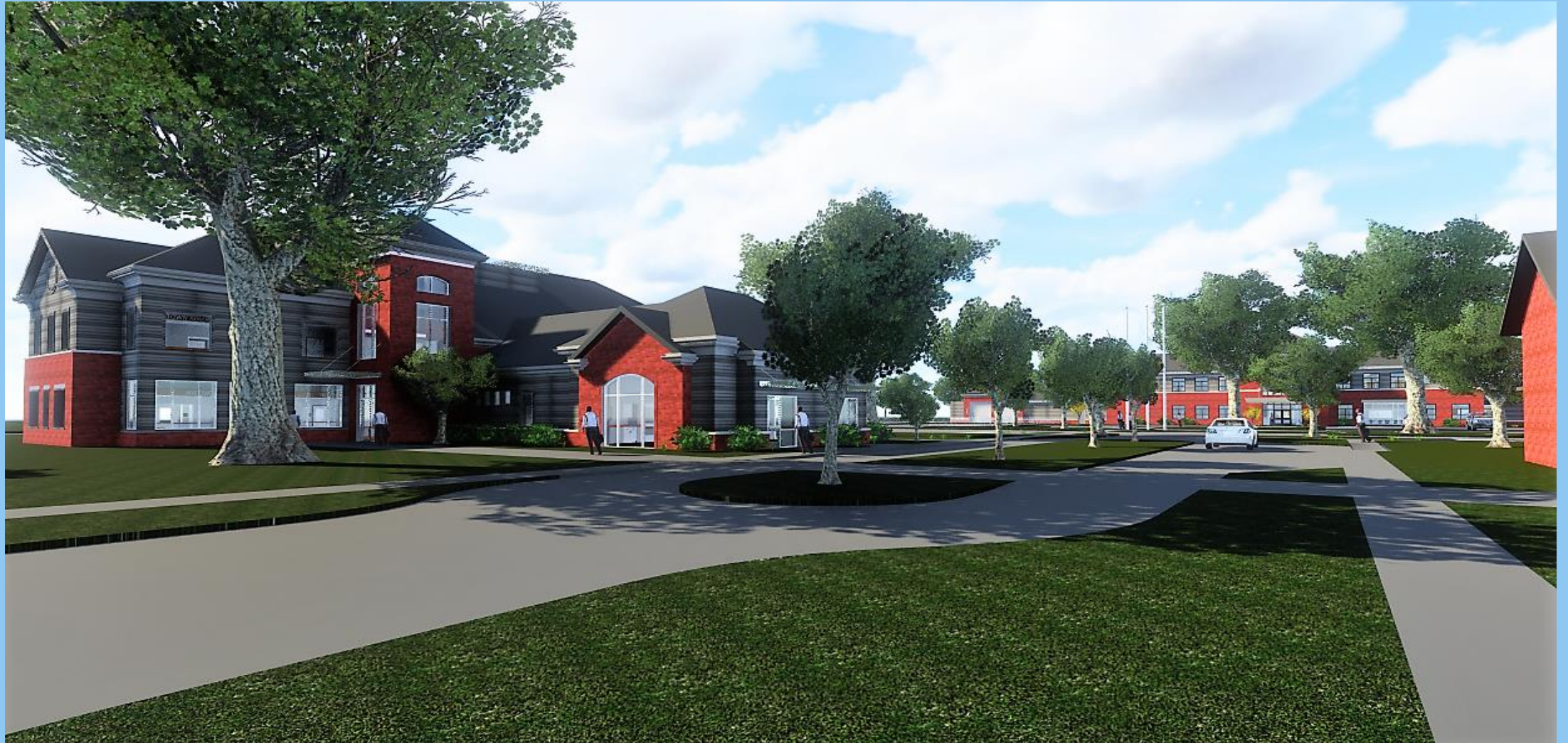


Proposed Municipal Complex – 34 Million (includes demolition of old school)

Parking	
Library Parking	21 spaces
Central Parking	94 spaces
Police Parking	51 spaces
Fire Parking	43 spaces
Building Heights	
Town Hall	27' 5"
Public Safety	32'
Outbuilding	27' 3"



2017 PRESENTATION



GROUNDBREAKING





CONSTRUCTION





CONSTRUCTION





NEW MUNICIPAL COMPLEX





NEW MUNICIPAL COMPLEX





NEW MUNICIPAL COMPLEX





NEW MUNICIPAL COMPLEX





NEW MUNICIPAL COMPLEX





OPEN HOUSES – MARCH 2019





OPEN HOUSES – MARCH 2019





RIBBON CUTTING – APRIL 2019





RIBBON CUTTING – APRIL 2019



THANK YOU!

- Citizens of Plainville
- Massachusetts Gaming Commission
- Board of Selectmen, Permanent Building Committee
- Legislative Delegation
- Former Town Manager Joe Fernandes
- Penn National





Report to the Massachusetts Gaming Commission Q2 2019



PLAINRIDGE PARK
YOUR HOMETOWN CASINO

Gaming Revenue & Taxes



		Net Slot Revenue	State Taxes	Race Horse Taxes	Total Taxes
2018	1st	\$42,196,904	\$16,878,761	\$3,797,722	\$20,676,483
	2nd	\$44,075,466	\$17,630,187	\$3,966,791	\$21,596,978
	3rd	\$44,849,341	\$17,939,737	\$4,036,441	\$21,976,177
	4th	\$40,467,919	\$16,187,167	\$3,642,113	\$19,829,280
	Total	\$171,589,630	\$68,635,852	\$15,443,067	\$84,078,918
2019	1st	\$40,910,743	\$16,364,297	\$3,681,967	\$20,046,264
	2nd	\$42,447,535	\$16,979,014	\$3,820,278	\$20,799,292
	3rd				
	4th				
	Total	\$83,358,278	\$33,343,311	\$7,502,245	\$40,845,556

Lottery Sales



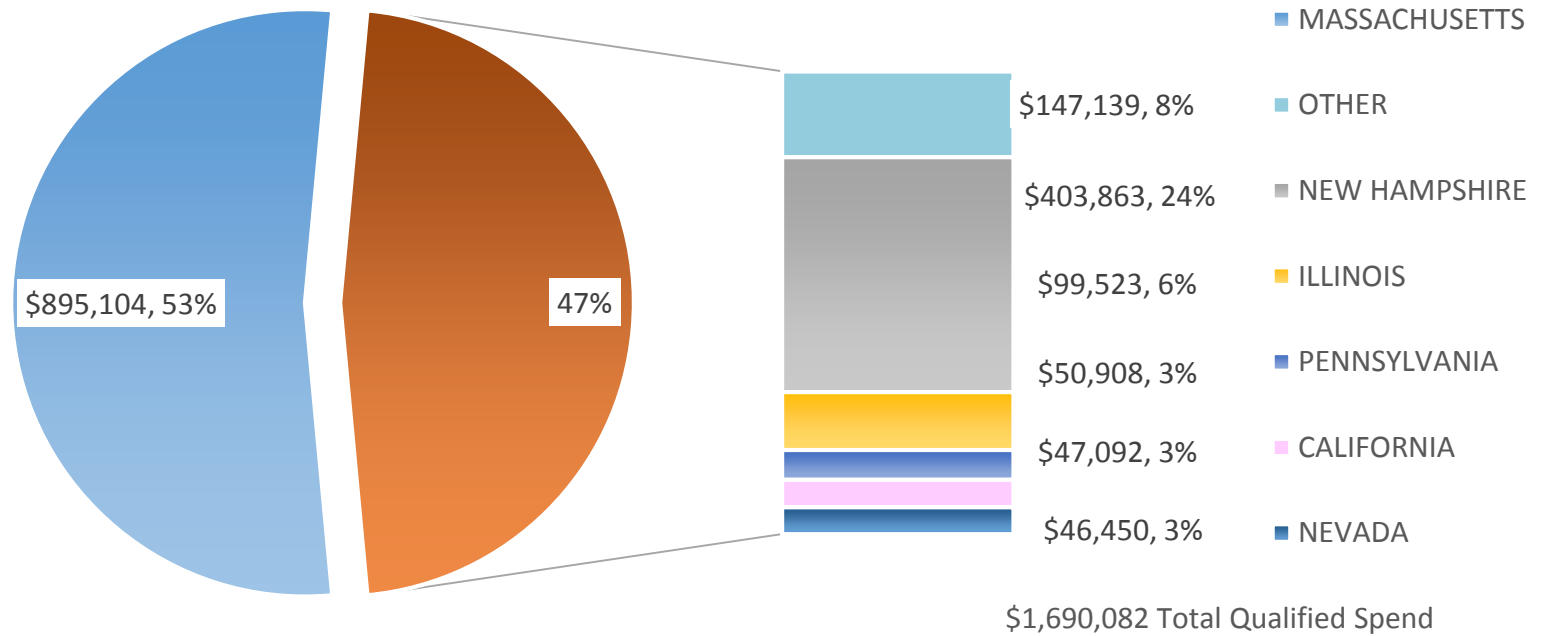
Quarter	2018	2019	\$ Difference	% Difference
1st	\$894,938	\$868,238	(\$26,700)	-2.98%
2nd	\$934,290	\$885,603	(\$48,687)	-5.21%
3rd	\$937,875			
4th	\$867,419			
Total	\$3,634,522			

- PPC currently has 5 instant ticket machines and 4 online terminals
- Prior to the Casino opening the Property had 1 instant ticket machine and 2 online machines

Spend by State



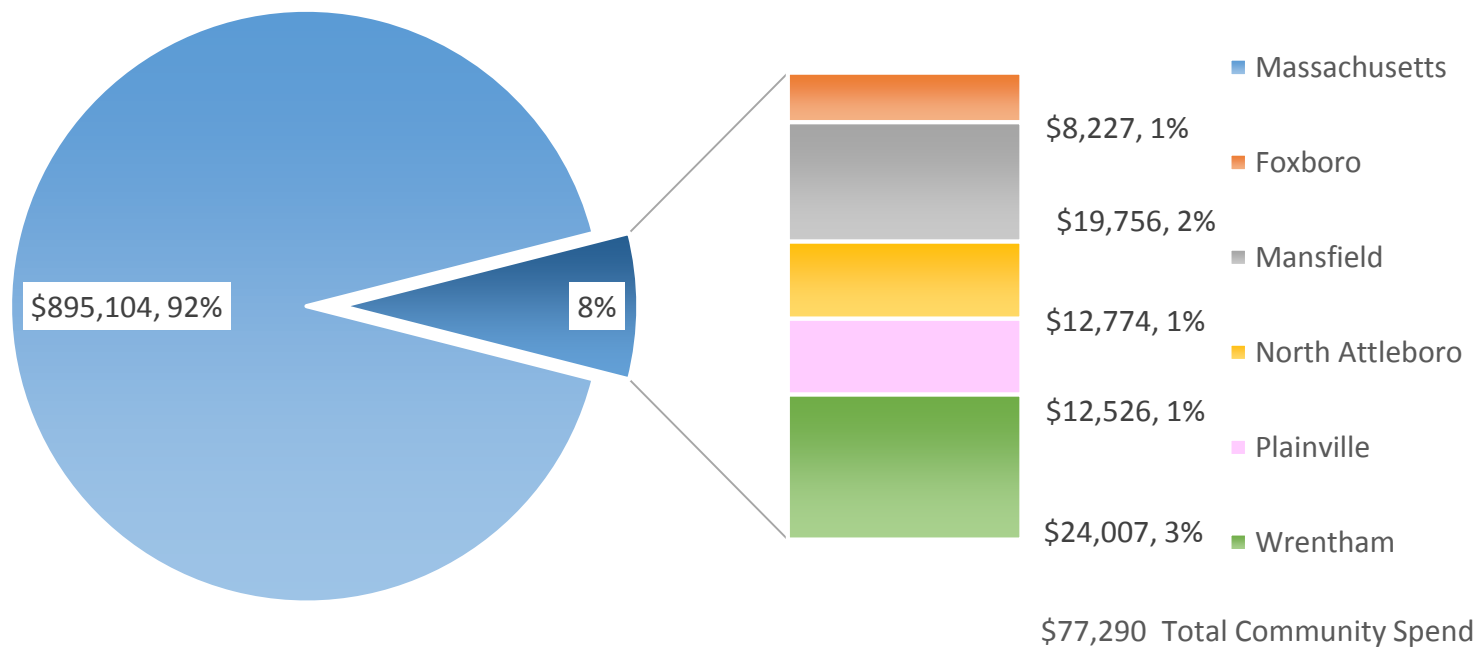
Q2 2019 Total Qualified Spend By State



Local Spend



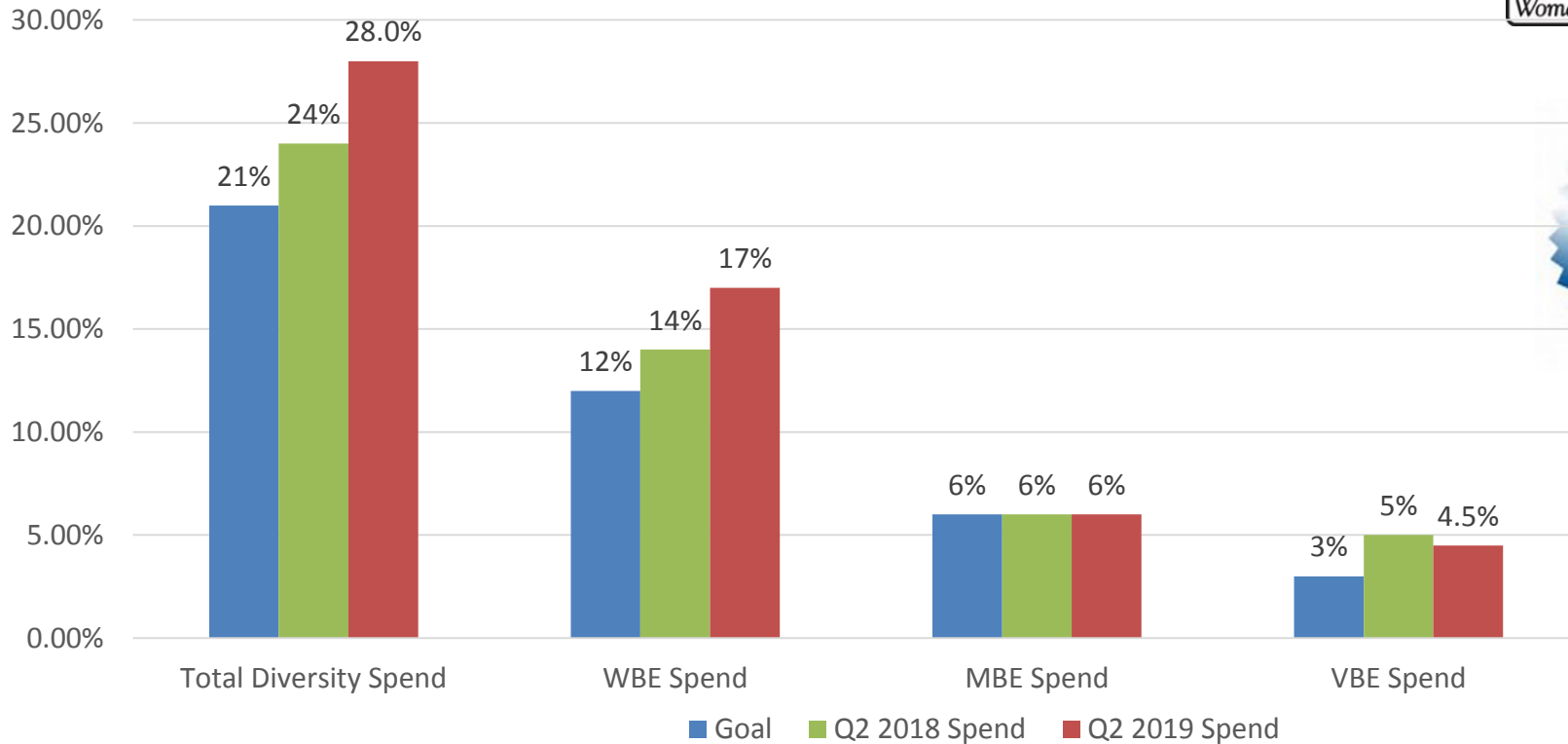
Q2 2019 Massachusetts vs Host & Surrounding Community Qualified Spend



Vendor Diversity



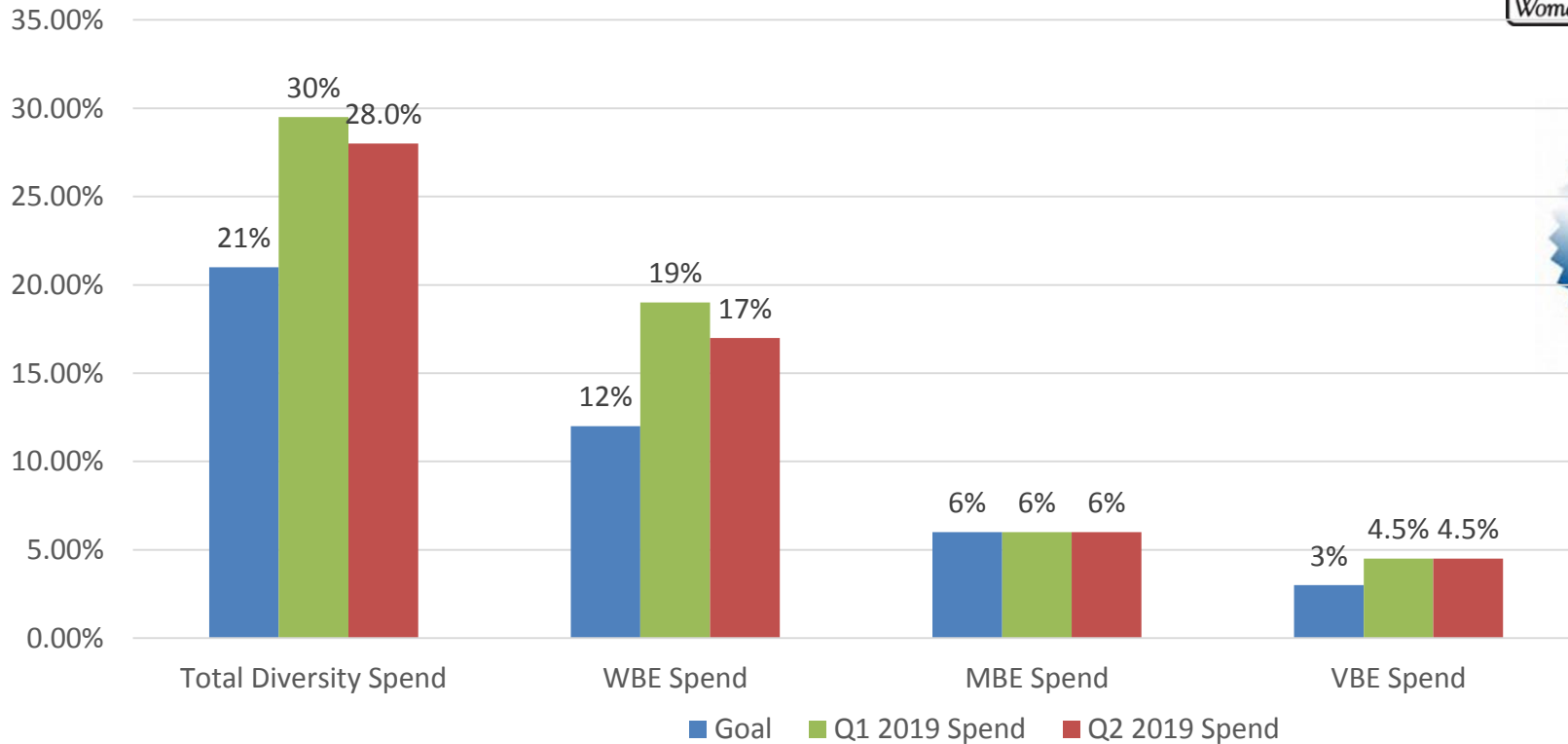
Q2 2018 vs. Q2 2019



Vendor Diversity



Q1 2019 vs. Q2 2019



Employment



As of June 30, 2019:

	Employees	Full-Time	Part-Time	Seasonal
Totals	461	308	141	12
% of Total	100%	67%	31%	3%

	Employees
Diversity	26%
Veterans	5%
Massachusetts	61%
Local	33%
Male/Female	49%/51%

Compliance



Month	Number of Patron ID Checks	Prevented from entering gaming Establishment			Expired, Invalid, no ID	Fake ID	Minors and Underage Escorted from the gaming area	Minors and Underage gambling at slot machines	Minors and Underage consuming alcoholic beverages
		Total	Minors ¹	Underage ²					
April	6,039	151	5	29	117	0	0	0	0
May	7,060	176	6	48	121	1	1	0	0
June	5,721	185	15	52	117	1	0	0	0
Total	18,820	512	26	129	355	2	1	0	0

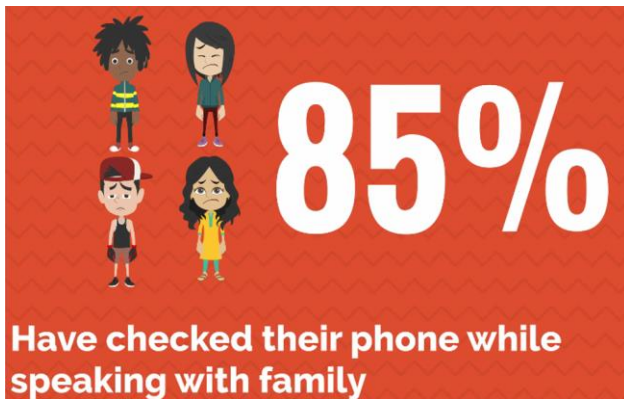
1 Person is under 18 years of age

2 Person is 18-21 years of age

Women Leading at Penn



- July - Work Life Balance – Panel Discussion



Remember

If work / life balance exists, you must build it.

Local Community



- For Kid's Sake Foundation
- Gilly's House Inc.
- Granite City
- Guide Dogs of America
- KP Boys Soccer Fund
- Make A Splash
- New Hope
- North Attleboro ANGP Inc
- North Attleboro/Plainville Rotary Club
- Plainville Senior Center
- Relay For Life
- URRC Golf Tournament



Q2 Sponsorships



- Wrentham Outlets
- TPC
- Fenway Concert Series
- Beasley Media Group



Boston



Marketing Highlights



- Outdoor Concert Series
- mycash to Free Slotplay Conversion
- Cross Property Visitation – Bruins/Blues



INTRODUCING OWNERS CREDITS

An exceptional selection of gifts.
You choose how to be rewarded.



CASH IN. PLAY ON.

You Can Now Use
Your mycash[®] for Free SlotPlay[™]

mychoice



Legal Division

TO: Commissioners

FROM: Karen Wells, Director of IEB
Carrie Torrisi, Associate General Counsel

DATE: August 8, 2019

RE: Junkets

Encore Boston Harbor has expressed a desire to utilize junket operators to bring customers to their gaming establishment. G.L. c. 23K §5(a)(13) grants the Commission authority to “prescribe the conduct of junkets and conditions of junket agreements between gaming licensees and junket representatives.”

Junkets are defined in G.L. c. 23K, § 2 as:

[A]n arrangement intended to induce a person to come to a gaming establishment to gamble, where the person is selected or approved for participation on the basis of the person’s ability to satisfy a financial qualification obligation related to the person’s ability or willingness to gamble or on any other basis related to the person’s propensity to gamble and pursuant to which and as consideration for which, any of the cost of transportation, food, lodging, and entertainment for the person is directly or indirectly paid by a gaming licensee or affiliate of the gaming licensee.

Additionally, G.L. c. 23K, § 2 provides the following definitions for “junket enterprise” and “junket representative”:

Junket enterprise: [A] person, other than a gaming licensee or an applicant for a gaming license, who employs or otherwise engages the services of a junket representative in connection with a junket to a licensed gaming establishment, regardless of whether or not those activities occur in the commonwealth.

Junket representative: [A] person who negotiates the terms of, or engages in the referral, procurement or selection of persons who may participate in, a junket to a gaming establishment, regardless of whether or not those activities occur within the commonwealth.

Historically, a person on a junket might receive free airfare, meals, hotel accommodations, and/or show tickets, etc. in exchange for their commitment to gamble a certain number of hours per day at a particular average bet amount. What constitutes a junket has evolved over the years, but the hallmark of what makes an agreement a junket (as opposed to simply the provision of



Massachusetts Gaming Commission

complimentary food/play/lodging to patrons) is that a junket representative or enterprise enters into an arrangement with a licensee by which the representative or enterprise receives payment from the licensee in exchange for bringing players to the casino.

I. Licensing

The statutory framework identifies a “junket enterprise” as a “person” (which covers an entity such as a corporation or an LLC) that employs individuals as “junket representatives.” The practical reality is that there are junket representatives working as individuals, similar to an “individual solo-practitioner” model, who do not work for a parent entity or other person identified as a “junket enterprise.” While the current regulations cover the “junket enterprise” as well as the “junket representative” who is “employed by the gaming licensee or affiliate of the gaming licensee or a junket enterprise,”¹ the regulations do not yet identify the licensing requirements for the “individual solo-practitioner” not working for a parent junket enterprise or a licensee.

205 CMR 134.04(1)(a)(3) requires that a “junket enterprise” be licensed as a Gaming Vendor – Primary. As such, the “junket enterprise” is required to submit a Business Entity Disclosure Form (BED) as an application. The Gaming Vendor – Primary licensing requirements also mandate that officers and directors submit the Multi-Jurisdictional Personal History Disclosure and Massachusetts Supplemental forms. Under 205 CMR 134.02(m), the junket enterprise employees, identified as “junket representatives,” are required to be licensed as gaming employees and must submit the Gaming Employee (GEL) licensing application. Licensing requirements for a self-employed individual junket representative, however, are not yet accounted for in Chapter 23K or 205 CMR.

The Commission must therefore determine how best to license individuals independently operating as junket representatives. We recommend that the Commission approve licensing these individuals to the same level as a Key Gaming Employee –Standard. In the interest of clarity for applicants, the Licensing Division has labeled the application form as “Independent Junket Representative.” (See attached). This recommendation is based on the fact that a Key Gaming Employee - Standard requires that the applicant submit additional information to investigators and is subject to a more comprehensive background check than a Gaming Employee. This is important in this instance where an independently-operating junket representative would not have the additional degree of review/approval that a junket representative employed by a licensee or enterprise would have by an entity which is subject to the Gaming Vendor – Primary background and licensing process. Should the Commission approve this recommendation, we will begin the regulation promulgation process to make this change.

¹ 205 CMR 134.02(m).

II. Reporting Requirements

In addition to the need for regulations outlining junket licensing procedures, there is a need for regulations outlining junket reporting requirements. G.L. c. 23K, § 33 requires each gaming licensee, junket representative, or junket enterprise to file a report with the IEB regarding any list of junket patrons or potential list of junket patrons purchased by the licensee, representative, or enterprise. The statute, however, does not identify precisely what information must be included in that report. Additionally, a survey of Nevada, New Jersey, Pennsylvania, and Maryland reveals that each state requires the following:

Nevada

- Licensees must provide to the Nevada Gaming Control Board on a quarterly basis a list of registered independent agents² (1) whose relationship with the licensee terminated in that quarter, and (2) whose total compensation in that quarter either exceeded \$20,000 or exceeded \$1,000 and placed them in the top ten percent of all of the licensee's registered independent agents ranked by compensation.³
- Licensees must retain in their files for five years and make available for inspection by the Board upon request (a) the origin and dates of stays by preferred guests arranged by a registered independent agent, (b) the total amount of gaming credit extended to such preferred guests that remains unpaid following their departure, and (c) such other information required by the Board regarding any business arrangement between the licensee and an independent agent.⁴

New Jersey

- Licensees must provide a monthly junket activity report including (1) the origin of every junket arriving at the premises, (2) the number of participants in the junket, (3) the arrival time and date of the junket, (4) the departure time and date of the junket, (5) the name of all junket representatives and the name and license number of all junket enterprises involved in the junket, and (6) the actual amount of complimentary services and items provided to each junket participant.⁵
- Licensees must provide a report regarding any purchases made for lists of names or junket patrons or potential junket patrons, including (1) the name and address of the person or enterprise selling the list, (2) the purchase price paid for the list or any other terms of compensation related to the transaction, and (3) the date of purchase of the list.⁶

² Note that Nevada does not use the terms "junket enterprise" or "junket representative," but instead uses the term "registered independent agent."

³ NV GAM REG 25.040.

⁴ NV GAM REG 25.040.

⁵ NJAC 13:69H-1.8.

⁶ NJAC 13:69H-1.7.

Pennsylvania

- Licensees must maintain reports related to the operations of gaming junkets conducted at their licensed facilities, submit a list of all employees who conduct business on behalf of the licensee with gaming junket representatives, and maintain records of all agreements entered into with a gaming junket enterprise or representative for a minimum of five years.⁷
- Licensees must file a report regarding the purchase of any list of gaming junket participants, which shall include the source of the list and zip codes of participants or potential participants on a list purchased directly or indirectly by a slot machine licensee, junket rep, or enterprise.⁸
- Licensees must prepare a gaming junket schedule for each gaming junket arranged through a gaming junket enterprise or its representative;⁹ a gaming junket arrival report containing junket participant names and addresses for each junket arranged through a gaming junket enterprise or its representative;¹⁰ a gaming junket final report including the actual amount of complimentary services provided to each junket participant;¹¹ a report listing the name and gaming identification number of each individual who performed the services of a gaming junket representative during the previous month;¹² and a report regarding the purchase of any list of names of junket patrons or potential junket patrons, including (1) name and address of person or enterprise selling the list, (2) purchase price paid for the list and any other terms of compensation related to the transaction, (3) the date of purchase of the list, and (4) the zip codes of all participants or potential participants.¹³

Maryland

- Licensees must file a final report within one week following the junket, which must include (a) the origin of a junket and its date and time of arrival and departure; (b) the names of all junket enterprises and junket representatives involved; (c) a junket manifest that lists the names and addresses of all participants; (d) the nature, amount, and value of complimentary services, accommodations, and other items provided by the facility to a junket participant; and (e) the total amount of services or other items of value provided to junket participant by the junket enterprise or representative.¹⁴

Based on the above, we recommend 1) requiring the licensee to submit copies of all junket agreements to the IEB, and 2) requiring licensees to file a monthly junket activity report to be

⁷ 4 Pa CSA 1608.

⁸ 4 Pa CSA 1609.

⁹ 58 Pa. Code 439a.7.

¹⁰ 58 Pa. Code 439a.8.

¹¹ 58 Pa. Code 439a.9.

¹² 58 Pa. Code 439a.10.

¹³ 58 Pa. Code 439a.11.

¹⁴ COMAR 36.03.09.01.

kept on file at the gaming establishment and provided to the IEB upon request that includes the following:

- The origin of every junket arriving at the premises;
- The names and addresses of participants in the junket;
- The arrival time and date of the junket;
- The departure time and date of the junket;
- The name and license number of all junket representatives and junket enterprises involved in the junket; and
- The actual amount of complimentary services and items provided to each junket participant.



TO: Chair Judd-Stein, Commissioners Cameron, O'Brien, Stebbins, Zuniga
FROM: Mark Vander Linden, Director of Research and Responsible Gaming
DATE: August 15, 2019
RE: FY20 Gaming Research Agenda

[M.G.L. c. 23K, § 71](#) directs the Massachusetts Gaming Commission with advice of the Gaming Policy Advisory Committee to carry out an annual research agenda to accomplish three core functions:

- 1) Understanding the social and economic effects of expanded gambling;
- 2) Carrying out a study of problem gambling and existing prevention and treatment programs that address its harmful results, before any casinos open in Massachusetts, and;
- 3) Collecting scientific information about neuroscience, psychology, sociology and public health impacts of gambling

The research funded under the expanded Gaming Act is important to fully understanding the effects of expanding gaming in the Commonwealth. Furthermore, the findings are intended to guide the development of interventions to minimize gambling-related harm and to increase responsible gambling in Massachusetts.

Included in this memo is an overview of the FY20 research plan, including: 1) general description of each project, 2) specific deliverables/activities, 3) a reference to the section of M.G.L. c. 23K which the deliverable relates to, and 4) a budget overview.

The FY 20 plan begins to integrate elements of the May 2019 Gaming Research Strategy and builds on the Commission's extensive efforts to date. A complete library of research produced to date is on the [research page](#) of the Commission's website.

The research agenda that follows was approved by the Public Health Trust Fund Executive Committee on May 22nd. It was presented to the Gaming Policy Advisory Committee on July 11th with no recommendations for changes. As mandated in M.G.L. c. 23K, §71, I ask for the Commission's approval to pursue this plan in FY20.



Massachusetts Gaming Commission

FY2020 Gaming Research Agenda

A. Social and Economic Impacts of Gaming in Massachusetts (SEIGMA)

Relevant to: M.G.L. c. 23K, § 71

The SEIGMA study has established baselines for a significant number of social and economic variables that may be affected by expanded gaming. Over the past few years, this has been valuable as the team begins to collect, analyze and report follow-up data to identify the true social and economic impacts of casinos in the Commonwealth.

Task	Deliverable	Statutory and Practical Significance
MGM patron and license plate survey	Report on results of wave 1 (fielded 2/2019) and wave 2 (scheduled 7/2019) (n~500).	Relates to: M.G.L. c. 23K, § 71 (2)(iv) and §71 (3)(ii) An essential component of the economic analysis that will clarify patron origin and expenditure and inform the analysis of social impacts of the introduction of casino gambling in Massachusetts.
Springfield targeted survey	Raw data file of complete cases (n~1000). Analysis and reporting expected in re-procurement.	Relates to: M.G.L. c. 23K, § 71 (1) and §71 (2)(iii) The targeted survey is a follow up to the Springfield Baseline Targeted Survey done prior to the opening of MGM Springfield. The report generated from this work will provide information about changes in problem and at-risk gambling, attitudes about gambling, gambling behavior and other social indicators.
Springfield key informant interviews	Report summarizing interviews	Information gathered will compliment targeted survey findings and provide a clearer picture of Springfield and surrounding community impacts.
New employee survey coordination	Raw data file of employees that have completed the survey. Analysis and reporting expected in re-procurement.	Relates to: M.G.L. c. § 71: (2)(iv), (v), (vi), (vii) Data will describe casino employees at PPC, MGM and Encore. The report, will describe economic impacts on individuals (new employees) and overall impact of the development and operation of the gaming establishment on small businesses in the host and surrounding communities.
Encore construction data collection	Raw data file of total construction costs by vendor. A technical report analyzing construction spending impacts is expected in re-procurement.	Relates to M.G.L. c. 23K §§ 71 (2)(iv), (2)(v), (2)(vi), (2)(vii) Data generated is essential to understand: 1) impact of gambling on the state (construction spending impacts on employment and business spending), 2) impact of gambling on businesses (business spending), impact of gambling on

		communities (economic impact on Everett and surrounding region) and 3) economic impacts on depressed economic areas.
Task	Deliverable	Statutory and Practical Significance
Data collection and analysis on year 4 of Plainridge Park Casino operations	Brief technical report containing operator employment and payroll data and vendor spending.	Relates to: M.G.L. c. 23k §§ 71 (2)(iv), (2)(v), (2)(vi), (2)(vii) Critical inputs for understanding direct economic impacts of operating phase.
Task	Deliverable	Statutory and Practical Significance
Collection and reporting on lottery data and population data (for a per adult by city analysis).	Technical report describing MA Lottery impacts in Springfield and the surrounding region.	Relates to: M.G.L. c. 23K §§ 71 (2)(iv), (2)(v), (2)(vi), (2)(vii) Key to understand casino impacts on lottery spending.
A. Social and Economic Research		
<p>The Expanded Gaming Act (M.G.L. c. 23K § 71) required the MGC to engage research to understand the social and economic effects of casino gambling in Massachusetts. Since 2013 the MGC has contracted the University of Massachusetts Amherst, School of Public Health and Health Sciences to carry out this arm of the research agenda. The term of this contract expired on June 30, 2019 (with the option of one six-month extension). To continue to meet the statutory mandate, the MGC has released an RFR seeking vendor/vendors to continue this work.</p>		
B. Massachusetts Gaming Impact Cohort (MAGIC)		
<p>Massachusetts Gaming Impact Cohort is a longitudinal cohort study that provides information about problem gambling incidence rates and the course of problem gambling in Massachusetts. MAGIC will yield information leading to treatment and prevention initiatives that are tailored to the needs of the people of the Commonwealth.</p>		
Task	Deliverable	Statutory and Practical Significance Practical Significance
Conduct wave 6 data collection (n=~3000).	Wave 4 report and one to two academic publications	Relates to: M.G.L. c. § 71 (3)(iii) Contributes to understanding predictors of problem gambling incidence and transitions in MA. Increases efficacy of targeted prevention and treatment efforts.
C. Public Safety Research		
<p>The MGC is examining changes in crime, calls for service and collisions following the opening of casinos in Massachusetts. The intention is to demonstrate what changes in crime, disorder and other public safety harms can be attributed directly or indirectly to the introduction of a casino and what strategies local communities need to implement to mitigate the harm.</p>		
Task	Deliverable	Statutory and Practical Significance
Collect data and analyze changes in	• Year 4 Public Safety Impact Report:	Relates to: M.G.L. c. § 71 (2)(ii)

crime, calls for service and collisions data for Plainville and designated surrounding communities. Provide crime analyst technical assistance as needed.	Plainville and Surrounding Communities <ul style="list-style-type: none"> • Interim raw data report (42 months) 	<ul style="list-style-type: none"> • Provides ongoing monitoring system of crime, calls for service and traffic. • Allows for early detection and response to casino related problems which may arise. • Provides an opportunity for greater collaboration with local police chiefs and crime analysts.
Task	Deliverable	
Collect data and analyze changes in crime, calls for service and collisions data for Springfield and designated surrounding communities. Provide crime analyst technical assistance as needed.	<ul style="list-style-type: none"> • Year 1 Public Safety Impact Report: Springfield and Surrounding Communities • Interim raw data report (18 months) 	
Task	Deliverable	
Collect data and analyze changes in crime, calls for service and collisions data for Everett and designated surrounding communities. Provide crime analyst technical assistance as needed.	Baseline Public Safety report: Everett and Surrounding Communities Three month and six month reports.	

D. Community Engaged Research

Relates to: M.G.L. c. 23K, § 71 (3)(ii)

The objective of community engaged research is to more deeply understand and address the impact of the introduction of casino gambling in Massachusetts’s communities. The specific research topic or question is developed by the community through a community participatory process. Funding for this type of research would build on funding allocated in FY19. In FY19 three grants have been awarded exploring gambling behavior and/or impacts on older adults, Hispanic and Latino communities in Greater Springfield and heterogeneous cultural and social Asian communities in Boston Chinatown. Additional grants in FY19 are pending.

E. Data, Transfer, Storage and Access Project

Relates to: M.G.L. c. 23K, § 71 (2)

The purpose of the Data Transfer, Storage and Access Project is to provide access to 1) data generated by research projects funded and overseen by the MGC and player card data identified in Section 97. Datasets will be publicly available with certain parameters set by the MGC and the research advisory committee.

F. Research Review

In order to assure the highest quality research, the MGC has assembled a research review committee. This committee is charged with providing the MGC and research teams with advice and feedback on gaming research design, methods and analysis. Where additional expertise is needed, the MGC seeks advice from experts with specific subject matter expertise to review reports and advise on research matters.

Massachusetts Gaming Commission Gaming Research Agenda Proposed FY2019 Budget	
A. Social and Economic Impacts of Gambling in Massachusetts	
UMASS, School of Public Health and Health Sciences and Donahue Institute	\$825,000
Social and Economic Research (1/1/2020 to 6/30/2020)	300,000
B. Massachusetts Gaming Impact Cohort	
UMASS Amherst, School of Public Health and Health Sciences	915,000
C. Study of Public Safety	
Christopher Bruce, Crime Analyst	60,000
D. Community Engaged Research	
Various/TBD	200,000
E. Data Transfer, Storage and Access Project	
TBD	50,000
F. Research Peer Review	
Various/TBD	50,000
Total	<u>\$2,350,000</u>



A Research Strategy for Gaming in Massachusetts

May 2019

Judith Glynn, *Strategic Science*

Mark VanderLinden, *Massachusetts Gaming Commission*



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Research Strategy for Gaming in Massachusetts

Introduction

Objective

The State of Massachusetts has made a commitment to “understand the social and economic effects of casino gambling.” The Massachusetts Gaming Commission (MGC) has dedicated substantial funds to this commitment, commissioning the most comprehensive research on this topic in the United States. MGC, Executive Office of Health and Human Services (EOHHS) and Department of Public Health (DPH) have formed the Public Health Trust Fund (PHTF) Executive Committee to provide leadership on a more comprehensive research strategy that will both understand these effects, and inform programming to maximize beneficial and minimize negative impacts of casino gambling in Massachusetts.

Primary Deliverable

Research Strategy – a multi-year plan for the evolution of a comprehensive research program to serve the needs of the Massachusetts Gaming Commission, Massachusetts Department of Public Health of the Massachusetts Executive Office of Health and Human Services, as collaboratively represented in the Public Health Trust Fund.

Approach

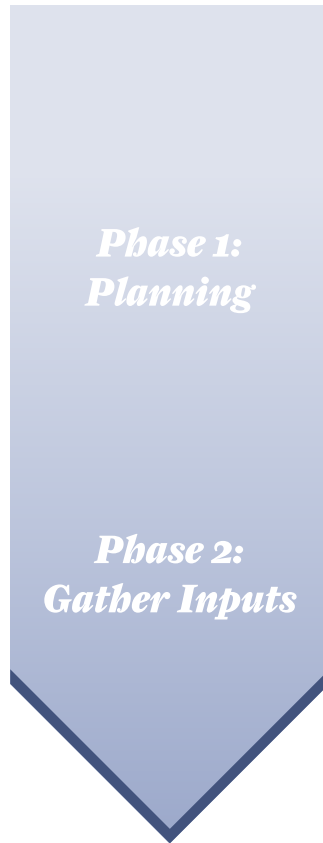
The original work plan, based on a six-month project (May 1 to October 31, 2018), was expanded to accommodate a longer project planning phase, increased stakeholder consultations, and vacation schedules (Summer and Holiday) of consultant and stakeholders. A draft reported was presented to the PHTF on January 23, 2019, and the revised report submitted in April 2019.

Recommendations are intended to achieve a Research Program for Massachusetts that:

- ◆ Builds on the commissioned research to understand the social and economic impacts of gambling in Massachusetts,;
- ◆ Provides research results that will inform programming to prevent and mitigate gambling-related harm for the overall population while addressing health and social inequities;
- ◆ Helps host and surrounding communities to understand the impacts of casinos in their communities, and to develop policy and programs that maximize benefits while minimizing negative impacts;
- ◆ Helps at-risk populations and the organizations that serve them to understand the effects in their communities and develop programs and strategies to minimize gambling-related harm.
- ◆ Integrates all lines of research to achieve a more cohesive research program.

This project involved three overlapping phases of work as illustrated in the figure below. Detailed reports on the Stakeholder Consultation and Document Review are included as Appendix 1 and 2.

Figure 1. Phases of Work



MGC Research Strategy Phases of Work

- **Develop Strategy to address inputs, needs and gaps**

Research Strategy

Recommendations for a Research Strategy at MGC are laid out in five sections:

1. **Overall:** This section addresses considerations and possible changes to the program objectives, guiding principles and committee structures
2. **Foundational Research Projects:** This section discusses the current social and economic research
3. **Ideas for future research:** This section brings together the rich research ideas drawn from stakeholder interview data, organized by:
 - a. Types of research
 - b. Topics of research
 - c. Populations of Interest
4. **Community-Engaged Research:** This section maps out the addition of a funding stream for research that is driven by and responsive to community needs
5. **Knowledge Translation:** This section maps out the purpose and structure of a dedicated knowledge translation function as part of the research program
6. **Data Management:** This section describes the need to manage large datasets collected under the current research agenda, and anticipated data from casino operators and other sources
7. **Evaluation:** This section describes some work to facilitate evaluation of MGC's Responsible Gaming initiatives
8. **Infrastructure to support the research strategy:** This section outlines options to develop the infrastructure and resources, especially human resources, needed to deliver on a comprehensive research strategy



Section 1. Overall

The Massachusetts Gaming Commission has undertaken the most comprehensive research program in the United States to measure and understand the impacts of the introduction of expanded gambling. This section:

- ◆ Examines how well the current research meets the goals of the annual research agenda – as stated in The Expanded Gaming Act (2011), and interpreted by the MGC in the objectives of the Responsible Gaming Framework; and
- ◆ Identifies ways to improve the overall structure and approach of the research program.

Recommendations in brief

Responsible Gaming Framework: Research objectives and guiding principles

- 1 Expand the interpretation of the Research Goals articulated in the Expanded Gaming Act, such that “use findings to inform evidence-based policy and regulation” applies to policy and programs related not just to gambling (gaming regulation, responsible gaming, and problem gambling treatment and prevention), but to **all social and economic impacts of expanded gaming**
- 2 Add a research objective to **apply a social determinants or health equity perspective** that assures research measures social and economic effects of expanded gaming on vulnerable and at-risk populations
- 3 Add a research objective for **community engagement** in the research.
- 4 Add a guiding principle for **openness and transparency**, or rather explicitly extend this MGC principle to the Research Program

Committee Structure

- 5 Review the GRAC and RRC committees to more accurately reflect the purpose and functioning of these committees

Research Goals, Objectives and Guiding Principles

The Expanded Gaming Act requires the MGC to establish “an annual research agenda” to understand the social and economic effects of casino gambling in Massachusetts. The **Research Goals** are to:

- ◆ Understand the social and economic effects of expanded gambling and use findings to inform evidence-based policy and regulation
- ◆ Obtain scientific information relative to the neuroscience, psychology, sociology, epidemiology and etiology of gambling
- ◆ Inform best practice strategies and methods for responsible gaming and problem gambling treatment and prevention



- ◆ Evaluate all responsible gaming initiatives developed by the Massachusetts Gaming Commission

These goals are interpreted in the *Responsible Gaming Framework* that “aims to create an effective, sustainable, measurable, socially responsible, and accountable approach to gambling.” The **Research objectives** in the Framework are to:

- ◆ Inform best practice in responsible gaming strategies and methods, problem gambling prevention and treatment, and responsible gaming messaging.
- ◆ Create and translate knowledge to support evidence-informed decision-making about gambling policy and regulation.

Two Tables mapping the current research program onto the goals expressed in the expanded Gaming Act (2011) are shown below.

Figure2. Mapping Research Program onto Objectives

Objective	Research	Data Collected
Understand the social and economic effects of expanded gambling and use findings to inform evidence-based policy and regulation	SEIGMA <i>Social Impacts</i>	Gambling & Problem Gambling: Baseline surveys <ul style="list-style-type: none"> ◆ General population + Targeted + Online panel Gambling and Problem Gambling: Impact surveys <ul style="list-style-type: none"> ◆ General Population + Targeted +Online Panel ◆ Patron Survey
	SEIGMA <i>Economic Impacts</i>	<ul style="list-style-type: none"> ◆ Patron Survey ◆ Operations Period Impacts ◆ Construction ◆ Employment ◆ Lottery Revenue ◆ Real Estate ◆ Community Economic Profiles (<i>see Table 2</i>)
	Public Safety Impacts	<ul style="list-style-type: none"> ◆ Baseline: Plainville and Springfield ◆ Impact: Plainville (6m, 1y, 2y)
Obtain scientific information relative to the neuroscience, psychology, sociology, epidemiology and etiology of gambling	MAGIC	<ul style="list-style-type: none"> ◆ Changes In Gambling Participation ◆ Changes in Problem Gambling Status ◆ Incidence of Problem Gambling ◆ Transitions, Stability And Change ◆ Implications for PG Prevention and Treatment
Inform best practice strategies and methods for responsible gaming and problem gambling treatment and prevention	MAGIC	<ul style="list-style-type: none"> ◆ Transitions, Stability And Change ◆ Implications for PG Prevention and Treatment
	White Paper	<ul style="list-style-type: none"> ◆ Combined: Baseline population Survey ◆ Helpline Call Data ◆ Focus Ggroup with MH&A treatment providers



Evaluate all responsible gaming initiatives developed by the Massachusetts Gaming Commission	Voluntary SE	♦ Evaluation of the Massachusetts Voluntary Self-Exclusion Program
	GameSense	♦ Compendium + four reports
	PlayMyWay	♦ PlayMyWay Preliminary Evaluation +Assessing the MGC PlayMyWay Play Management System.

Figure 3. Community Economic Profiles

Indicator Type	Indicators
Host community Industrial base & business	Employment, establishments, wages
	Industry Mix
	Business Sales
	Leisure & hospitality
Surrounding communities	Business
Host community Resident	Population
	Demographics
	Unemployment
	Income & poverty
Surrounding communities	Socio-economic
Host community Local area fiscal	Expenditures
	Revenue
	Property values
	Property tax revenue
Surrounding communities	Fiscal

Recommendation 1: The first research objective in the Responsible Gaming Framework to “Understand the social and economic effects of expanded gambling and use findings to inform evidence-based policy and regulation,” could be modified to address:

- ♦ Challenges in stakeholders’ understanding of the expansiveness of the research agenda; and



- ◆ Potential to apply findings far beyond Responsible Gambling and Problem Gambling programs and services to address social and economic issues that are covered by the research program and directly or indirectly related to casino impacts. The text highlighted in blue (Table 1) for the first and third objective could be interpreted more expansively to accomplish this.

Expansion of research objectives to include impacts far beyond RG and PG will require mechanisms to:

- ◆ Provide access to relevant data about non-gambling impacts
- ◆ Communicate the expansiveness of the research program
- ◆ Communicate these results to a wider range of target audiences, and
- ◆ Apply these findings in practice: to policy, regulation, programs, services, and further research

This expansion positions the research program as enabler of excellence in other areas of the MGC mandate, and as a fundamental tool for engaging communities to share information and build programs and services.

Recommendation 2: The research objectives should include the need to apply a *social determinants* or *health equity* perspective that assures research measures social and economic effects of expanded gaming on vulnerable and at-risk populations

Health inequities are the unfair & avoidable differences in health status. These differences are largely due to the social determinants of health (the conditions in which people are born, live, work & age), which are in turn shaped by the distribution of money, power & resources at national, state & local levels. A health equity approach requires considering the pre-existing inequities of certain population groups and asking: "Were those populations empowered and lifted up, or further pushed down by the introduction of casino gambling?"

Recommendation 3: The research program should be envisioned as part of the Commission's efforts to engage communities regarding the social and economic impacts of gambling, especially those communities most directly impacted by the expansion of gambling in Massachusetts. To that end, the research should address community engagement that will assist host and surrounding communities and high-risk population sub-groups to understand the social and economic impacts of casinos and develop policies and programs that maximize benefits while minimizing negative impacts.

The term "community-engaged research" (CER) is the term selected by MGC for its emphasis on engaging the community, while allowing for a range of methods, relationships and roles within a collaborative framework.

Some examples of community engagement include:

- ◆ Outreach to community groups and high risk sub-groups to explain the goals of the research
- ◆ Outreach to community groups and high risk sub-groups to explain the findings of the research before they are released to the public
- ◆ Inclusion of questions of interest to the host of surrounding communities
- ◆ Inclusion of a community response section in reports to the MGC
- ◆ Inclusion of a community advisory board or other groups to solicit community input into the overall planning and implementation of state-wide as well as targeted surveys



Additionally, the MGC will fund a separate program for community driven research initiatives, which is described in Section 4 below. The research objectives should include ways to both honor the principles of CER, and to connect State level research with these community-engaged research projects and teams in order to maximize and coordinate research efforts.

Community partnerships and community involvement should be important considerations and regarded as an advantage in future research projects and proposals.

Recommendation 4: **Guiding principle:** Consider adding *openness and transparency* as a guiding principle, or rather extending this principle from the larger regulatory approach, to Responsible Gaming and the Research Strategy. The intended result of this change is that data, data collection and reporting processes of operators would be designed with maximum transparency and serve to increase the *evaluability* of RG programs, tools and approaches. In practice this principle could impact such functions as:

- ◆ Data collection and extraction procedures to ensure linking data to individual player behavior
- ◆ Sharing of employee surveys
- ◆ Collaborating on patron surveys, or player surveys
- ◆ Training and employee assistance programs
- ◆ Awareness and referral to GameSense Information Centres (GSICs) by casino staff

Committee Functions

Recommendation 5: A further recommendation is to review the function of the two committees that were developed to support the research program, the Research Review Committee (RRC) and the Gambling Research Advisory Committee (GRAC). Both of these committees represent a demand on staff resources to manage them (scheduling and logistics, materials preparations, guest presenters, etc.). The roles and expectations of these committees could be examined to clarify whether they are intended to 1) fulfill functions and reduce staff workload, or 2) bring together important stakeholders to keep them apprised of the research program, but as a demand on staff time rather than a support. Considerations could include:

- ◆ The **RRC** provides quality assessments by research experts. Two minor criticisms arose during consultation. The first is the description of the Committee's function as "independent gaming research peer review" and, the second is the lack of sufficiently deep economic expertise on the committee. The RRC provides a much needed vetting of research reports by researchers with varied expertise. Two minor recommendations are to:
 - Change the description of the committee to remove "independent"; and
 - Recruit additional economic and fiscal expertise to the RRC.
- ◆ **GRAC** was intended to support knowledge translation but appears to function in practice more like a knowledge recipient than a body that assumes responsibility for knowledge translation functions from one meeting to the next. That being said, this does represent an important group of stakeholders who are very close to the research program and so should be knowledgeable about it. This may require a simple shift in thinking of GRAC as a key stakeholder group with whom to share research and that serves as a test group to gather reactions and ideas for more effective knowledge translation to other audiences.



Section 2. Foundational Research Projects

The Research Strategy is built upon two foundational research projects:

- ◆ Social and Economic Impacts of Gambling in Massachusetts (SEIGMA)
- ◆ Massachusetts Gambling Impact Cohort (MAGIC)

Recommendations in brief

Foundational research projects

- ◆ Provide expansive knowledge translation
- ◆ Considerations for the future of these projects

These are both multi-year studies with rigorous methodology “to assist in understanding the social and economic effects of the introduction of casino gambling in MA, and in making annual scientifically-based recommendations to the Legislature.” The results of these studies are to be applied “by policy makers and regulators to create policies that maximize the possible benefits and minimize the possible harms of expanded gambling in the Commonwealth.” (<https://www.umass.edu/seigma/>)

The research design of the two studies is complementary, so that each potentially strengthens the results of the other, combining a large scale multi-year assessment of social and economic indicators at the population level, with a cohort study that follows a sample of people at the State level (with more intensive sampling of people at risk of problem gambling), to assess changes in their lives year-over-year, as casino gambling is introduced. The rigor and comprehensiveness of these two studies combined produces the strongest assessment of gambling impact undertaken in the world to date.

A graphic depiction of the extensive population health indicators being tracked across these two studies is provided in the four figures below.

Figure 4. Geographic Units of Data Collection

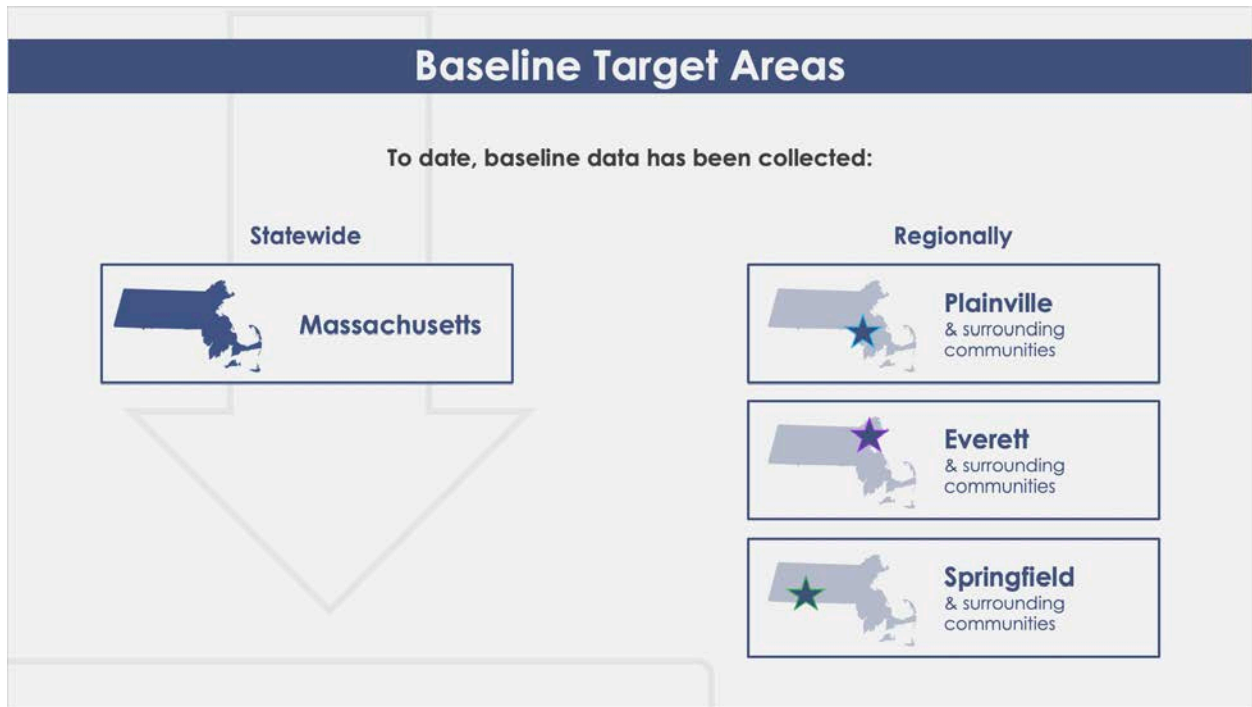


Figure 5. Two Pillars of Population Health Indicators

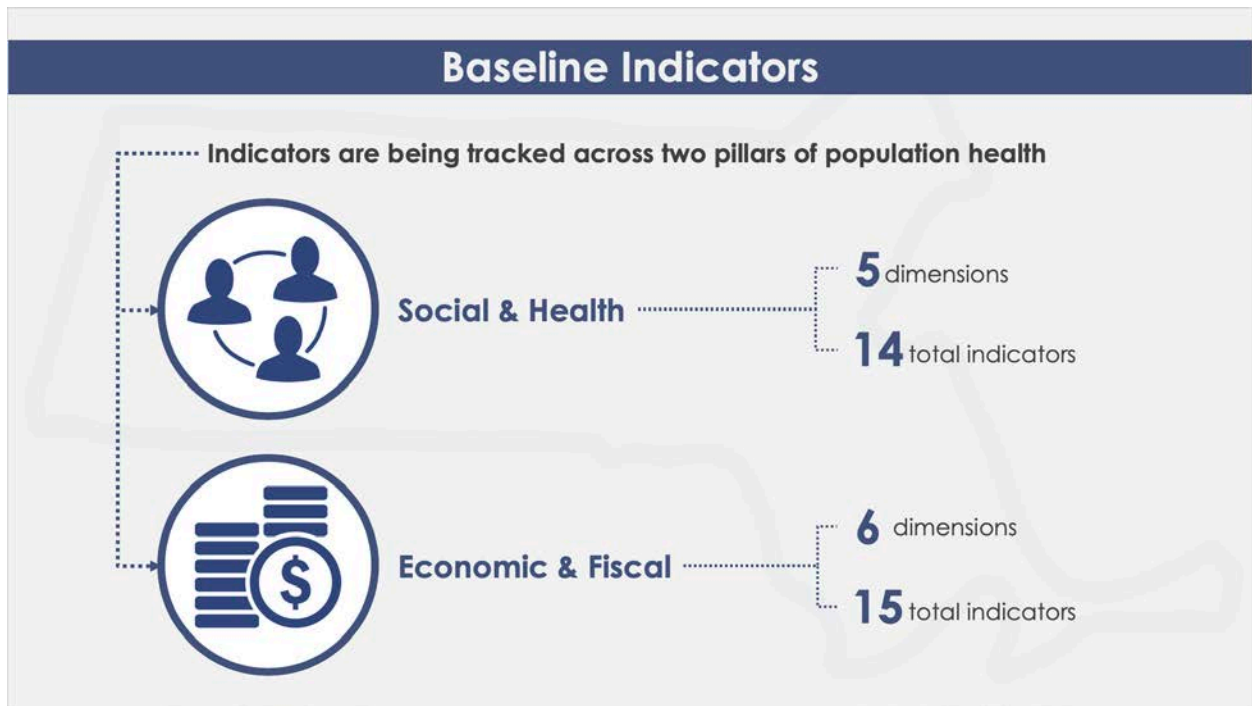


Figure 6. Indicators for Social and Health Pillar

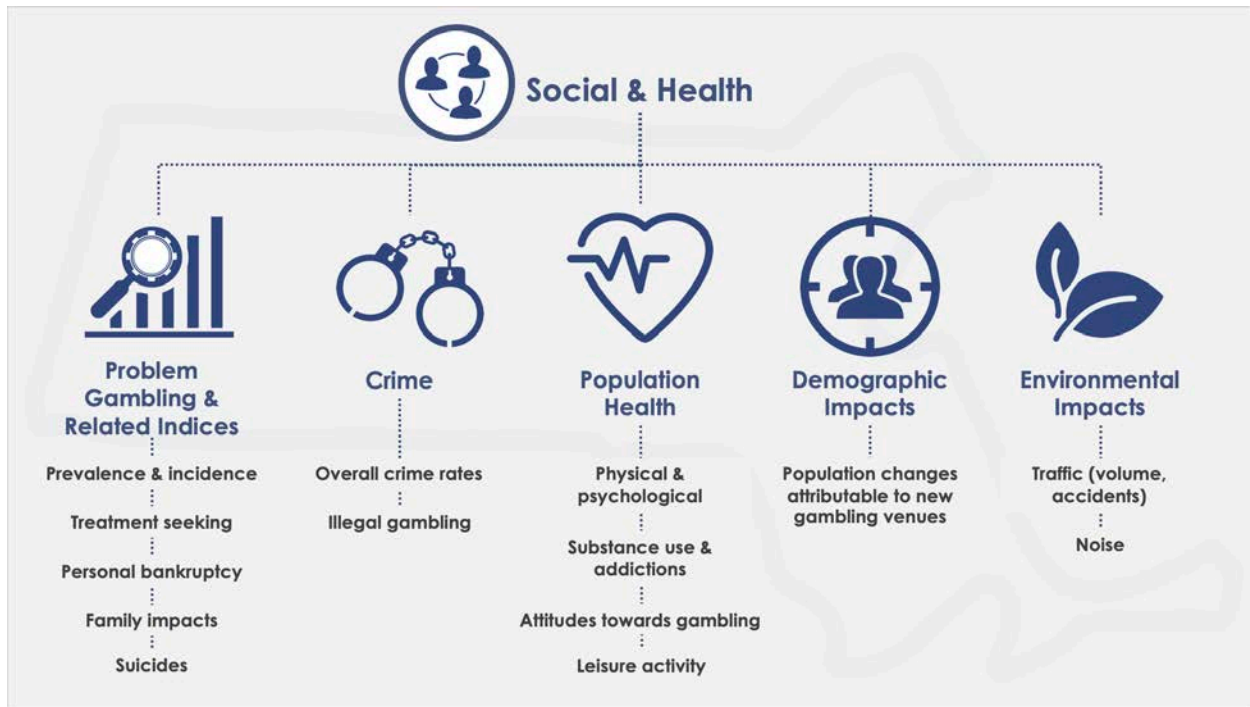
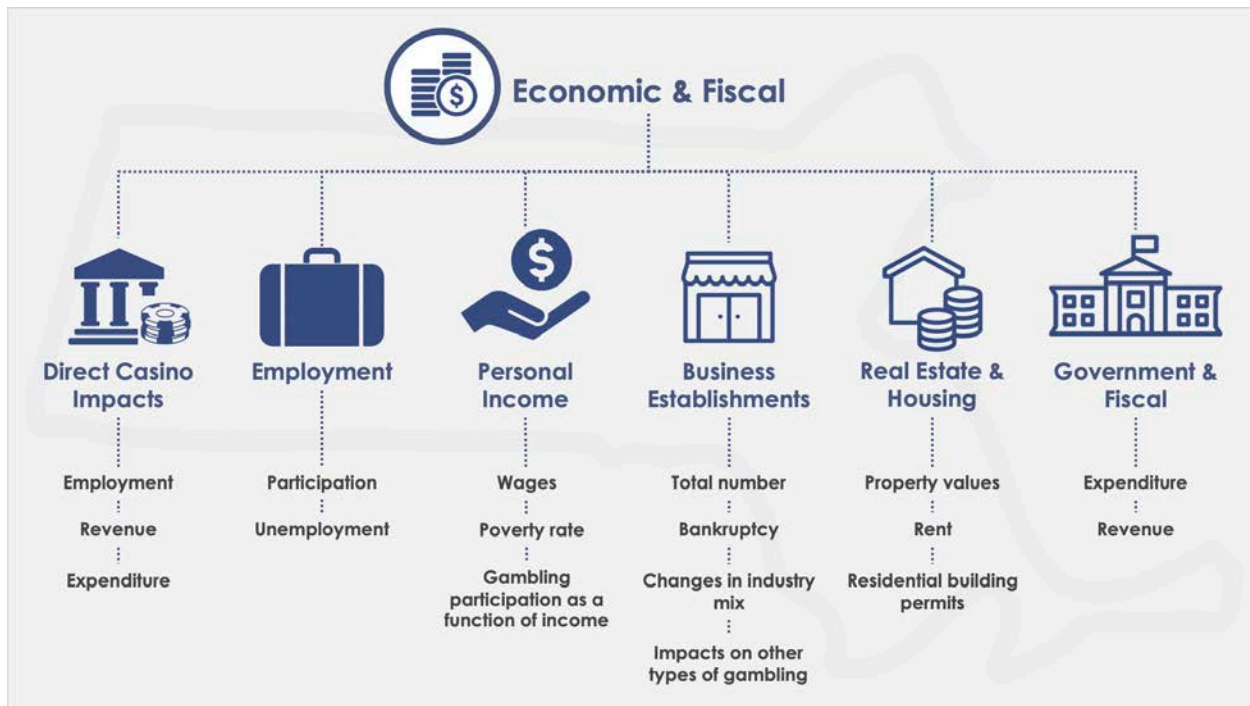


Figure 7. Indicators for Economic and Fiscal Pillar





The need for expansive knowledge translation

One of the key findings of the stakeholder consultation undertaken for the development of the Research Strategy was the lack of understanding of the comprehensiveness of the current research. That is, the majority of stakeholders believed the studies focused primarily on gambling participation and the prevalence of problem gambling, and were surprised by the breadth and depth of social/health and economic/fiscal data being collected on their communities. As stakeholders were made aware of this, they recognized the value of the research results for policy and programs far beyond problem gambling prevention and treatment. This was true even of highly engaged stakeholders, suggesting that the perception is fairly entrenched and requires ***explicit communication efforts on the comprehensiveness and potential value of the research to a range of community stakeholders***. This point is expanded upon in *Section 3. Knowledge Translation*.

The future of these projects

The MGC has begun the process of re-procuring the social and economic research. It will be important for future work in this area to **build on the current work and consider important and complex issues of consistency and comparability**, as well as **intellectual property**.



Section 3. Ideas for Future Research

Stakeholders shared an extraordinary number of interesting ideas for enriching or adding to the current research agenda. These are organized below in four sub-sections:

- ◆ **General comments on the current Research Agenda**
- ◆ **Types of Research**
- ◆ **Topics of Research**
- ◆ **Populations of Interest**

General comments on Research Agenda

Ensure the MGC and DPH research agendas are complementary

- ◆ Need clarity on the MGC research vision with respect to RG, especially for operators
- ◆ DPH appears to be funding their own research on the public health perspective – how does this intersect with the Commissions’ research?
- ◆ In response to the dynamic tension between MGC and DPH, there is potential to bridge these “two parallel pathways” by framing the end goal as prevention (primary, secondary and tertiary/treatment), and include such things as evaluation of treatment effectiveness
- ◆ Balance emphasis on social health equity perspectives with economic, crime and other topics. Some stakeholders emphasized the need not to speak just to a public health audience, but to include the rich data related to crime, business and other economic indices. There is the potential for this economic audience to “be lost” in the public health terminology
- ◆ Public health triangle (host, agent, environment) – focus resources in line with this framework

Include all forms of gambling

- ◆ The distinction of casino gambling is artificial for most target audiences, with the possible exception of legislators
- ◆ Emerging forms of gambling such as sports betting – research to understand current state and anticipate legalization and/or expansion
- ◆ Recognizing video gaming as part of spectrum of gambling addiction
- ◆ Fantasy sports should be examined



Types of Research

Methodological research

Members of the Research Review Committee and the Gaming Research Advisory Committee in particular emphasized the opportunity to explicitly examine and document the important, but often invisible, work involved in such large scale and ambitious research projects.

- ◆ Extensive range of methods such as cross-sectional, longitudinal cohort, targeted population research
- ◆ Map current methods, units of analysis, populations and sampling strategies
- ◆ Sampling and recruitment in special populations – document learning and recommendations, and strategies for more deeply understanding these populations
- ◆ Efforts to integrate primary and secondary data across multiple studies and methodologies to create deeper profiles of target groups
- ◆ Use of probability panels concurrent with cross sectional and cohort studies with different sampling strategies – compare approaches on many aspects

Qualitative research

Research and community stakeholders reminded MGC to enrich the current research with qualitative methods.

- ◆ To more deeply understand issues, also to probe emerging findings from larger populations studies
- ◆ Pilot studies to inform appropriate and effective methodologies to reach, engage and understand a population

Community participatory research

While there is a section dedicated to the addition of this stream of research, it is worth noting that many stakeholders either raised the issue themselves or expressed strong support for the idea when asked, citing benefits such as:

- ◆ Will shed more light on how to conduct research with special populations
- ◆ Deepen insights
- ◆ Address mistrust – such as that encountered by the Research team for the report *Casinos & Gambling in Massachusetts: African-American Perspectives* – where some respondents expressed doubt about whether the research findings would be used; “do you have any power to change things?” they asked.

Structural impact research

Members of the Research Review Committee and the Gaming Research Advisory Committee as well as host community stakeholders suggested research to understand impact of expanded gambling on social and political structures, including:

- ◆ Impact of introduction of casinos on State and local politics and decision-making



- See the report *Casinos & Gambling in Massachusetts: African-American Perspectives* on focus groups with African Americans to understand the potential impact of casino gambling, where participants expressed fears with respect to fairness, corruption, and ability of the community to influence all of the above, and to have a voice.
- This is potentially a good news story if the perception of fairness is greater after introduction of casinos than before
- ◆ Normalization
- ◆ Business practices such as procurement
- ◆ Comparison of Massachusetts to other jurisdictions – Are we doing a better job?
 - Potentially strike a working group to generate goals and objectives and develop a common definition of success

Program Evaluation

There is a section that describes ways to improve program evaluation research at MGC. It is worth noting that several stakeholders expressed the need for this type of applied research to inform program improvements and assess innovations

- ◆ More comprehensive RG program evaluation, pilot and testing research as programs and services are implemented
- ◆ Resources should shift to evaluation of programmatic activity (NOTE: this specialized form of research must be recognized as such)
- ◆ Inform decisions on where to invest money
- ◆ Industry safety and regulatory policy
- ◆ GIS mapping: Increased use of this tool to better understand needs and match resources

Topics of Research

Gambling product safety research

- ◆ Industry safety, regulatory policy
- ◆ Give direction to the gambling industry to conduct some level of product safety testing and to submit the results to the regulator before introducing new products. This would ensure a more measured response to the rapidly evolving technology and gambling landscape
- ◆ Industry needs research – decisions made in the dark

Employment: long-term impacts on individuals and communities

- ◆ Develop a framework that assesses the role of casinos in the employment path.
- ◆ Employee turnover study that tracks new casino employees on their broader career trajectories, including employment status prior to the casino, length of employment, internal progress and promotions, dismissal or resignation, external opportunities, and other stages



- ◆ Assess factors such as number of dependents, education, training, access to child care access and to transportation
- ◆ Determine whether impact of employment is greater in at-risk and disadvantaged populations
- ◆ Quality of employment - Compare employment at casino to similar jobs and examine benefits, compensation and other factors
- ◆ The area of research could be strengthened by a sub-set of qualitative interviews to provide a richer picture of the career trajectories and the factors that had positive or negative impacts on their careers and employment well-being. These could be used to create case studies for employment impacts and trajectories.
- ◆ Track where funds are going for casino training institutes and the impact of these funds

Employment Data sources

- ◆ New employee survey
 - Incredibly valuable source of information
 - Ensure consent included to track their data
- ◆ MOSES (Massachusetts one-stop employment system) database
 - For those employees who were in the covered UI system, information can be accessed to better understand their path

Hospitality

Profile

- ◆ The associations that support and advocate for the hospitality industry – 16 regional tourist councils doing destination marketing: leisure, conventions, group tours, sports – their goal is to extend stay, extend spend of visitors
- ◆ Tend to attract oddball conventions, e.g., Can-vention, Rabbit or pigeon breeders, insurance

Associations would benefit from data, findings and supports. Key issues include:

- ◆ Assess whether casino is cannibalizing other events, groups, products
- ◆ Missed opportunities – there is a need for consulting/coaching to support local small businesses in transitions, to understand how to maximize impact of casino. Examples include training and support to help adjacent restaurants exploit opportunities for growth, or to help small businesses understand the importance of and learn how to manage their reputation in an online (social media) world

Hospitality methods and data sources

- ◆ Three key methods and metrics – all will help inform impact on hospitality sector
 - Customer intercept research at attractions – visitors and from where
 - Conversion – of those who request tourism materials, who comes
 - Awareness – of Pioneer Valley brand, for example
- ◆ Need data/support to collect data from MGM
 - Length of stay



- Where are they staying
- Visits to other attractions
- MLife data drove casino marketing – where to pull people from. Do they have data to show if it's working?
- Impact of casino on accommodation rates, which hadn't moved in 10 years prior
- ◆ VISA data – every swipe shows where they spend and zip code
- ◆ Other data sources
 - Ticket sales for big attractions such as Six Flags
 - Meal taxes, local option taxes
 - Smith travel research for hotel rates and occupancy
 - Business occupancy in office and commercial space, change in mix in buildings
 - Bradley Airport traffic
- ◆ Low or no budget to do research – need data, collaboration, support
 - Our members don't or can't afford to do high quality, high tech research
 - They need access to data on their communities,
 - Interested in collaborative research to enable them to keep their members up-to-date on trends and opportunities in their communities

Property values consider expanding the current research for a deeper understanding of changes in housing in communities and neighbourhoods

Public safety

- ◆ Deeper dive into the factors that lead to changes in crime patterns in and around casinos
- ◆ Impact of alcohol service, cannabis and other substances on gambling behaviour and on crime behavior

Environmental justice perspective – This research would consider casino gambling as introducing potential hazards into a community, one that has been marginalized and is experiencing a number of vulnerabilities and risks

Crime with an equity perspective: Some stakeholders noted that public safety and crime research seems to lead to more police and policing – calling this response too simple – and emphasizing the need to take into account pre-existing policing practices and inequitable treatment of people of colour



Intersection with other substance use and risk behaviors

- ◆ Casinos are also alcohol environments – 80-90% of crimes involve alcohol or substance use or both
- ◆ Legalization of marijuana - Consider including expansion of marijuana legalization, such as whether dispensaries are geographically located near casinos.
- ◆ Complexity of multiple addictions for individuals and communities

Problem Gambling Services

- ◆ Co-occurring disorders and screening: Better understanding of which mental health and addiction behaviours cluster and how to screen for and respond to gambling problems in clients presenting for other reasons
- ◆ Recovery: Ways to address longer term recovery of problem gamblers, and their families, especially for cultural groups that are less integrated in the mainstream society
- ◆ Barriers to treatment: to help service providers understand (and potentially address) why people are not accessing services, e.g., lack of awareness, stigma or other barriers such as other health conditions, transportation, insurance, etc.
- ◆ Multiple definitions of problem gambling and risk. This is fine as long as it's clear which ones should be used in which settings, e.g., clinical diagnosis, screening, population survey
- ◆ Development of brief screens for shorter community-based research

Populations of interest

African Americans – building on pilot study

- ◆ Reach out to community leaders and agencies for strategies to reach, recruit and engage this population
- ◆ Stakeholders indicated there is goodwill in the black community towards gambling, should be capitalized upon, messages that we “have their backs”
- ◆ Need for services targeted to and/or located in areas with high concentrations of people of colour – “it's not easy to go into a treatment agency waiting room full of white people”

Asian – building on pilot study

- ◆ Recent research highlighted complexity of conducting research in this community, including:
 - Logistical challenges such as translation at each stage of instrument development, recruitment, data collection, transcription and analysis
 - High ethics bar for protection of privacy and confidentiality, and resulting challenges in recruitment
 - Low income population targeted because they are at greater risk



- Spouses played important role in getting partners to participate and attend interviews
- ◆ Need for stronger baseline for Chinese and Asian populations in MA, High cost of population recruitment and research for this population
- ◆ Motivations: Casinos offer Chinese-themed games, restaurants and promotions – in the face of few recreational opportunities in Chinatown
- ◆ Reach beyond Chinese community
- ◆ Consult with operators on their objectives, targets and promotional approaches to Chinese and other Asian customers – the sample recruited for the pilot study of Chinese lower income service workers did not resemble the population that casino marketing targets to attend Springfield casino
- ◆ Option of engaging Chinese customers at casinos (suggestion that 15-40% of customers at most large casinos are Asian) or collaborate with operators for data and insight
- ◆ Reported strong positive response to services customized and targeted to Chinese or Asian populations, including a Vietnamese counsellor and Chinese GameSense Advisor, even with no advertising or promotion

Hispanics

- ◆ Stakeholders expressed need for more information on this population which tends to be more dispersed and difficult to target for sampling and recruitment
- ◆ Western MA – large influx of this population

Immigrant communities: based on results of general population survey and prevalence research in general, immigrants, especially those with language and cultural barriers are at greater risk for gambling problems. Consider examining the role of immigration on problem gambling risk

Youth

- ◆ Attitudes and behaviours, Note: MGC provided funding for youth health survey (YHS/YRBS) in Western MA
- ◆ Better understanding needed to inform interventions, including role of video gaming in transition to gambling
 - Are video gaming and the normalization of gambling breeding gambling in youth?
 - Is gambling is a gateway behaviour to other risk behaviours?
- ◆ How does gambling contribute to the reduced socializing in favour of online engagement among youth
- ◆ Consult school principals, guidance counsellors, etc.

Transition age youth and young adults



- Research that would focus on young adults, out of high school, in college, transition age youth, campus and casino close together
- Consider providing and assessing impact of education on campus about casino gambling in particular

Gamblers

- ◆ Emphasis on all gamblers, attitudes and behaviours of 99% who gamble responsibly,
- ◆ Not just variables that are predictive of development of problems, but also protective factors
- ◆ Involved gamblers Higher gambling involvement (frequency, duration, speed, engagement with a variety of games) is linked to risk
- ◆ Casino employees experience gambling problems at higher rates

Special populations Consider research on population sub groups that may be too small or difficult to identify in survey samples. Suggested populations to explore include:

- ◆ Previously or currently incarcerated
- ◆ Vulnerable because of assessment of mental capacity/competence

People with physical disabilities

- ◆ California study showed physical disability was one of first factors correlated with PG.
- ◆ Determine whether current research includes this variable in data collection and analysis
- ◆ Walk through Springfield casino shows high rate of obvious physical disabilities

The ideas shared by stakeholders provide many directions for changes or additions to the foundational research projects, such as the methodological research, and for community-engaged research in the host and surrounding communities. These ideas could be reviewed and organized in different ways to be shared with the current research teams and as part of the promotion of the community-engaged research program, which is described in the section below.



Section 4. Community-Engaged Research

From the outset of the strategic planning process, the Commission wished to explore a program of research that is driven by and responsive to community needs, with a focus on at-risk groups in the communities surrounding the three casinos. Three such pilot projects funded by the Commission in the previous fiscal year are completed or nearing completion:

- ♦ *Casinos and Gambling in Massachusetts: African-American Perspectives* – led by Roldolfo Vega, PhD
- ♦ *A Study of Gambling Behavior and Problem Gambling in Boston Chinatown* – led by Carolyn Wong, PhD
- ♦ *Gambling Problems among Military Veterans: Screening Study in Primary Care Behavioral Health* – led by Shane Kraus, PhD

Recommendation in brief

There has been strong support for this component throughout extensive consultation and information gathering. In response to this strong support, the Commission wishes to fast-track a community research program. The recommendation is to launch the program in the current fiscal year, ending June 30, 2019, and to engage in a more extensive and formal launch in the next fiscal year, as detailed below.

This section is adapted from a brief provided to the Public Health Trust Fund in November 2018. This section outlines considerations and options for a community research program that targets social determinants of health in host and surrounding communities.

Community-based research (CBR) is a **philosophical approach** that emphasizes collaboration, participation and social justice agendas over the notion that research is, or should be, objective and apolitical (Flicker & Savan, 2006). Many terms are used for research that is conducted with community members. Each term may emphasize different methods, roles and levels of involvement for researchers, service providers and community members. The term “**community-engaged research**” (CER) is the term selected by MGC for its emphasis on engaging the community, while allowing for a range of methods, relationships and roles within a collaborative framework.

Objectives and Benefits

Community-engaged research has the potential **to more deeply understand and address the impact of the introduction of casino gambling** in Massachusetts communities.

Community Based Research is increasingly being recognized as important in yielding concrete knowledge and understanding that can guide policies and programs to reduce health and social disparities (Flicker & Savan, 2006)



Community-engaged research benefits include:

- ◆ Suited to research with population groups that are difficult to research with epidemiological or general population studies
- ◆ Responsive to communities' demand/need for more involvement in research that takes place in their midst
- ◆ Targeted to specific groups and related health inequities
- ◆ Relevant – results should be more accessible, accountable and relevant to people's lives
- ◆ Capacity-building for researchers and for community and agency representatives
- ◆ Empowering for all parties, especially community representatives and agencies to make sustainable personal and social change (Wallerstein & Duran, 2003)

Focus

- ◆ **Geographic:** host and surrounding communities where casinos exist or are planned
- ◆ **Target populations:** life course (e.g., youth, seniors, parents), ethno-racial, identity groups such as LGBTQ, veterans, etc.
- ◆ **Topics:** the relationship of casino gambling with social determinants of health, such as poverty, education, housing, and employment
- ◆ **Outputs:** community assessment, evaluation, community awareness, etc.

Team Composition

Teams should be composed of some collaboration among:

- ◆ Community representative of organization, agency, or assembly of people with a common focus
- ◆ Service providers, may be same as above
- ◆ Local public health agency or institute
- ◆ Academic researcher, with encouragement to include post doctoral or early career researchers to build capacity (balance CBR experience with capacity building)

Each partner should choose the level of involvement at each stage to best accomplish objectives.

One sponsoring institution will need to assume responsibility for receiving and administering each grant, with responsibility for:

- ◆ Managing contract compliance and administering funds for approved budget expenditures
- ◆ Monitoring and reporting to MGC
- ◆ Overseeing knowledge translation and exchange (post-research)
 - Expectations for presentations, briefings, case studies, and publication
 - Requirements, if any, for advance notice to funder prior to publication
 - Advocacy work for policy and program change



The university of one of the academic team members typically undertakes this role because it requires institutional infrastructure to manage accountability. However, awarding funds to universities or research institutes, which is typical, establishes a power imbalance from the outset. MGC could consider asking a local agency Centre for Community Health Equity Research at the UMASS to assist in administering funds for community engaged research.

Links to State Level Research and Programming

During consultation a number of stakeholders strongly supported a direct link to the SEIGMA and MAGIC research teams. Two expressed disappointment that the three projects currently underway represented a missed opportunity for the SEIGMA/MAGIC teams to provide research results and suggestions to inform the design and execution of the community research projects. Other stakeholders suggested there be a structure for community research teams to share information with each other at all stages of the research process.

This is consistent with the RG Framework Strategy 6 – Engage the Community: “Engaging the community is a way to understand, participate in, and act upon critical workplace, marketplace, and environmental issues.” Some structure and support should be provided for communication links among research teams.

Promotion of Community Research Program

Publicize and promote CER Program to key audiences, and **provide resources to maximize successful collaborations**, such as:

- ◆ Share promotion of CER program, possibly with Department of Public Health, MASSHire, etc.
- ◆ Provide profiles of gambling and gamblers in host and surrounding communities
- ◆ Identify resources for CER – tool kits, web links, case studies, and templates are all available from a range of organizations that specialize in this work. Carefully select a resource inventory.
- ◆ Consider workshops in target communities
 - To launch process, bring together potential collaborators, assess readiness and related needs for resources or training to actively participate in CER
 - Ongoing (annually?) among all teams to establish links and share experiences and learning
- ◆ Consider supporting training opportunities
- ◆ Consider identifying potential researchers or research institutes that specialize in CER. Evidence shows that outcomes are best when researchers are experienced in CER.

Funding Envelope

Current plan is for \$200,000 annually, \$185,000 in Year One

- ◆ Consistent with the formula of 5% of total research awards budget (\$50,000 per \$1M) recommended in literature



- ◆ Consider cost-sharing final stage work (KTE) with DPH or appropriate public organization so research and outcomes can be linked
- ◆ Consider allowing budget items often excluded in traditional research funding guidelines:
 - Capacity building opportunities such as training, staff buy-outs, and administrative overhead
 - Items that address barriers to participation, especially for community representatives, such as childcare, translation, transportation, refreshments, etc.
 - Limits could be set on the proportion of the total budget for these components

Duration and Structure

Consider funding fewer projects longer term rather than diluting resources (funds, community participation, researchers) across many projects. CER takes time and longer-term support increases the likelihood of success.

Consider stages of work:

- ◆ **Seed grants:** Support development phase to establish relationships, define roles, and develop a research program (identify problem, describe target population, research questions, methods).
- ◆ **Project grants:** To conduct research.
- ◆ **Knowledge translation and exchange:** Basic dissemination could be included in project grant. Advocacy work to create change may require separate support and could be co-funded with an appropriate public organization.

These stages could be:

- ◆ Combined into one longer term award that details each stage over 2-3 years,
- ◆ Awarded in stages, conditional on completion of previous, or
- ◆ Separate awards that allow a team to apply at any stage of their development.

Grants Procurement and Administration

This refers to the internal function led and managed by MGC, to develop and implement a community-engaged research program. Steps include:

- ◆ Establish guidelines
 - Establish frequency and possibly templates for reporting updates and final report (Financial and Research aspects)
- ◆ Manage structure and process for (peer) review
 - Establish structure and identify people for review process
 - Academic peers should include CBR experience
 - Public health
 - Assign and manage peer review, (e.g., matching reviewers to proposals)



- Assemble recommendations for each funding round
- Create core team for final decisions – may be same as reviewers or a standing group
- ◆ Execute contracts and award funds
- ◆ Provide administrative support and oversight for grantee responsibilities
- ◆ Receive grant deliverables (interim, budget and final reports)

Evaluation and Recognition

- ◆ Build evaluation requirements into the Grants Program as a whole, to ensure consistency and reduce burden on individual grant teams.
- ◆ Establish objectives that match anticipated outcomes (building relationships and capacity, satisfaction with process, satisfaction with results, dissemination of results, changes advocated and implemented), including outcomes that are specific to each stage.
- ◆ Build assessment of some objectives into grant reporting process, e.g., brief confidential survey of team members.
- ◆ Establish a reasonable period for results to manifest, and consider evaluating different aspects in stages. For example, seed grants could be evaluated on their own criteria almost immediately, as opposed to changes in policy or programs, which may take three years or more.
- ◆ Potential outcomes:
 - Working relationships and new coalitions
 - Community capacity
 - Plans for future projects
 - Changes in agency programming
 - Changes in government policy
- ◆ Support and reward agencies for effectively using research to improve their program and advocacy objectives. This could be done by recognizing these accomplishments publicly, and by providing funding or support for funding requests to DPH or other bodies in order to make changes happen. As discussed in the next section on knowledge translation, **helping community agencies to implement change based on research evidence is the ultimate goal of knowledge translation.**



Section 5. Knowledge Translation for Key Stakeholders

Knowledge translation is one term used to describe the process of putting research findings to practical use. Terms such as *implementation science*, *knowledge mobilization*, *translational research* and *research utilization* are used to describe similar approaches. These concepts refer to the process and steps needed to ensure that new research findings are made known to the right people and used to inform the relevant policies, programs and services. The definition developed by the Canadian Institutes for Health Research is widely used, including by the United States National Center for Dissemination of Disability Research and the World Health Organization (WHO). Knowledge Translation is defined as:

A dynamic and iterative process that includes synthesis, dissemination, exchange and ethically-sound application of knowledge to improve the health of [individuals], provide more effective health services and products, and strengthen the health care system.

Retrieved from <http://www.cihr-irsc.gc.ca/e/29418.html#6> January 4, 2019.

MGC has committed to using the knowledge from the commissioned research to inform planning and funding allocation, advance the quality of policy and programs, and inform future research – as outlined in the excerpt below from *Report on the Research Agenda of the Massachusetts Gaming Commission, December 18, 2013*.

Utility of the Research Findings

The Massachusetts Gaming Commission is committed to fully understand the impacts of expanded gaming in the Commonwealth. The research findings will be essential in developing a strategy to minimize gambling-related harm and bring the greatest possible benefit to the people of the Commonwealth. These findings will:

- ◆ Inform how monies from the Public Health Trust Fund (Section 58) are expended;
- ◆ Assist in assessing community-level impacts and inform decisions about expenditures from the Community Mitigation Fund (Section 61);
- ◆ Improve problem gambling prevention;
- ◆ Advance the quality, effectiveness and efficacy of treatment of gambling disorders;
- ◆ Inform the ongoing MGC research agenda;
- ◆ Provide quantitative and qualitative assessments of a broad range of impacts of expanded gaming; and
- ◆ Provide Massachusetts stakeholders a neutral database for strategic analysis and decision-making.

Recommendation in brief

The recommendation is to develop the explicit function, expertise and resources at both MGC and DPH Office of Problem Gambling Services to engage in strategic knowledge translation and fully exploit the substantial knowledge being generated by the research program.



Given that few understand the comprehensiveness of the current research, there is a case to be made for an explicit knowledge translation function and resources at MGC. The complexity and volume of knowledge being generated by the MGC Research Program is substantial.

Key Knowledge Users

It is not surprising that we heard many ideas for knowledge translation, because we asked stakeholders to tell us what impact they wanted the research to have and on whom – framing the questions as use-of-research. The consultation provided extensive detail on potential uses for research findings and a strong appetite for same. The need for the knowledge generated by the MGC Research Program to be translated into useable forms was expressed in many ways throughout the stakeholder consultation.

- ◆ **MGC** – Commissioners identified many ways to use research knowledge, including to complete the communications loop with the community stakeholders they consulted – to demonstrate that the Commission listened and developed a rigorous regulatory framework to maximize benefits and minimize negative impacts, and provided communities with funding to target concerns and improve their readiness for casinos. Research evidence showing the success of these readiness efforts should be shared with the original stakeholders.
- ◆ **Department of Public Health (DPH)** – in the early stages of consultation considerable time and effort were dedicated to understanding the knowledge needs of DPH leadership, and helping the research team to analyze data and interpret findings in ways that align with the needs of DPH to design, develop, implement and evaluate policy and programs that address health and social inequities.
- ◆ **Host communities – Health and Social Service** agencies and their staff, including public health representatives expressed strong desire to understand the scope and scale of the research program and to receive research findings in ways that would help inform their decision-making and planning.
- ◆ **Host communities – Hospitality and Leisure, Business associations** such as Chambers of Commerce – These organizations described the need for timely information regarding the impact of casinos so they could adjust to maximize economic benefits and minimize negative impacts for the member businesses they represent (hotels, restaurants, tourist attractions, financial institutions, and others). These associations often have limited or no capacity to conduct complex research to provide meaningful insight to their members and develop resources to help them succeed in changing business climates.
- ◆ **Public safety** – stakeholders identified this body of research as having, to a great extent, built in the knowledge translation process by establishing collaborative relationships to collect, analyze and interpret the data. This model of engaging knowledge users suits this type of research where the same stakeholders are the source of the data and the ultimate users of the information in their work. Police forces who work with the primary investigator on this work, Christopher Bruce, work in the communities that are hosting expanded gambling and can use the findings immediately to provide training and policing that is responsive and appropriate. The public safety stakeholders, including police, also worked with the investigator to modify their own reporting processes to improve the usefulness of the data.

Not surprisingly, each stakeholder we consulted identified people or organizations that need to know the results of this research to do their jobs better.



Driving Knowledge into Policy and Practice

The stakeholder consultation revealed a high level of engagement in host communities across a wide range of organizations and mandates related to local government, economic development, and health and social services. A common concern was whether the research findings would be used to drive funding for programs and services that are not directly related to gambling and problem gambling. Some stakeholders regarded the Community Mitigation Fund as potentially addressing some economic and fiscal impacts. However, there did not appear to be a mechanism for addressing broader health and social impacts through services and programs, especially targeted at communities experiencing disadvantage.

Two steps are suggested to address this concern. The first is to create knowledge tables in each host community that bring together a diverse group of stakeholders for annual updates on research findings and deep insight into the data collected in their communities. This could be done with updates organized by topics over the course of an update session so that stakeholders could attend the entire session or presentations of interest to them. The second step, and certainly the more complex one, is to develop a process whereby the research findings are linked to resource allocation for programs and services, particularly those provided or supported by DPH in these communities.

This process should also connect community-engaged research as part of the process to more deeply understand gaps and needs in host communities. True knowledge translation would require a path from the foundational research projects to community-engaged projects and ultimately to changes in the mix of programs and services supported and delivered in these communities. The knowledge tables could be central to this process as mechanisms for sharing research findings, discussing potential community-based research ideas and findings, and making recommendations on the types of service and program changes needed.

This is undoubtedly one of the most important challenges facing the PHTF as it provides leadership across the MGC research strategy and DPH service and program delivery.

Knowledge Pathways

The parallel paths of research and development of policy and programs, and how the research findings can and should be applied to both of these pathways, are illustrated in the figure below.

Figure 3. Knowledge Pathways notes feedback loops in the lower right corner for three important uses:

- ◆ **Host and surrounding communities** – Research knowledge should be communicated for a number of purposes, such as to demonstrate the impact of readiness efforts; to provide monitoring and early alerts to changes in their communities; and to inform future work to sustain and build on positive impacts and reduce negative ones. For example, the Western Massachusetts Casino Health Impact Assessment detailed several concerns; a feedback loop should outline how these concerns are being addressed and the effectiveness of those efforts.
- ◆ **Policy and programs** – This includes internally for the MGC and DPH to advance the regulatory approaches and to ensure the quality and effectiveness of the public health services. Externally almost every organization providing health and social services in host communities would

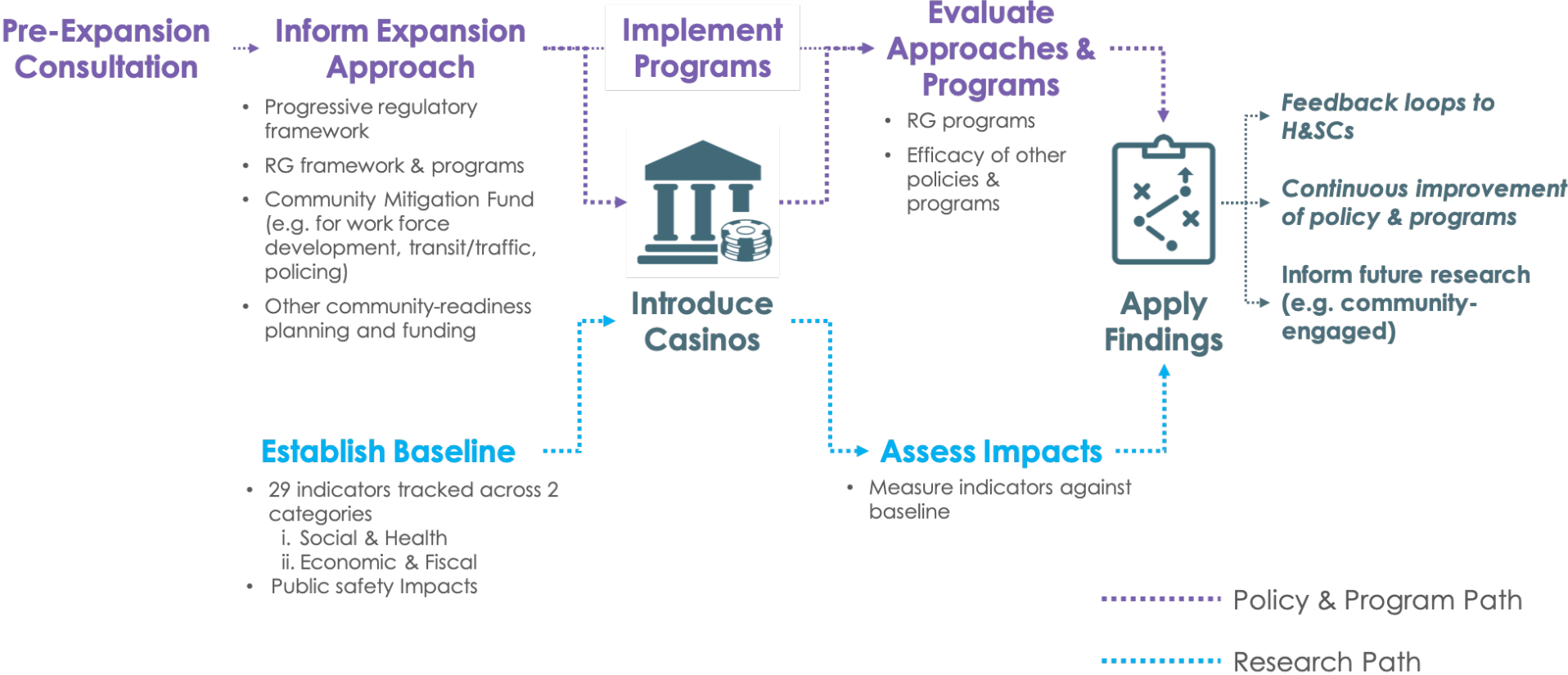


benefit from the research findings. The same is true of economic stakeholders, especially those representing local business and economic development.

- ◆ **To inform future research** – The findings should make clear what future research is needed, including the deeper and finer grained research that can be undertaken in community-engaged research projects.

The leadership for the knowledge translation function is envisioned as part of the role of a Research Strategy Manager, to understand the potential of the research knowledge, the range of knowledge users who would benefit from the findings, and the implications for future research. The Research Strategy Manager would provide leadership to the Knowledge Broker who would implement the knowledge translation strategy, collaborating with key stakeholders to develop knowledge products, and working with both internal MGC staff and external organizations to drive knowledge into practice.

Figure 8. Knowledge Pathways





Section 6. Data Management

Data management refers to a series of steps to store and maintain data as a valuable resource, and potentially provide access to the data for other research. Work is already underway at MGC to develop a data management function. To reiterate a point made above in the section on Knowledge Translation, the complexity and volume of data being generated by the MGC Research Program is substantial. In addition, the quality of this data is perhaps unparalleled because of the commitment to gold standard methods such as the large-scale cohort study, Massachusetts Gambling Impact Cohort (MAGIC) study, and the Social and Economic Impact of Gambling in Massachusetts (SEIGMA) study.

Recommendations in brief

1. Continue to support the rather complex development of a data management function at MGC, which may include partnership with DPH or other State-level organization on the infrastructure for a data repository;
2. Provide ongoing resources to maintain and build this data management function at MGC;
3. Explore, once the data management function is up and running, a research access program that allows external researchers in Massachusetts, and in broader research fields and jurisdictions, to maximize the use of the data being generated by the research program.

Program Components

Some key components of a data management function are:

- ◆ **Data repository** for commissioned research and player account data – forming potentially the richest source of gambling-related research data in the world.
- ◆ **Data management framework** – This refers to a structure for collecting, recording, extracting and providing data to MGC and should be applied to all research funded by MGC. This is particularly important for the management of player account data that is to be provided to MGC by Casino operators. In other jurisdictions, such as New Jersey, difficult lessons have been learned about receiving, cleaning, integrating and using player account data. Researchers encountered extensive issues with data quality, completeness and the lack of identifiers to enable researchers to link and compare data across databases, and even for the same player at different times or in different databases. Developing this framework in collaboration with casino operators will be an important step in the data management process.
- ◆ **External research program** to maximize the value of the data assets for Massachusetts and the field of responsible gaming. Specific recommendations for the structure of an external program should be developed. There are a number of organizations in the gambling research field that have developed data management functions.



Stakeholder Support

Stakeholders expressed support for a data management function in different ways. For example, researchers wanted to be able to use the data being generated for secondary analyses, communities wanted both topic-specific synthesis and, in some cases, raw data to inform their work, and other stakeholders described data management functions and tools that could be substantially enhanced by the integration of the data from the MGC research program.

In their report *Western Massachusetts Casino Health Impact Assessment (2014)*, the authors requested annually posting MGC data on: employment and workforce development, traffic and transportation, and PG rates, to make it possible to assess and track the value of collaborations and strategies designed to maximize positive impacts such as employment, and minimize negative ones.

In their report to MGC, the *Preliminary Study of Patrons' Use of the PlayMyWay Play Management System at Plainridge Park Casino: June 8, 2016-January 31, 2017*, the authors from the Division on Addiction, Cambridge Health Alliance, detailed many data issues, including quality, missing data and the inability to link patron play behaviour data to their use to the PlayMyWay system to manage their spending limits. The authors suggest that the poor data quality seriously compromises transparency and the ability to conduct meaningful analyses, including evaluating the impact of RG initiatives and tools. This leads to one of the most important uses of research data, to evaluate the effectiveness of policy, programs, services and tools, as outlined in the next section.



Section 7. Evaluation

MGC has committed to the evaluation of its three RG programs (GameSense Information Centers, PlayMyWay, and Voluntary Self-Exclusion) and has engaged researchers from the Division on Addiction, Cambridge Health Alliance to conduct preliminary evaluations of each. The reports for these evaluations were reviewed for this project. While these reports offer important information on the implementation of these programs, improvement is needed to achieve program evaluation excellence.

Recommendations in brief

1. Develop an evaluation framework in collaboration with DPH to ensure a shared and rigorous approach to program evaluation, continuous improvement and innovation of the responsible gaming programs and problem gambling interventions across the State.
2. Develop an evaluation function and expertise at MGC, to manage evaluation and continuous improvement of its programs, and to coordinate program evaluation with DPH for shared learning and innovation.

Areas for Improvement

Based on a review of the evaluation reports to date, the following critique is offered:

- ◆ Program managers did not do some of the important work to identify a framework for continuous improvement and program evaluation, or develop logic models for each program to guide the evaluation work.
NOTE: Logic models map the path from a program's inputs to the desired objectives (program outputs and outcomes), and are considered an important program planning and evaluation tool.
- ◆ Program managers did not identify clear metrics and measures by which success could be evaluated, nor targets/thresholds for those metrics (e.g., patrons' use of GameSense Information Centers is targeted at 2% of patrons for Year One, growing to 4% in Year Two).
- ◆ In the absence of this pre-existing work, evaluation teams and program managers would normally work collaboratively to select a suitable evaluation framework, and decide on program objectives and measures, before evaluation began. This does not appear to have taken place.
- ◆ The evaluation teams did not appear to include program evaluators or researchers with program evaluation expertise.
- ◆ Inconsistent evaluation frameworks and methodologies were used across programs.
- ◆ The GameSense evaluation team selected the RE-AIM framework, despite the fact that an evaluation framework, including a logic model, has been developed and validated for this purpose since 2013 (Responsible Gaming Information Centers Evaluation Framework, 2013) and subsequently used to evaluate GameSense Centres in a number of jurisdictions. This potentially limits the usefulness of the evaluations because the results cannot be compared with those in other jurisdictions.



- ◆ There is no learning across program evaluations. Normally the same overall framework would be used to evaluate all of the programs in an organization, particularly when the objectives of each program converge on a similar goal, in this case to support responsible play in casinos. It appears each report was done in isolation with no learning drawn across and among programs.
- ◆ Reports are not accessible to a lay reader, in terms of content and format. This expectation should have been communicated to the evaluation teams, given the high bar for openness and transparency set for MGC.

Recommendations

This section briefly outlines some work that could be done to ensure the quality and usefulness of future evaluations. In addition to ensuring good quality data is available, it is important to clearly state what each program is trying to achieve and what success would look like.

To support and provide structure for future evaluations, program managers at MGC and the DPH Office of Problem Gambling Services could:

- ◆ Select a shared overarching evaluation approach or framework for continuous improvement that applies to all of the responsible gaming programs and problem gambling interventions at MGC and at the DPH, Office of Problem Gambling Services. This will enable the two organizations to coordinate work toward common goals in maximizing benefits and minimizing harm from expanded gaming in Massachusetts.
- ◆ Refine specific **objectives** for each program (what does success look like?). The program goal and objectives may be aspirational and therefore unachievable but should inspire excellence and continuous improvement.
- ◆ Develop a **logic model** for each program, mapping the path from the program activities to achievement of the desired objectives
- ◆ Identify:
 - **Measures/metrics** that can be used to determine achievement of objectives (what outcomes can we assess to measure the effectiveness of the program?); and
 - **Data sources** for these metrics, such as counts, surveys, and patron player data.
- ◆ Set **targets** for one to three years (what are our targets or thresholds for success?). While the objectives may be aspirational, targets should be achievable, and should evolve over time as the program is established and longer-term impacts have time to manifest. For example,
 - Year One targets may be strictly related to awareness, use and satisfaction with service, such as
 - 50% of patrons are aware of GSICs,
 - 3% of patrons use GSICs,
 - 75% of users are satisfied with the service,
 - 68% of casino staff are aware of and comfortable making referrals to the GSIC, as assessed in an employee survey
 - Year Two targets may



- Increase previous year targets, and
- Add impact of GSIC interaction on patrons' gambling knowledge, as assessed in a patron survey.
- Year Three targets may
 - Use more complex measures of impact on both gambling knowledge and play behavior;
 - Add the exploration of data sources to track what happens when GS Advisors make a referral to a helping agency;
 - Add metrics to assess changes before and after a visit to the GSIC in uptake of RG tools.

When you clearly set out the objectives, metrics and targets for success are clearly set out, these metrics can be tracked annually, in addition to conducting formal program evaluations every few years. This supports continuous improvement.

Some program-specific ideas for a more comprehensive evaluation program are suggested below:

- ◆ **GameSense:** An evaluation framework developed in Canada maps out components and data sources. MGC could consider using this framework for future evaluations, adding any desired elements, in order to maximize comparability across jurisdictions to inform objectives, measures/metrics and targets, and program improvements.
- ◆ **Credit use by patrons:** MGC has put rigorous requirements in place for this, such as credit applications including a PG self-assessment; credit officers obtain verbal confirmation that patrons are willing to lose the amount requested in credit; credit card transactions not permitted for the purposes of gambling; and rules on impairment and credit. Together these requirements represent a program aimed at reducing the risk of gambling with credit, and an evaluation of these initiatives could provide important information on how well these are working.
- ◆ **New and emerging policy:** Patron impairment is an emerging issue with cannabis legalization and operators may need guidance on how to identify and respond appropriately to impairment. Any new initiatives developed for this purpose should be evaluated, especially given the lack of scientific consensus on assessing impairment.
- ◆ DPH is in the process of developing and implementing programs to **prevent and mitigate gambling-related harm**. Using a shared evaluation framework at MGC and DPH will make it easier to transfer learning in an efficient and coordinated way from research studies and from program evaluations to the policies and programs of both organizations.



Section 8. Infrastructure to Support the Research Strategy

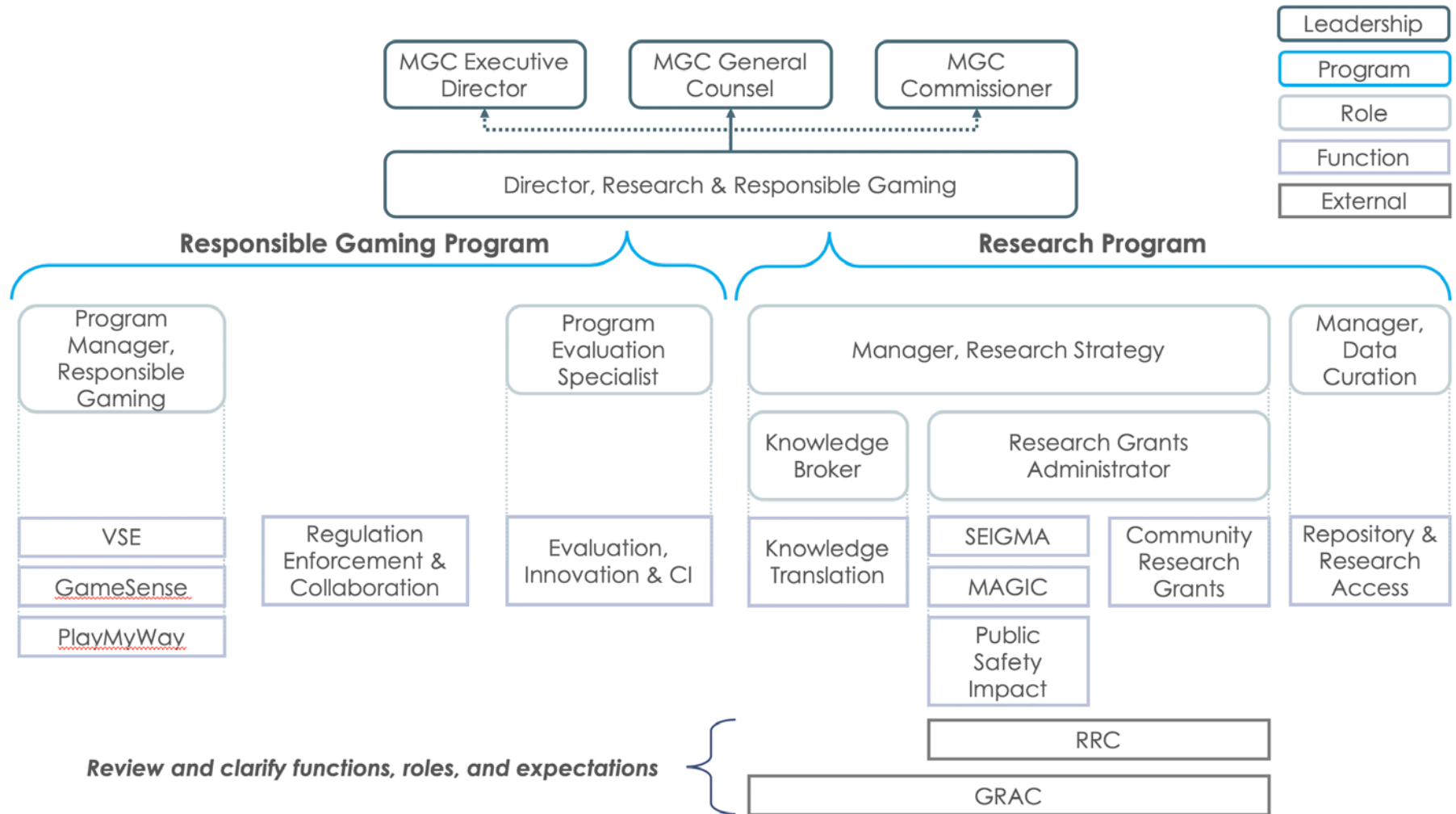
This section was developed after the sections above, to envision the capacity for an expanded Research Program. It is presented here as the foundation necessary to develop and implement the Research Strategy described in the above sections. It is remarkable that MGC is able to accomplish so much with the limited staff resources that are currently dedicated to the Research Program.

The Research Strategy described here requires the addition of substantial resources and capacity. One approach is to add the following functions and expertise:

- ◆ **Research Strategy Manager:** This is a leadership role with research expertise and related topic knowledge to envision how the components of the program work together to create and share the required knowledge. This requires understanding why the research is important and to whom, in the internal (regulatory) environment and multiple external environments (responsible and problem gambling services; host communities; health, economic and social service planners and providers at the State, regional and community levels, etc.) to inform a wide range of stakeholders, policies and programs across the State. This role is also envisioned to liaise with the Department of Public Health on their research and knowledge needs.
- ◆ **Grants Administration and Oversight:** This role is required to manage the implementation of the research program, providing oversight for solicitations, RFPs, contracts, amendments and deliverables. This role will grow with the introduction of community-based research.
- ◆ **Knowledge Translation:** A knowledge broker is urgently needed to begin to translate research findings into knowledge products for a wide range of stakeholders. This role is also envisioned to take the next step, that is, to establish collaborations that help drive research findings into policy and practice, both internally to MGC and externally with a wide range of stakeholders.
- ◆ **Data Curation and Management:** This role is urgently needed and currently partially filled by Tom Land. There are two primary stages of work. The first is to establish a data management function and repository, potentially in partnership with other State entities. This stage should include the development of a data framework for casino operators to ensure data is collected and shared to maximize its utility. The second stage of work is to manage the ongoing collection and storage of data at MGC. The Grants Administrator could manage access to the data repository by researchers in the longer term. The data management function is described in greater detail in *Section 4. Data Management* below.
- ◆ **Program Evaluation Specialist??**

The figure below illustrates a possible structure for the proposed additions to the Research Team.

Figure 9, Infrastructure to Support the Research Program (proposed)





In Closing

This strategy attempts to build on the very powerful research agenda already undertaken to understand the impact of the introduction of casinos in Massachusetts. More detailed information on the stakeholder consultation and document review is available in appended reports. This strategy envisions making the key connections among the research projects and teams, operators, communities and their stakeholders to ensure that the valuable knowledge is being gathered and applied to minimize gambling-related harm and negative impacts and maximize the positive impacts across the Commonwealth.



Appendix A

Stakeholder Consultation Report



Stakeholder Consultation Report

Stakeholder Consultation

The stakeholder consultation undertaken in the development of the research strategy provided the ideas, issues and advice that drove the recommendations in the research strategy.

Many stakeholders were already strongly engaged in other aspects of the introduction of casinos. As the introduction of casinos has unfolded over the past several years, the Massachusetts Gaming Commission (MGC) has undertaken extensive community consultation at the state level and especially in the three cities and surrounding communities that are set to host a casino. In the three host and surrounding communities, MGC has engaged in public listening sessions and targeted outreach and discussions with many community stakeholders involved in local government, economic development, hospitality, employment, public health, policing and a wide range of health and social service agencies, as well as organizations serving multicultural, at-risk or vulnerable populations.

The consultant made efforts to build upon those existing relationships, and avoid duplicating or competing with planned consultations. In some cases this took the form of listening and participating in a planned meeting such as with the Pioneer Valley Planning Commission or the SEIGMA/MAGIC annual update meetings.

Stakeholder Groups

The planning consultant engaged with key stakeholders within the MGC and the DPH, and externally, to draw on their knowledge and experience, and to understand their needs in relation to the research strategy. More than 60 stakeholders were consulted, representing a range of perspectives, including policy makers, planners, regulators, public safety, researchers, public health leaders, economic development and employment specialists, trainers, casino operators, responsible and problem gambling providers, community activists and service providers.

The list of stakeholders was managed through a Stakeholder Register, which included contact information as well as details to guide optimal methods, tools and frequency of communicating with each, including some who may only need to be kept informed but not directly involved. An abbreviated version of the Stakeholder Register is included at the end of this report.

For each stakeholder, the Register included:

- ◆ Mandate and populations served, whether they have any research role or experience
- ◆ Their position on gambling and the casino (where known)
- ◆ How/if they will be impacted by the casino
- ◆ History of communication/role to date (whether they have been involved in the process of establishing a casino and in what way)
- ◆ Relationships to each other (where applicable)



Consultation Methods

Consultation was conducted in person as much as possible, or by telephone or online after an initial in-person introduction at early project planning sessions. Considerable time was devoted to the planning stage of this project with multiple meetings in person and via telephone and email conversations, to provide clear scope of the project and the broader stakeholder consultation. In preparation for the broader consultation the consultant prepared a PowerPoint presentation that graphically mapped out the current research program and the project to develop a comprehensive research strategy.

Consultation was semi-structured to ensure coverage of key issues and also allow for probing and exploration of new issues and ideas.

Methods included:

- ◆ Facilitated consultation and planning meetings to obtain input from multiple stakeholders and perspectives, as efficiently as possible.
- ◆ Interviews with thought leaders and key executives.
- ◆ Small group discussions with participants from a single agency or perspective to explore more sensitive topics or probe more deeply.
- ◆ Observation, attending select meetings to listen and learn.

Consultation Highlights

The Stakeholder Consultation generated substantial insight and feedback which helped guide all aspects of the Research Strategy development and final recommendations. A summary of key highlights is provided below.

- ◆ **More than 60 stakeholders consulted:** representing 7 key groups
 - **Core Project Stakeholders:** extensive consultation loops during project planning stage and throughout consultation with broader stakeholder groups, with key people from each of:
 - Public Health Trust Fund Committee
 - MGC Staff & Commissioners
 - Massachusetts Department of Public Health
 - **Research Stakeholders**
 - SEIGMA and MAGIC research teams from UMASS Amherst and the Donahue Institute
 - Division on Addiction, Cambridge Health Alliance
 - MGC Research Review Committee
 - UMASS Center for Community Health Equity Research (CCHER)
 - **Gambling-Related Stakeholders**
 - Massachusetts Council on Compulsive Gambling



- Gambling Research Advisory Committee, which includes casino licensees, treatment service providers, prevention specialists, and representatives from priority populations
- Representatives from agencies funded to provide problem gambling treatment, training and technical support
 - **Public and Community Health:** at the State and host community level
 - **Massachusetts – other State level**
 - **Host & Surrounding Communities**
 - **Casino Licensees**
- ◆ **18 one-on-one interviews**
- ◆ **9 group meetings/discussions**
- ◆ **Most time intensive phase of the Research Strategy**
 - **36+ hours of consultation**
 - Supported by 75+ hours of preparation, note-taking, review and synthesis
- ◆ Individuals and organizations representing a range of mandates
 - **Responsible Gambling**
 - **Education**
 - **Community Health**
 - **Mental Health**
 - **Employment Support**
- ◆ Individuals and organizations serving key population groups
 - **At-risk/high need**
 - **Children and families**
 - **Youth**
- ◆ Individuals and organizations with both **scientific and community-based research capacity**
- ◆ Vital feedback helped guide all areas of the Research Strategy
 - **Overall:** Efforts to improve stakeholders' understanding of research efforts needed (comprehensiveness, potential value, breadth and depth).
 - **Overall (Support Infrastructure):** Minor adjustments to Research Review Committee structure suggested.
 - **Community-Engaged Research:** Strong support for community research; program should be fast-tracked. Suggest providing direct links between community research projects and foundational projects (e.g. SEIGMA/MAGIC) or other community projects; encourage knowledge sharing at all stages of research.



- **Knowledge Translation:** Extensive input provided on potential uses for research findings; strong desire to use research findings in various ways; identified many individuals and organizations who would benefit from research findings.
- **Data Management:** Three groups of stakeholders expressed desire for data management functionality to serve objectives
 - **Researchers:** use of generated data for secondary analyses.
 - **Communities:** topic-specific synthesis and raw data to inform work.
 - **Other stakeholders:** integration of data from the MGC research program could substantially enhance existing data management functions and tools.



Stakeholder Register (Abbreviated)

[Please see attached PDF – will be integrated into final version of report]



Appendix B

Document Review Report



Document Review Report

Document Review Report

To develop a research strategy that builds on the substantial research commissioned to date, the consultant reviewed planning and strategy documents, research reports, committee charters and minutes, and other documents.

Method

Some notes regarding the approach are outlined below.

- ◆ Document review was conducted online to the extent possible, of mostly electronic versions of documents.
- ◆ Many documents were reviewed in their entirety, such as: slide presentations and fact sheets on the SEIGMA/Magic and MGC websites, SEIGMA and MAGIC annual meeting materials, host community research reports, biographies prior to all interviews, and Committee charters and meeting materials prior to consultation with those groups (PHTF, RRC, GRAC, PVPC).
- ◆ Where interim and final or compendium reports existed, review was of the final or compendium report only, unless searching for specific information.
- ◆ Review of Table of Contents, Executive Summary and select chapters for large research reports, such as: Evaluation reports, MAGIC Wave 2, Interim Public Safety reports.

Overview of Documents Reviewed

Approximately 88 documents of various length and level of detail were reviewed:

- ◆ MGC background and planning documents (9+)
- ◆ Research – Social & Economic (40)
- ◆ Research – Social (5)
- ◆ Research – Economic (14)
- ◆ Public Safety (3)
- ◆ Evaluation of programs (6)
- ◆ Service planning (2)
- ◆ Academic literature (5)

Observations and Recommendations

The document review provided context for many of the recommendations in the research strategy. In addition, some overall observations on the documents are described below.



Transparency

- ◆ In general MGC provides an unusual level of transparency and accessibility of its meeting materials and reports, including research reports – and is to be commended for same
- ◆ There are some changes that could be made to make these reports more accessible to non-researchers, and members of the public in general, as outlined below

Accessibility

- ◆ **Glossary of terms:** Consider developing, posting and regularly updating, a Glossary of terms and abbreviations, such as the one included on page v. in Analysis of MAGIC Wave 2: Incidence and transitions (Volberg, et. al. 2017). Posting this in an easily accessible online location as a companion to research-related documents will make it easier for a lay audience to understand the research results
 - Consider making it a requirement of those who produce research documents to use common terminology across all reports, where possible; and to provide updated terms and abbreviations as needed to maintain this resource
- ◆ **Formatting:** Good formatting enhances readability, which means the document will be easier to understand, for all audiences. There are general guidelines for readability. MGC could consider providing a formatting guide for reports to standardize or set minimum limits for such things as font size, margins and line spacing – even the space between characters in the font (kerning) can greatly contribute to or diminish readability. One evaluation report, Preliminary Study of Patrons' Use of the PlayMyWay Play Management System at Plainridge Park Casino: June 8, 2016-January 31, 2017, provides an example of text that is rendered almost illegible by narrow margins, narrow line spacing and tightly squeezed characters. Tremendous work goes into producing a report like this one, and the application of formatting standards to improve readability would make that work more accessible to a non-researcher audience.

Some basics formatting guidelines could include:

- Clear hierarchy and heading structure in the report (and reflected in the Table of Contents) acts like a good roadmap for the report
 - 11-12 point font
 - Good line spacing of 1.2 with extra space between paragraphs
 - Spacious margins of 2cm minimum on all sides, possibly more at the top
- ◆ **Length:** The sheer breadth and depth of research being undertaken for these reports may require lengthy, detailed documentation. However, MGC could require that an *executive summary for a lay audience* to be prepared for all research reports, with guidelines on the length (say, maximum of five pages) and reading level (e.g., grade six to eight) to be targeted for such summaries. Where they existed among the documents reviewed, the executive summaries were an excellent introduction to longer research reports, enabling the reader to target specific sections of the detailed report for a deeper understanding of selected topics or findings. A set of PowerPoint slides could also serve a similar purpose to an Executive Summary.



List of Documents Reviewed

MGC background and planning documents (9+)

- ◆ Expanded Gaming Act
- ◆ Responsible Gaming Framework
- ◆ Research Agenda
- ◆ Report on the Research Agenda of the Massachusetts Gaming Commission, December 18, 2013
- ◆ SEIGMA Research Plan, June 15, 2013
- ◆ Social and Economic Impacts of Gambling (SEIG) Report, 2011
- ◆ Gaming Commission and Public Health Trust Fund Executive Committee proceedings related to the research agenda
- ◆ Research Review Committee
 - Charter plus relevant meeting materials and minutes
- ◆ Gambling Research Advisory Committee
 - Charter plus relevant meeting materials and minutes

Research – Social & Economic (40)

- ◆ Social and Economic Impacts of Expanded Gambling in Massachusetts: 2018, September 18, 2018 (Executive Summary)
- ◆ Report on the Social and Economic Impacts of Gambling in Massachusetts (SEIGMA) Study, April 9, 2014
- ◆ 10 Fact Sheets
- ◆ 22 presentations – overlap in content made it possible to review several representative presentations
- ◆ Academic publications 6 – abstracts only

Research – Social (5)

- ◆ Analysis of the Massachusetts Gambling Impact Cohort (MAGIC) Wave 2: Incidence and Transitions, December 22, 2017 (Executive Summary)
- ◆ Gambling and Problem Gambling in Massachusetts: In-Depth Analysis of Predictors, March 23, 2017 (Executive Summary)
- ◆ Impacts of Gambling in Massachusetts: Results of a Baseline Online Panel Survey (BOPS), January 10, 2017 (Executive Summary)
- ◆ Key Findings from SEIGMA Research Activities: Potential Implications for Strategic Planners of Problem Gambling Prevention and Treatment Services in Massachusetts, December 18, 2015 (Executive Summary)



- ◆ Gambling and Problem Gambling in Massachusetts: Results of a Baseline Population Survey, September 15, 2017 (Executive Summary)

Research – Economic (14)

- ◆ Real Estate Impacts of the Plainridge Park Casino on Plainville and Surrounding Communities, October 11, 2018 (Executive Summary)
- ◆ Lottery Revenue and Plainridge Park Casino: Analysis After Two Years of Casino Operation, May 10, 2018 (Executive Summary)
- ◆ Patron and License Plate Survey Report: Plainridge Park Casino 2016, October 13, 2017 (Executive Summary)
- ◆ Plainridge Park Casino First Year of Operations: Economic Impacts Report, October 6, 2017 (Executive Summary)
- ◆ New Employee Survey at Plainridge Park Casino: Analysis of First Two Years of Data Collection, May 10, 2017 (Executive Summary)
- ◆ Lottery Revenue and Plainridge Park Casino: Analysis of First Year of Casino Operation, January 19, 2017 (Executive Summary)
- ◆ Real Estate Profiles of Host Communities, August 30, 2016
 - Everett Real Estate Profile
 - Plainville Real Estate Profile
 - Springfield Real Estate Profile
- ◆ The Construction of Plainridge Park Casino: Spending, Employment, and Economic Impacts, September 19, 2016-Revised March 7, 2017 (Executive Summary)
- ◆ Economic Profiles of Host Communities, October 20, 2015
 - Everett Host Community Profile
 - Plainville Host Community Profile
 - Springfield Host Community Profile
- ◆ Measuring the Economic Effects of Casinos on Local Areas: Applying a Community Comparison Matching Method, November 5, 2014

Public Safety (4)

- ◆ Baseline in each of two of three host communities
 - Plainville
 - Springfield
- ◆ Impact in each
 - Plainville conducted at 6 mos. 1 year and 2 years after opening



Evaluation of programs (6)

- ◆ Voluntary SE
- ◆ GameSense (four reports in all)
- ◆ PlayMyWay

Service planning (2)

- ◆ Memo and Strategic Plan for Services to Mitigate the Harms Associated with Gambling in Massachusetts, <https://www.mass.gov/files/documents/2016/07/st/problem-gambling-strategic-plan.pdf>

Academic literature (5)

- ◆ Literature Review for Community Research - high level including an existing review and environmental scan of community based research across Canada, and select journal articles (4)



Massachusetts Gaming Commission Meeting Minutes

Date/Time: July 18, 2019 – 10:00 a.m.

Place: Massachusetts Gaming Commission
101 Federal Street, 12th Floor
Boston, MA 02110

Present: Chair Cathy Judd-Stein
Commissioner Eileen O'Brien
Commissioner Bruce Stebbins
Commissioner Enrique Zuniga
Commissioner Gayle Cameron

**Time entries are linked to the
corresponding section in the
Commission meeting video.**



Call to Order

See transcript page 1

[10:05 a.m.](#) Chair Cathy Judd-Stein called to order public meeting #274 of the Massachusetts Gaming Commission.

Approval of Minutes

See transcript pages 1 – 2

[10:05 a.m.](#) *Commissioner Stebbins moved to approve the minutes from the Commission meeting of June 12, 2019, subject to correction for typographical errors and other nonmaterial matters. Commissioner O'Brien seconded the motion. The motion passed 4 – 0 with Commissioner Cameron abstaining.*

Commissioner Stebbins moved to approve the minutes from the Commission meeting of June 27, 2019, subject to correction for typographical errors and other nonmaterial matters. Commissioner Cameron seconded the motion. The Chair noted that she would like the record to reflect that she confirmed with Dr. Lightbown that notwithstanding the concerns that Commissioner Cameron had

*raised, Dr. Lightbown was still prepared to make the recommendation outlined in the Commission packet.
The motion passed unanimously.*

Administrative Update

See transcript pages 2 – 5

10:07 a.m. **General Update**

Executive Director Bedrosian stated that there is an update to the agenda to add the item of the lawsuit that was filed against Encore regarding Blackjack slot compliance, in terms of a particular type of Blackjack game. He stated that the substance of the lawsuit will be addressed by the Investigations and Enforcement Bureau (IEB) in their presentation today.

Next, Director Bedrosian updated the Commission on the Gaming Policy Advisory Commission (GPAC) meeting that had recently taken place. He stated that General Counsel Catherine Blue, Racing Director Dr. Alexandra Lightbown, Research and Responsible Gaming Director Mark Vander Linden, and himself updated the GPAC on several items.

Lastly, Director Bedrosian updated the Commission on pending litigations, specifically, *Abrams, et al. v. Massachusetts Gaming Commission, et al.* He thanked the legal staff and legal counsel who helped with the preparation, depositions, and work behind the decision that was made by Judge Sanders who dismissed the case.

He made note that the Commission now has upgraded to a new telephone system and that the IT department will provide instruction to the staff on it.

10:12 a.m. **Racing Update**

Director Bedrosian noted again that Dr. Lightbown had spoken to the GPAC members regarding racing. She had explained to the members that the deadline of July 31st is approaching for the Legislature to extend the legal authority for racing and simulcasting. If the extension is not granted, racing and simulcasting will become illegal in Massachusetts until the Legislature can again authorize the activities for another year.

10:15 a.m. **Legislative Update**

General Counsel Blue stated that there was a hearing on July 15th, 2019, where the Committee on Economic Development and Emerging Technologies took testimony on nine bills related to the Commission. The Commission made a submission in support of the bill proposing a change to the state ethics statute to allow municipal employees to sit on an advisory committee without violating [MGL c. 268\(a\) § 4](#) that addresses the conduct of public officials and employees

Commissioner Zuniga suggested that as he has provided successful testimony on behalf of the Commission on one bill in particular in the past that the Commission should continue to testify at these hearings, or come back and discuss them at the next Commission meeting where it's feasible if needed.

Investigations and Enforcement Bureau

See transcript pages 5 – 18

10:20 a.m. **Schuster v. Encore Boston Harbor – Blackjack/Slot Pay-out Compliance**

Bob DeSalvio, President of Encore Boston Harbor, greeted the Commission. With him was Jacqui Krum, Senior Vice President and General Counsel, and Doug Williams, Vice President of Table Games.

Bruce Band, IEB Assistant Director and Gaming Agents Chief, with Sterl Carpenter, Regulatory Compliance Manager, addressed the Commission regarding a lawsuit alleging that Encore Boston Harbor was not following the rules of the game of Blackjack approved by the Commission. The lawsuit further alleged that Encore failed to refund slot credits in full at its ticket redemption machines on its casino floor.

Mr. Band clarified for the Commission that the terms for Blackjack listed in the regulation are used in two different contexts, one to describe two different types of Blackjack games that use different dealing procedures and to describe two different sets of odds for the standard type of blackjack game.

He also explained that Encore currently does not use coin in its redemption machines on the casino floor, and patrons must collect their coin change at the cashier's cage with the redemption ticket provided by the redemption machine. Encore has now placed signage on its redemption machines with instructions.

Mr. DeSalvio clarified for the Commission and the public that Encore has never engaged in rounding any patron's payout and that every customer receives all money due to them. He also stated that there is currently a policy in place for unclaimed tickets, where the money goes back to the Commonwealth. Unclaimed ticket money never goes to the licensee (Encore). Mr. DeSalvio then stated that patrons can collect their change at the cashier's cage or they can collect the tickets and use them in a slot machine at a later date. He explained that the reason for this is because it is difficult to keep the machines full of coin during busy times and that this is common practice in the gaming industry.

The Chair suggested that Encore explore options to give people their change back instead of redemption tickets, in the interest of the customer over the Commonwealth receiving unclaimed ticket money due to inconvenience for patrons, or because a visiting patron may not be able to return to Encore.

Commissioner O'Brien suggested implementing coin machines that staff can attend to more regularly.

10:43 a.m. **Plainridge Park Casino (PPC) – Gaming and Leisure Properties, Inc. (GLPI) Real Estate Investment Transaction (REIT)**

Loretta Lillios, IEB Deputy Director/Chief Enforcement Counsel, requested final approval for the REIT which includes suitability determinations on the qualifiers associated with this transaction. She stated that Monica Chang, Financial Investigations Supervisor, is the lead financial investigator, and Trooper Tom Rodger of the Massachusetts State Police is the lead investigator. Fay Zhu, Financial Investigator, and David McKay, Financial Investigator, also participated in the investigation. Counsel Lillios also noted that representatives from both GLPI and Penn National were with her. Brandon Moore, General Counsel, is representing GLPI, and Carl Sottosanti, General Counsel and Frank Donaghue, Compliance Officer are representing Penn National.

Counsel Lillios described the arrangement that transpired from the REIT as GLPI is a passive landlord of the real estate. PPC continues to hold the license, continues to be the operator of the property, and continues to be the indirect but wholly-owned subsidiary of Penn National Gaming.

Counsel Lillios reviewed the six qualifiers with the Commission that were investigated and found suitable in the ongoing suitability process by IEB financial investigators. The six qualifiers are Peter Carlino, Chairman, President & CEO of GLPI; Brandon Moore, Sr. Vice President, General Counsel & Secretary of GLPI; Timothy Wilmott, Trustee, Plainridge Nominee Trust and President of Massachusetts Gaming Ventures, LLC & Delvest, LLC; John Finamore, Vice President of Massachusetts Gaming Ventures, LLC; William Fair, Treasurer of Massachusetts Gaming Ventures, LLC & Delvest, LLC; and Carl Sottosanti, Secretary of Massachusetts Gaming Ventures, LLC & Delvest, LLC.

11:12 a.m. *Commissioner Stebbins moved that the Commission grant final approval pursuant to [205 CMR 116.09](#) that the transfer of the real estate located at Plainridge Park Casino and racecourse located at 301 Washington Street in Plainville, Mass, to a subsidiary of Gaming and Leisure Properties Inc., a Real Estate Investment Trust. This approval is conditioned on GLPI remaining a passive landlord with no change in control over the Massachusetts licensee. And further issue positive determinations of suitability for each of the six entities associated with this transaction, and each of the six individuals associated with this transaction is named on pages two and three of the IEB's report dated July 8, 2019. Commissioner Cameron seconded the motion. The motion passed unanimously.*

Ombudsman

See transcript pages 18 – 62

11:28 a.m. **FY2019 Mitigation Fund Applications**

Ombudsman John Ziemba stated that the Commission would be reviewing 23 applications for the 2019 Community Mitigation Fund, under the categories of Transportation Planning, Transit Projects of Regional Significance, Specific Impacts, Workforce Development, Non-Transportation Planning, Reserve Grant Applications, and Tribal Gaming Technical Assistance.

The Ombudsman thanked his team for all of the work performed on these 23 applications, specifically Commissioner Stebbins, General Counsel Blue, Jill Griffin, Director of Workforce, Supplier and Diversity Development; Crystal Howard, Workforce Program Manager; Kate Hartigan, IEB Enforcement Counsel; Carrie Torrisi, Associate General Counsel; Joe Delaney, Construction Project Oversight Manager; and Mary Thurlow, Program Manager. He also thanked the administrative team for all of their assistance in the process.

The Review Team recommends approximately \$3.9M in new grant funding, and approximately \$275,000 in the use of reserves, and tribal fund technical assistance for a total of \$4,157,946.50 for all grants. The \$3.9M in new spending is within the overall projected targeting spending level of \$6.7M in 2019.

11:36 a.m. **Transportation Grant Applications**

Ombudsman Ziemba presented the first category, Transportation Grants. Pursuant to the guidelines, the Commission has authorized planning grants for planning activities. The Review Team ensures that the planning project is related to addressing transportation issues or impacts that relate to the gaming facility. The Commission anticipated spending of approximately \$1M on these grants in the guidelines, and the Review Team recommends spending of approximately 1.45M in this grant category.

City of Boston

The City of Boston is requesting \$200,000 for a portion of the design cost of improvement to Sullivan Square and Rutherford Avenue. The City's application states that as approximately 70% of the traffic generated is projected to go through Sullivan Square funding for the "Reconstruction of Rutherford Avenue, from City Square to Sullivan Square" is warranted. The City further notes that the grant would cover a portion of the estimated \$11 million design cost for this project.

Lynn

Lynn is seeking a Transportation Planning Grant for \$200,000 to perform traffic analysis, functional design report, and preliminary design for the Route 107 (Western Ave) corridor. Lynn also submitted a \$200,000 grant application under the Specific Impact Grant category, which has been withdrawn.

Medford

The City of Medford is seeking \$200,000 in funding to design a multi-use boardwalk under the Route 28 Bridge. The City also noted that the underpass would connect multiuse paths in Medford to Station Landing and the Wellington T Station. Encore will be running employee shuttles from Station Landing to the facility, and this would allow employees to safely access shuttles without having to navigate Wellington Circle or cross Route 28 either on foot or by bicycle.

West Springfield

The Town of West Springfield is requesting a planning grant of \$83,400 to plan design/build three bicycle station pads and install electrical service to them to support the ValleyBike Share system. Stations one and three will be the municipal contribution to the Bikeshare Expansion proposal for the use of CMAQ funding. Station two will be done independently of the CMAQ proposal. The budget accompanying the application states that Location 1 – Concrete Pad and Electrical = \$4,900; Location 2 – Concrete Pad and Electric Charging Station, Kiosk, Bicycles and Misc. = \$73,000; and Location 3 - Concrete Pad, Electrical =\$5,500.

The Review Team does not recommend that the Commission approve the grant request. Instead, the Review Team recommends that West Springfield provide comment during the development of the 2020 CMF Guidelines, which potentially may cover transportation construction activities or which could otherwise expand the list of eligible planning activities.

Everett/Somerville

Everett and Somerville are jointly requesting \$425,000 to advance the planning and design of the MBTA Silver Line bus rapid transit service from its current terminus in Chelsea through Everett along the MBTA Commuter Rail right-of-way to Sullivan Square and then to Somerville, and terminating at appropriate Red Line and/or Green Line intermodal facilities.

Revere/Saugus

Revere and Saugus jointly seek a grant of \$425,000 to advance further the planning and design of transportation road network improvements along the Route 1 project corridor as identified in previous studies funded by the Community Mitigation Fund. The main focus of this project is to create a preliminary design for improvements to the Route 1 and Route 99

interchange and to work towards its inclusion in the state Transportation Improvement Plan. The project will also evaluate smaller standalone projects that were identified as part of the traffic model developed for the Route 1 corridor concerning project benefits and constraints.

[11:45 a.m.](#)

Transit Project(s) of Regional Significance

In 2019, the Commission will consider funding no more than one project that offers significant transit benefits in each Category 1 region and one project related to the Category 2 facility. Applicants should demonstrate how the funds will be used to expand regional transit connections. The Commission anticipates authorizing no more than \$500,000 in grants for Transit Project(s) of Regional Significance.

Everett/Somerville Transit Project Application

Everett and Somerville are jointly seeking a grant of \$500,000 to fully design a connection from Draw 7 Park in Somerville across the MBTA tracks to the Assembly Station head house (Connector). They also wish to prepare an application for a federal Better Utilizing Investments to Leverage Development (BUILD) grant to help finance the construction of the Connector and/or a proposed pedestrian bridge to allow pedestrians and bicyclists to travel across the Mystic River between Somerville and Everett.

Although the Review Team recommends the authorization of funding to complete the design of the Connector, the Review Team does not recommend the \$100,000 for assistance in filing a federal BUILD grant, as some conflicts of interest between the cities and MassDOT may occur for various reasons (see [Commission Packet, Part 1](#)). Thus, the Review Team determined that the request for the \$100,000 should not be approved. Instead, the Review Team recommends that the Commission, the joint applicants, Encore Boston Harbor, and other impacts agencies (e.g., the Department of Conservation and Recreation, and MassDOT) utilize the design period to determine how all aspects of the projects will be funded.

Pioneer Valley Transit Authority Project (PVTA) Application

PVTA is requesting \$244,673.44 to expand its downtown circulator service, The Loop, to seven days per week. PVTA also proposes to add an extension to its current service into West Springfield. This service would provide a connection to MGM and Union Station from the hotels located along Route 5 in West Springfield.

[11:59 a.m.](#)

The Chair asked if there is anything further that the Commission can do to meet the community's needs regarding the Loop service. The Ombudsman replied that MGM Springfield and PVTA have an ongoing dialogue regarding this, and they have met numerous times to try to improve the service. He stated that one of the recommendations from PVTA was to add days to the service to provide more of an understandable transit environment.

[12:07 p.m.](#)

Commissioner O'Brien moved that the Commission approve the Community Mitigation Fund Grant Request from the City of Boston in the amount of \$200,000 as described in the memorandum from the Community Mitigation Fund Review Team dated July 12, 2019 and included in the July 18, 2019 Commission packet, subject to the submission to the Commission by the applicant of a detailed scope of work, a timeline for the work to be completed under the grant and the execution of a grant agreement between the Commission and the applicant. Commissioner Stebbins seconded the motion. The motion passed unanimously.

Commissioner Stebbins moved that the Commission approve the Community Mitigation Fund Grant Request from the City of Lynn in the amount of \$200,000 as described in the memorandum from the Community Mitigation Fund Review Team dated July 12, 2019 and included in the July 18, 2019 Commission packet, subject to the submission to the Commission by the applicant of a detailed scope of work, a timeline for the work to be completed under the grant and the execution of a grant agreement between the Commission and the applicant. Commissioner Cameron seconded the motion. The motion passed unanimously.

Commissioner Cameron moved that the Commission approve the Community Mitigation Fund Grant Request from the City of Medford in the amount of \$200,000 as described in the memorandum from the Community Mitigation Fund Review Team dated July 12, 2019 and included in the July 18, 2019 Commission packet, subject to the submission to the Commission by the applicant of a detailed scope of work, a timeline for the work to be completed under the grant and the execution of a grant agreement between the Commission and the applicant. Commissioner O'Brien seconded the motion. The motion passed unanimously.

Commissioner Zuniga moved to accept the recommendation of the Mitigation Fund Review Team to deny the Community Mitigation Fund Grant Request from the City of West Springfield as described in the memorandum from the Community Mitigation Fund Review Team dated July 12, 2019, and included in the July 18, 2019 Commission packet. Commissioner Cameron seconded the motion. The motion passed unanimously.

Commissioner O'Brien moved that the Commission approve the joint Community Mitigation Fund Grant Request from the Cities of Everett and Somerville in the amount of \$425,000 as described in the memorandum from the Community Mitigation Fund Review Team dated July 12, 2019 and included in the July 18, 2019 Commission packet, subject to the submission to the Commission by the applicant of a detailed scope of work, a timeline for the work to be completed under the grant and the execution of a grant agreement

between the Commission and the applicant. Commissioner Zuniga seconded the motion.

The motion passed unanimously.

Commissioner O'Brien moved that the Commission approve the joint Community Mitigation Fund Grant Request from the Cities of Revere and Saugus in the amount of \$425,000 as described in the memorandum from the Community Mitigation Fund Review Team dated July 12, 2019 and included in the July 18, 2019 Commission packet, subject to the submission to the Commission by the applicant of a detailed scope of work, a timeline for the work to be completed under the grant and the execution of a grant agreement between the Commission and the applicant. Commissioner Zuniga seconded the motion.

The motion passed unanimously.

Commissioner Cameron moved that the Commission approve the joint Community Mitigation Fund Grant Request from the Cities of Everett and Somerville in the amount of \$400,000 as described in the memorandum from the Community Mitigation Fund Review Team dated July 12, 2019 and included in the July 18, 2019 Commission packet, subject to the submission to the Commission by the applicant of a detailed scope of work, a timeline for the work to be completed under the grant and the execution of a grant agreement between the Commission and the applicant. Commissioner O'Brien seconded the motion.

The motion passed unanimously.

Commissioner Zuniga moved that the Commission approve the Community Mitigation Fund Grant Request from the Pioneer Valley Transit Authority in the amount of \$25,000 to be used to promote the ridership of the Loop, subject to the submission to the Commission by the applicant of a detailed scope of work, a timeline for the work to be completed under the grant and the execution of a grant agreement between the Commission and the applicant. Commissioner O'Brien seconded the motion.

The motion passed unanimously.

[12:16 p.m.](#)

Workforce Development Applications

Ms. Howard presented the Workforce Development category applications. She summarized that there are three applicants for these workforce grants for a total of \$900,000. The Review Team is recommending the Commission's approval for \$813,000.

Boston

Boston is seeking \$300,000 for Greater Boston Casino Pipeline Initiative to create a pipeline of job seekers to resolve the backfill needs of local hospitality employers as talent migrates to Encore as well as to support

Encore's hiring needs. The program plans on serving residents of Boston, Somerville, Chelsea, and Everett.

Ms. Howard summarized the concerns of the team during the review process, and the Review Team recommends declining to fund La Comunidad and Chelsea Collaborative in this proposal (\$8,500 each) to ensure there is no duplication of billing for the same services. The Review Team recommends funding the two organizations instead through the MNWB applicant and reducing funds to the City of Boston. The Committee also recommends as a grant requirement that the City of Boston and the MNWB continue to collaborate. Requirements are outlined in the memo submitted in the Commission Meeting Packet.

Holyoke Community College

Holyoke Community College requested \$300,000 to continue the Work Ready program to expand upon existing services, including adding courses such as contextualized ESOL, several essential certifications, and additional support services to create a stronger pathway across the partnering organizations. This year's grant proposes to enroll up to 200 individuals in the gaming school through scholarships, up to 70 individuals in certificate training, 180 in English literacy for the workplace, and 100 individuals in Adult Basic Education classes to get them into the pipeline for skills training and job placement. This is a collaborative partnership between Holyoke Community College (HCC), Springfield Technical Community College (STCC), Springfield Public Schools (SPS), MGM Springfield, Community Based Organizations and the region's workforce development partners.

[12:32 p.m.](#) *Commissioner Cameron moved that the Commission approve the Community Mitigation Fund Grant Request from the City of Boston in the amount of \$213,400 as described in the memorandum from the Community Mitigation Fund Review Team dated July 12, 2019 and included in the July 18, 2019 Commission packet, subject to the submission to the Commission by the applicant of a detailed scope of work, a timeline for the work to be completed under the grant and the execution of a grant agreement between the Commission and the applicant. Commissioner Zuniga seconded the motion. The motion passed unanimously.*

Commissioner Stebbins moved that the Commission approve the Community Mitigation Fund Grant Request from Holyoke Community College in the amount of \$300,000 as described in the memorandum from the Community Mitigation Fund Review Team dated July 12, 2019 and included in the July 18, 2019 Commission packet, subject to the submission to the Commission by the applicant of a detailed scope of work, a timeline for the work to be completed under the grant and the execution of a grant agreement between the Commission and the applicant. Commissioner O'Brien seconded the motion. The motion passed unanimously.

Commissioner Stebbins moved that the Commission approve the Community Mitigation Fund Grant Request from MassHire Metro North Workforce Board in the amount of \$300,000 as described in the memorandum from the Community Mitigation Fund Review Team dated July 12, 2019 and included in the July 18, 2019 Commission packet, subject to the submission to the Commission by the applicant of a detailed scope of work, a timeline for the work to be completed under the grant and the execution of a grant agreement between the Commission and the applicant. Commissioner Zuniga seconded the motion.

The Chair noted that the Commission understands that the partnerships extend with the licensee.

The motion passed unanimously.

[12:36 p.m.](#)

Non-Transportation Planning Grant Applications

For this category, the Commission will make available funding for certain planning activities. The planning project must be related to addressing issues or impacts directly related to the gaming facility, and no application for this 2019 Non-Transportation Planning Grant shall exceed Fifty Thousand Dollars (\$50,000).

Chelsea/Everett

The Cities of Chelsea and Everett have submitted a joint request of \$105,000 to lay the foundation for the creation of a tri-lingual Enterprise Center at the Chelsea Campus of Bunker Hill Community College (BHCC). The center will provide skills training and services to entrepreneurs, existing businesses, and workers, initially focusing on the hospitality sector. The Review Team is recommending full funding for this grant.

[12:37 p.m.](#)

Commissioner Stebbins suggested that if the Commission approves this grant, that Bunker Hill Community College becomes part of the Commission's regional workforce applicant conversations, as it might serve as another reason to consider more inclusive or a broader application from the region, and can be worked out with the execution of the grant.

[12:39 p.m.](#)

Commissioner Stebbins moved that the Commission approve the joint Community Mitigation Fund Grant Request from Chelsea/Everett in the amount of \$105,000 as described in the memorandum from the Community Mitigation Fund Review Team dated July 12, 2019 and included in the July 18, 2019 Commission packet, subject to the submission to the Commission by the applicant of a detailed scope of work, a timeline for the work to be completed under the grant and the execution of a grant agreement between the Commission and the applicant. Commissioner Cameron seconded the motion. The motion passed unanimously.

[1:15 p.m.](#)

Springfield Focus

Ombudsman Ziemba stated that the City of Springfield is seeking \$555,925 to provide funds to the Springfield Technical Community College Assistance Corporation, or other eligible public entity, to construct permanent improvements for the relocation of the Focus Springfield Community Television (Focus) public access studio, or other community public access television studio. Focus currently has a lease with Blue Tarp Redevelopment, LLC (MGM Springfield).

General Counsel Blue reviewed a memorandum from Carrie Torrisi, Associate General Counsel. She summarized that the Massachusetts Constitution has an anti-aid amendment that prohibits using taxpayer-funded dollars for a private entity. She stated that the legal department has looked at the cases under that anti-aid amendment and was able to ascertain more facts about what Focus does and what services they provide. The legal department's analysis determined that awarding this grant the City of Springfield, with the primary benefit going to Focus, being a nonprofit entity and not a governmental entity, would violate the anti-aid amendment.

[1:23 p.m.](#)

The Chair asked for clarification as to what kind of an entity Focus Springfield is, as they do broadcast public meetings, and because of how it became designated by Springfield to be this provider of public educational and government broadcasting. She asked if, given that Focus is a 501(c)(3) private entity if it shifts somehow because its purposes are, in fact, somewhat public.

Commissioner O'Brien added that she is concerned, as this is not Focus' first application for this. They have withdrawn their application previously with the understanding that there is an issue. She noted that this application, in her view, is not much different than the previous one that was withdrawn, and this indicates that Focus has had ample opportunities to provide more substantial answers to the questions that would move the analysis.

Commissioner Zuniga asked that if the grant is not awarded, and Focus is forced to cease operations, and the public purpose is eliminated, does that change the equation in any way.

General Counsel Blue stated that the analysis is about the primary use of the money that the Commission would be providing. If Focus went out of business and were going to try to come back into business, their primary use of the money would still be to lease and renovate space and potentially purchase equipment for their use, with a secondary benefit to the City.

After a robust discussion around the issues and concerns of the Commissioners surrounding this application, the Chair noted that unlike her fellow Commissioners, she is singularly situated as she was not present for

the prior presentations of this application, and would have invited further advice, as this is a very difficult analysis. She stated that she is not likely to support this motion.

[2:05 p.m.](#) *Commissioner Cameron moved that the Commission deny the Community Mitigation Fund Grant Request from Springfield Focus. Commissioner O'Brien seconded the motion.
The motion passed 3 – 2 with the Chair and Commissioner Stebbins voting no.*

[2:06 p.m.](#) **Specific Impact Grant Applications**
IEB Enforcement Counsel Muxie-Hartigan reviewed with the Commission the applications from the Everett Police Department, the Hampden County District Attorney's office, the Hampden County Sheriff's Department, and the Springfield Police Department. She noted that of the four, two are being recommended for full funding, and two are recommended for partial funding.

Everett Police Department

Everett Police Department is seeking \$182,088.90 as reimbursement for the money that has been expended to pay the salary of each of the officers at the police academy at Northern Essex Community College. Everett noted that six current Everett Police Officers were transferred to the Gaming Enforcement Unit. Because they transferred six current officers, they are requesting salary reimbursement for six new officers throughout the academy. In addition to the academy related expenses, Everett is seeking \$50,000 for patrols in the Lower Broadway area in 4-hour blocks, from late night to early morning.

The Review Team recommends that the Commission provide \$182,088.90 in funding for the Everett Police Department academy related expenses but does not recommend the grant of \$50,000 for these patrols, because such patrols are an ineligible expense under the 2019 CMF Guidelines.

Hampden County District Attorney's Office

The Hampden County District Attorney's Office is requesting \$100,000 in funding for personnel to mitigate the additional burdens in caseloads that are created directly and indirectly due to the casino. The Office noted that as of January 31, 2019, 255 cases have come into the court system that are directly attributable to the casino.

Review Team recommends that the District Attorney's Office be authorized to submit a request for the time and expenses of additional staff. After paying approved expenses, staff would close out last year's grant and credit any balance back to the Community Mitigation Fund. The Review Team recommends that this portion of the 2018 grant remains active and that the Commission devote staff resources this year to help develop this system in tandem with the District Attorney's Office.

Hampden County Sherriff's Office

The Hampden County Sheriff's Office is seeking a grant for \$400,000 in lease assistance for the Western Massachusetts Correctional Alcohol Center for Fiscal Year 2020, as it was forced to move after 29 years of operation at 26 Howard Street in Springfield due to the facility being within the physical footprint of the casino.

The Review Team recommends that the Commission approve \$400,000 in funding to assist the Hampden County Sheriff's office with its lease costs through FY2020.

Springfield Police Department

The City of Springfield for the Springfield Police Department is requesting \$360,129.42 for specific equipment essential for its department to continue to provide safety precautions to the changing community surrounding the casino. The equipment needed is listed in the memo in the Commission Meeting Packet.

Eliminating the few items whose justification was not determined by the Review Team, the Review Team recommends that the Commission approve the remainder of the City's request for funding for equipment for \$228,457.68.

[2:26 p.m.](#)

Commissioner O'Brien moved that the Commission approve the Community Mitigation Fund Grant Request from the City of Everett in the amount of \$182,088.90 as described in the memorandum from the Community Mitigation Fund Review Team dated July 12, 2019 and included in the July 18, 2019 Commission packet, subject to the submission to the Commission by the applicant of a detailed scope of work, a timeline for the work to be completed under the grant and the execution of a grant agreement between the Commission and the applicant. Commissioner Cameron seconded the motion. The motion passed unanimously.

Commissioner Cameron moved that the Commission approve the Community Mitigation Fund Grant Request from the Hampden County District Attorney's Office in the amount of \$100,000 as described in the memorandum from the Community Mitigation Fund Review Team dated July 12, 2019 and included in the July 18, 2019 Commission packet, subject to the submission to the Commission by the applicant of a detailed scope of work, a timeline for the work to be completed under the grant and the execution of a grant agreement between the Commission and the applicant. Commissioner Stebbins seconded the motion. The motion passed unanimously.

Commissioner Stebbins moved that the Commission approve the Community Mitigation Fund Grant Request from the Hampden County Sherriff's

Department in the amount of \$400,000 as described in the memorandum from the Community Mitigation Fund Review Team dated July 12, 2019 and included in the July 18, 2019 Commission packet, subject to the submission to the Commission by the applicant of a detailed scope of work, a timeline for the work to be completed under the grant and the execution of a grant agreement between the Commission and the applicant. Commissioner Zuniga seconded the motion.

The motion passed unanimously.

Commissioner O'Brien moved that the Commission approve the Community Mitigation Fund Grant Request from the Springfield Police Department in the amount of \$228,457.68 as described in the memorandum from the Community Mitigation Fund Review Team dated July 12, 2019 and included in the July 18, 2019 Commission packet, subject to the submission to the Commission by the applicant of a detailed scope of work, a timeline for the work to be completed under the grant and the execution of a grant agreement between the Commission and the applicant. Commissioner Cameron seconded the motion. The motion passed unanimously.

[2:30 p.m.](#)

Non-Transportation Planning Grant Applications

Ombudsman Ziemba introduced the Non-Transportation category of grant applications. He described them as reasonably-sized applications. No application for this 2019 Non-Transportation Planning Grant shall exceed Fifty Thousand Dollars (\$50,000).

Chicopee/Springfield

The Ombudsman stated that the Cities of Chicopee and Springfield are jointly requesting \$50,000 to begin implementing potential projects as outlined in reinvesting in the gaming economic development fund implementation blueprint and economic development strategy for the renaissance of a Great American Downtown, Springfield. The purpose articulated in the application and further found in the response letter to the Review Team is consistent with those articulated in the guidelines for non-transportation planning grants.

Foxborough/Plainville/Wrentham

The joint applicants have requested \$75,000 to hire a professional marketing consultant/firm to prepare a marketing, strategic, and creative plan for the destination marketing of the Towns of Foxborough, Plainville, and Wrentham. The joint applicants envision this regional approach benefitting Plainridge Park Casino by attracting more tourists, business travelers, and visitors to the region and establishing this area as a viable destination for overnight stays.

The Review Team strongly supports this initiative, which could provide substantial benefits to the region and to Plainridge Park, which will continue to face growing regional gaming competition.

Northampton

The City of Northampton is requesting \$29,000 for continued marketing activities and building upon the activities already funded by the Commission. The planning grant would pay for monitoring and measuring the resources and feedback posted on the "Northampton Live" web site. This data will measure consumer preferences and visitor volume as well as forecast the course of future marketing in 2020.

The Review Team supports this request from the City of Northampton to continue its marketing efforts.

Revere

The City of Revere has requested \$50,000 for the development and distribution of a tourism video that will promote the City of Revere as a destination and also will feature Encore Boston Harbor Casino as a nearby major attraction.

The Review Team recommends that the Commission approve of Revere's grant request as it has a clear plan for implementation of the results and is distinctly related to addressing issues or impacts directly related to the gaming facility.

The Ombudsman noted to the Commission that both the cities of Revere and Saugus filed matching applications because they wanted to promote their communities separately, but they are working together on a lot of similar ideas to promote both of those communities. He commended them for working together.

Saugus

The Town of Saugus has requested \$50,000 for the development and distribution of a tourism video that will promote the Town of Saugus as a destination and also will feature Encore Boston Harbor Casino as a nearby major attraction.

The Review Team recommends that the Commission approve of Saugus' grant request as it has a clear plan for implementation of the results and is distinctly related to addressing issues or impacts directly related to the gaming facility.

[2:40 p.m.](#)

Commissioner Stebbins moved that the Commission approve the joint Community Mitigation Fund Grant Request from Chicopee/Springfield in the amount of \$50,000 as described in the memorandum from the Community

Mitigation Fund Review Team dated July 12, 2019 and included in the July 18, 2019 Commission packet, subject to the submission to the Commission by the applicant of a detailed scope of work, a timeline for the work to be completed under the grant and the execution of a grant agreement between the Commission and the applicant. Commissioner Cameron seconded the motion. The motion passed unanimously.

Commissioner Stebbins moved that the Commission approve the Community Mitigation Fund Grant Request from Northampton in the amount of \$29,000 as described in the memorandum from the Community Mitigation Fund Review Team dated July 12, 2019 and included in the July 18, 2019 Commission packet, subject to the submission to the Commission by the applicant of a detailed scope of work, a timeline for the work to be completed under the grant and the execution of a grant agreement between the Commission and the applicant. Commissioner O'Brien seconded the motion. The motion passed unanimously.

Commissioner Cameron moved that the Commission approve the joint Community Mitigation Fund Grant Request from Foxboro/Plainville/Wrentham in the amount of \$75,000 as described in the memorandum from the Community Mitigation Fund Review Team dated July 12, 2019 and included in the July 18, 2019 Commission packet, subject to the submission to the Commission by the applicant of a detailed scope of work, a timeline for the work to be completed under the grant and the execution of a grant agreement between the Commission and the applicant. Commissioner Zuniga seconded the motion. The motion passed unanimously.

Commissioner O'Brien moved that the Commission approve the Community Mitigation Fund Grant Request from the City of Revere in the amount of \$50,000 as described in the memorandum from the Community Mitigation Fund Review Team dated July 12, 2019 and included in the July 18, 2019 Commission packet, subject to the submission to the Commission by the applicant of a detailed scope of work, a timeline for the work to be completed under the grant and the execution of a grant agreement between the Commission and the applicant. Commissioner Cameron seconded the motion. The motion passed unanimously.

Commissioner Zuniga moved that the Commission approve the Community Mitigation Fund Grant Request from the City of Saugus in the amount of \$50,000 as described in the memorandum from the Community Mitigation Fund Review Team dated July 12, 2019 and included in the July 18, 2019 Commission packet, subject to the submission to the Commission by the applicant of a detailed scope of work, a timeline for the work to be completed under the grant and the execution of a grant agreement between the Commission and the applicant. Commissioner O'Brien seconded the motion.

The motion passed unanimously.

[2:44 p.m.](#)

Tribal Gaming Technical Assistance

Ombudsman Ziemba described this last category of grants as a carryover from last year's grant and does not represent new funding. The Commission makes available no more than \$200,000 in technical assistance funding to assist in the determination of potential impacts that may be experienced by communities in geographic proximity to the potential Tribal Gaming facility in Taunton.

The Commission previously determined that any such funding would only be made available after approving of any application by the Southeast Regional Planning and Economic Development District if it is determined by the Commission that construction of such gaming facility will likely commence before or during the fiscal year 2020. Therefore, a separate vote would be necessary to move on any such technical assistance.

Southeastern Regional Planning & Economic Development District (SRPEDD)

SRPEDD anticipates planning requests for studies to assist communities in geographic proximity to the potential Tribal Gaming facility in Taunton about traffic capacity and operational impacts should the construction of the Tribal Gaming facility move forward.

The 2019 funding request for the SRPEDD is a carryover from 2018. This is not new funding. The Review Team recommends the approval of this Grant.

[2:46 p.m.](#)

Commissioner Zuniga moved that the Commission approve the continuation of the reserve for traveling and technical assistance from the Southeastern Regional Planning and Economic Development agency in the amount of \$200,000 subject to a further finding by this Commission that the proposed casino in Taunton recommends construction before the end of the fiscal year 2020. Commissioner Stebbins seconded the motion.
The motion passed unanimously.

Administrative Update, Cont'd

See transcript pages 62 - 64

[2:48 p.m.](#)

Director Bedrosian reminded the Commission that July 28th is the Spirit of Massachusetts event at PPC. He described it as a joint race hosted by PPC and the Harness Horsemen's Association of New England and is a \$250,000 race. He added that the horses are spectacular and encouraged everyone to watch it.

He then paid a special thanks to Joan Matsumoto, Chief Project Manager, who is leaving the agency. He commended her on the great work that she has

done for the Commission and described some of the tasks she has performed that have made a significant impact on the agency. The Chair and Commissioners each thanked Ms. Matsumoto as well.

Commissioner's Updates

See transcript pages 64 – 65

[2:57 p.m.](#) Commissioner Cameron commented on the enthusiasm of the participants in a meeting on public safety yesterday with local police and other community members.

The Chair and Commissioner O'Brien updated the Commission on the RFR that was issued in connection with the retention of an independent monitor pursuant to the Commission's April decision, reported publicly in the RFR. The Chair stated that the Commission has convened a team that has been meeting at length to work on the selection process.

Commissioner Zuniga noted that a letter was received by Commissioner Stebbins regarding MGM Springfield, stating that the casino was doing little in terms of entertainment, compared to other casinos in Connecticut. He stated that the response issued by the Commission was adequate to note that MGM Springfield is doing quite a bit. He described the offerings of MGM Springfield, as well as the challenges they face that are unique to Massachusetts.

[3:02 p.m.](#) *With no further business, the Chair moved to adjourn the meeting. Commissioner Zuniga seconded the motion. The motion passed unanimously.*

List of Documents and Other Items Used

1. Notice of Meeting and Agenda, dated July 18, 2019
2. Draft Commission Meeting Minutes dated June 12, 2019
3. Draft Commission Meeting Minutes dated June 27, 2019
4. Memo re: Schuster v. Encore Boston Harbor – Blackjack/Slot Payout Compliance dated July 19, 2019
5. Investigative Report regarding Final Approval for PPC-GLPI REIT Transaction dated July 2019
6. 2019 Community Mitigation Fund Analysis and Recommendations dated July 12, 2019
7. Memo re: City of Springfield Community Mitigation Fund Application re Focus Springfield; Anti-aid Amendment dated July 12, 2019
8. Correspondence between the City of Everett and the CMF Review Team

9. Correspondence re: City of Boston 2019 CMF Transportation Planning Application
10. Correspondence re: Everett/Somerville Transportation Project(s) of Regional Significance Application
11. Correspondence re: 2019 Community Mitigation Fund Workforce Development Requests and Responses
12. 2019 Community Mitigation Fund Specific Impact Grant Applications
13. Correspondence re: 2019 Community Mitigation Fund Joint Non-Transportation Planning Applications
14. Letter re: 2019 Tribal Gaming Technical Assistance Application dated May 24, 2019
15. Comment Letters re Community Mitigation Grant Application for Focus Springfield
16. Comment Letters re MGM, Encore, and Plainridge Community Mitigation Grant Applications
17. 2019 Transportation Planning Grant Applications
18. Transit Project(s) of Regional Significance Grant Applications
19. MassDOT comments on Transportation Planning Grant Applications
20. 2019 Non-Transportation Planning Applications
21. 2019 Workforce Development Pilot Program Grant Applications
22. Southeastern Regional Planning and Economic Development District (SRPEDD) 2019 Reserve Planning Grant / Tribal Gaming Technical Assistance Application

/s/ Catherine Blue
Assistant Secretary

Regulation Review Checklist

Agency Contacts for This Specific Regulation		
Catherine Blue		
Alex Lightbown		
Overview		
CMR Number	205 CMR 6.35	
Regulation Title	Pick (n) Pool	
<input type="checkbox"/> Draft Regulation	<input checked="" type="checkbox"/> Final Regulation	
Type of Proposed Action		
✓ Please check all that apply		
<input type="checkbox"/> Retain the regulation in current form.		
<input type="checkbox"/> New regulation (Please provide statutory cite requiring regulation):		
<input type="checkbox"/> Emergency regulation (Please indicate the date regulation must be adopted):		
<input checked="" type="checkbox"/> Amended regulation		
<input type="checkbox"/> Technical correction		
<input type="checkbox"/> Other Explain:		

Summary of Proposed Action
Please describe the purpose of the regulation:
To add 4 additional types of Pick (n) Pool wagers for wagering on horse racing
Nature of and Reason for the Proposed Action
Action requested by racing licensees to provide customers with more wagering options

Regulation Review Checklist

Additional Comments or Issues Not Earlier Addressed by this Review	
None	
Required Attachments	
✓ Please check all that apply	
<input checked="" type="checkbox"/> Redlined version of proposed amendment to regulation, including repeals	<input type="checkbox"/> Clean copy of the regulation if it is a new chapter or if there is a recommendation to retain as is
<input type="checkbox"/> Text of statute or other legal basis for regulation	
<input type="checkbox"/> Small Business Impact Statement (SBIS)	<input checked="" type="checkbox"/> Amended SBIS



Legal Division

AMENDED SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this amended small business impact statement in accordance with [G.L. c.30A §5](#) relative to the proposed amendments in [205 CMR 6.00: Pari-Mutuel Rules for Thoroughbred Racing, Harness Racing, and Greyhound Racing](#). Specifically, **205 CMR 6.35: Pick (n) Pools**; for which a public hearing was held on August 1, 2019. These proposed regulations and amendments were developed as part of the process of promulgating regulations governing the operation of gaming establishments in the Commonwealth. The proposed amendments describe the addition of further wagers to the regulation; notice of which was filed this day with the Secretary of the Commonwealth. These amendments were developed as part of the process of promulgating regulations governing horse racing in the Commonwealth. These regulations are largely governed by [G.L. c. 128A §9](#).

These amendments apply directly to gaming licensees and patrons. Accordingly, these amendments are unlikely to have an impact on small businesses.

In accordance with G.L. c.30A §5, the Commission offers the following responses as to whether any of the following methods of reducing the impact of the proposed regulation on small businesses would hinder achievement of the purpose of the proposed regulation:

1. Establishing less stringent compliance or reporting requirements for small businesses:

As a general matter, no small businesses will be impacted by these amendments as they apply solely to licensees and patrons. Accordingly, there are no less stringent compliance or reporting requirements for small businesses.

2. Establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses:

There are no schedules or deadlines for compliance or reporting requirements for small businesses created by this regulation or the amendments thereto.

3. Consolidating or simplifying compliance or reporting requirements for small businesses:



Massachusetts Gaming Commission

This regulation, as well as the proposed amendments does not impose any reporting requirements for small businesses.

4. Establishing performance standards for small businesses to replace design or operational standards required in the proposed legislation:

There are no performance standards for small businesses to replace design or operational standards required in the proposed new section, as it pertains only to the addition of further wagers to the regulation.

5. An analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

These amendments apply solely to licensees and individuals, therefore they are not likely to deter or encourage the formation of new businesses in the Commonwealth.

6. Minimizing adverse impact on small businesses by using alternative regulatory methods:

The proposed amendments are not likely to create any adverse impact on small businesses.

Massachusetts Gaming Commission

By:

Shara N. Bedard
Paralegal

Dated: _____



Massachusetts Gaming Commission

205 CMR: MASSACHUSETTS GAMING COMMISSION

205 CMR 6.35: Pick (n) Pools

- (1) The Pick (n) requires selection of the first-place finisher in each of a designated number of contests. The association must obtain written approval from the Commission concerning the scheduling of Pick (n) contests, the designation of one of the methods prescribed in 205 CMR 6.35(2), and the amount of any cap to be set on the carryover. Any changes to the approved Pick (n) format require prior approval from the Commission. (ARCI c. 9 cal. § G(1))
- (2) The Pick (n) pool shall be apportioned under one of the following methods:
 - (a) Method 1, Pick (n) with Carryover. The net Pick (n) pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests; and the remainder shall be added to the carryover.
 - (b) Method 2, Pick (n) with Minor Pool and Carryover. The major share of the net Pick (n) pool and the carryover, if any, shall be distributed to those who selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. The minor share of the net Pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all Pick (n) contests, the minor share of the net Pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests; and the major share shall be added to the carryover.
 - (c) Method 3, Pick (n) with No Minor Pool and No Carryover. The net Pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests, based upon the official order of finish. If there are no winning wagers, the pool is refunded.
 - (d) Method 4, Pick (n) with Minor Pool and No Carryover. The major share of the net Pick (n) pool shall be distributed to those who selected the first place finisher in the greatest number of Pick (n) contests, based upon the official order of finish. The minor share of the net Pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in a second greatest number of Pick (n) contests, the minor share of the net Pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests. If the greatest number of first-place finishers selected is one, the major and minor shares are combined for distribution as a single price pool. If there are no winning wagers, the pool is refunded.

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- (e) Method 5. Pick (n) with Minor Pool and No Carryover. The major share of net Pick (n) pool shall be distributed to those who selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. The minor share of the net Pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in all Pick (n) contests, the entire net Pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests. If there are no wagers selecting the first-place finisher in a second greatest number of Pick (n) contests, the minor share of the net Pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in each of the Pick (n) contests. If there are no winning wagers, the pool is refunded. (ARCI c. 9 cal. § G(2))
- (f) Method 6, Pick (n) with Minor Pool and No Carryover: The major share of net Pick (n) pool shall be distributed to those who selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. The minor share of the net Pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in all Pick (n) contests, the entire net Pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests. If there are no wagers selecting the first-place finisher in a second greatest number of Pick (n) contests, the minor share of the net Pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in each of the Pick (n) contests. If there are no winning wagers, the pool is refunded.
- (g) Method 7, Pick (n) with Carryover and “Unique Winning Ticket” Provision: The net Pick (n) pool and carryover, if any, shall be distributed to the holder of a unique winning ticket that selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. If there is no unique ticket selecting the first-place finisher in each of the Pick (n) contests, or if there are no wagers selecting the first-place finisher of all Pick (n) contests, the minor share of the net Pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests, and the major share shall be added to the carryover. Associations may suspend previously approved unique winning ticket wagering with the prior approval of the Commission. Any carryover shall be held until the suspended unique winning ticket wagering is reinstated. Where there is no correct selection of the first-place finisher in at least one of the Pick (n) contests, based upon the official order of finish, the day’s net pool shall be refunded and the previous carryover pool amount, if any, shall be carried over to the next scheduled corresponding pool. In obtaining authorization for operating the Pick (n) pool under this subsection, associations must clearly identify which definition under ~~paragraph 16(b)~~ ARCI c. 9 cal. § G(16)(b) will be relied upon for determining the existence of a unique winning ticket.
- (h) Method 8, Pick (n) with the Pool Split into Three Shares, One Share having a Carryover: The share percentages are determined by the pool host and approved by the

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Commission. The first share of the net Pick (n) pool and the carryover, if any, shall be distributed to those who selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. The second share of the net Pick (n) pool shall be distributed to those who selected (n-1) of the Pick (n) contests, based upon the official order of finish and a third share of the Pick (n) pool shall be distributed to those who selected (n-2) of the Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all Pick (n) contests, the first share shall be added to the carryover. If there are no wagers selecting (n-1) of the Pick (n) contests, this second share shall be added to the carryover. If there are no wagers selecting (n-2) of the Pick (n) contests, this third share shall be added to the carryover. Where there is no correct selection of the first-place finisher in at least one of the Pick (n) contests, based upon the official order of finish, the day's net pool shall be refunded and the previous carryover pool amount, if any, shall be carried over to the next scheduled corresponding pool.

- (i) Method 9, Pick (n) with the Pool Split into Three Shares, with Carryovers, and a Unique Winning Ticket Provision: The share percentages are determined by the pool host and approved by the Commission. The first share of the net Pick (n) pool and the first share carryover, if any, shall be distributed to those who selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. The second share of the net Pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all Pick (n) contests, the second share of the net Pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests, and the first share shall be added to the first share carryover. The third share and the third share carryover, if any, shall be distributed to the holder of a unique winning ticket that selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. If there is no unique winning ticket selecting the first-place finisher in each of the Pick (n) contests, the third share shall be added to the third share carryover. For greater certainty, the holder of a unique winning ticket shall receive both the first share, and first share carryover, if any as well as the third share, and the third share carryover, if any. Where there is no correct selection of the first-place finisher in at least one of the Pick (n) contests, based upon the official order of finish, the day's net pool shall be refunded and the previous carryover pool(s) amount(s), if any, shall be carried over to the next scheduled corresponding pool. In obtaining authorization for operating the Pick (n) pool under this subsection, associations must clearly identify which definition under ~~paragraph 16(b)~~ ARCI c. 9 cal. § G(16)(b) will be relied upon for determining the existence of a unique winning ticket.

(3) If there is a dead heat for first in any of the Pick (n) contests involving:

- (a) contestants representing the same betting interest, the Pick (n) pool shall be distributed as if no dead heat occurred;

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- (b) contestants representing two or more betting interests, the Pick (n) pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit. (ARCI c. 9 cal. § G(3))
- (4) Should a betting interest in any of the Pick (n) contests be scratched, the actual favorite, as evidenced by total amounts wagered in the Win pool at the host association for the contest at the close of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the Win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalisator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination. (ARCI c. 9 cal. § G(4))
- (5) The Pick (n) pool shall be canceled and all Pick (n) wagers for the individual performance shall be refunded if:
 - (a) at least three contests included as part of a Pick 4, Pick 5 or Pick 6 are canceled or declared “no contest”;
 - (b) at least four contests included as part of a Pick 7, Pick 8 or Pick 9 are canceled or declared “no contest”;
 - (c) at least five contests included as part of a Pick 10 are canceled or declared “no contest”. (ARCI c. 9 cal. § G(5))
- (6) If at least one contest included as part of a Pick (n) is canceled or declared “no contest”, but not more than the number specified in 205 CMR 6.35(5), the net pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of Pick (n) contests for that performance. Such distribution shall include the portion ordinarily retained for the Pick (n) carryover but not the carryover from previous performances. (ARCI c. 9 cal. § G(6))
- (7) The Pick (n) carryover may be capped at a designated level approved by the Commission so that if, at the close of any performance, the amount in the Pick (n) carryover equals or exceeds the designated cap, the Pick (n) carryover will be frozen until it is won or distributed under other provisions of 205 CMR 6.35. After the Pick (n) carryover is frozen, 100% of the net pool, part of which ordinarily would be added to the Pick (n) carryover, shall be distributed to those whose selection finished first in the greatest number of Pick (n) contests for that performance. (ARCI c. 9 cal. § G(7))
- (8) A written request for permission to distribute the Pick (n) carryover on a specific performance may be submitted to the Commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution. (ARCI c. 9 cal. § G(8))

205 CMR: MASSACHUSETTS GAMING COMMISSION

- (9) Should the Pick (n) carryover be designated for distribution on a specified date and performance in which there are no wagers selecting the first-place finisher in each of the Pick (n) contests, the entire pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of Pick (n) contests. The Pick (n) carryover shall be designated for distribution on a specified date and performance only under the following circumstances:
- (a) upon written approval from the Commission as provided in 205 CMR 6.35(8);
 - (b) upon written approval from the Commission when there is a change in the carryover cap, a change from one type of Pick (n) wagering to another, or when the Pick (n) is discontinued;
 - (c) on the closing performance of the meet or split meet. (ARCI c. 9 cal. § G(9))
- | (10) If, for any reason, the Pick (n) carryover must be held over to the corresponding Pick (n) pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the Commission. The Pick (n) carryover plus accrued interest shall then be added to the net Pick (n) pool of the following meet on a date and performance so designated by the Commission. (ARCI c. 9 cal. § G(10))
- (11) With the written approval of the Commission, the association may contribute to the Pick (n) carryover a sum of money up to the amount of any designated cap. (ARCI c. 9 cal. § G(11))
- (12) Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is strictly prohibited. This shall not prohibit necessary communication between totalisator and pari-mutuel department employees for processing of pool data. (ARCI c. 9 cal. § G(12))
- (13) The association may suspend previously-approved Pick (n) wagering with the prior approval of the Commission. Any carryover shall be held until the suspended Pick (n) wagering is reinstated. An association may request approval of a Pick (n) wager or separate wagering pool for specific performances. (ARCI c. 9 cal. § G(13))

Regulation Review Checklist

Agency Contacts for This Specific Regulation		
Catherine Blue		
Jill Griffin		
Overview		
CMR Number	205 CMR 102.02	
Regulation Title	Construction and Application: Definitions	
<input type="checkbox"/> Draft Regulation	<input checked="" type="checkbox"/> Final Regulation	
Type of Proposed Action		
✓ Please check all that apply		
<input type="checkbox"/> Retain the regulation in current form.		
<input type="checkbox"/> New regulation (Please provide statutory cite requiring regulation):		
<input type="checkbox"/> Emergency regulation (Please indicate the date regulation must be adopted):		
<input checked="" type="checkbox"/> Amended regulation		
<input type="checkbox"/> Technical correction		
<input type="checkbox"/> Other Explain:		

Summary of Proposed Action
Please describe the purpose of the regulation:
To add definitions of Minority Business Enterprise and Veteran Business Enterprise which describe the certifications for each definition
Nature of and Reason for the Proposed Action
Action requested by staff to conform to SDO regulations and processes

Regulation Review Checklist

Additional Comments or Issues Not Earlier Addressed by this Review	
None	
Required Attachments	
✓ Please check all that apply	
<input checked="" type="checkbox"/> Redlined version of proposed amendment to regulation, including repeals	<input type="checkbox"/> Clean copy of the regulation if it is a new chapter or if there is a recommendation to retain as is
<input type="checkbox"/> Text of statute or other legal basis for regulation	
<input type="checkbox"/> Small Business Impact Statement (SBIS)	<input checked="" type="checkbox"/> Amended SBIS



Legal Division

AMENDED SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this Amended Small Business Impact Statement in accordance with [G.L. c.30A, §5](#) relative to the proposed amendments in [205 CMR 102.00: Construction and Application](#). Specifically, **205 CMR 102.02: Definitions**, shall be amended to add the terms and define “Minority Business Enterprise (MBE),” “Veteran Business Enterprise (VBE),” and “Women Business Enterprise (WBE)””; notice of which was filed this day with the Secretary of the Commonwealth. While these definitions presently exist in the regulations, they solely apply to the construction and development of the casinos. By these amendments, the same definitions will now apply to post-construction casino operations as well. These amendments were developed as part of the process of promulgating regulations governing the operation of gaming establishments in the Commonwealth. This regulation is primarily governed by [G.L. c.23K, §5](#).

Small businesses that wish to become certified as MBEs, WBEs, or verified as a VBE will be impacted, as they will need to file appropriate forms with the Supplier Diversity Office or the U.S. Department of Veterans Affairs.

In accordance with G.L. c.30A, §5, the Commission offers the following responses on whether any of the following methods of reducing the impact of the proposed regulation on small businesses would hinder achievement of the purpose of the proposed regulation:

1. Establishing less stringent compliance or reporting requirements for small businesses:

It is important that the requirements be the same for all businesses, regardless of size, so that the Commission can accurately monitor the relationships between the gaming licensees and vendors. However, there will be an additional administrative duty to file with the Supplier Diversity Office or the U.S. Department of Veterans Affairs, and any compliance or reporting requirements are created by those entities.

2. Establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses:

It is important that the requirements be the same for all businesses, regardless of size, so that the Commission can accurately monitor the relationships between the gaming licensees and vendors. However, any schedules or deadlines for compliance or reporting requirements are created by the Supplier Diversity Office, or the U.S. Department of Veterans Affairs.



Massachusetts Gaming Commission

3. Consolidating or simplifying compliance or reporting requirements for small businesses:

It is important that the requirements be the same for all businesses, regardless of size, so that the Commission can accurately monitor the relationships between the gaming licensees and vendors.

4. Establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation:

This amendment does not implicate a design or operational standard.

5. An analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

This regulation is designed to encourage the formation of new businesses in the Commonwealth by clarifying the definition of MBEs, WBEs, and VBEs to receive recognition of their status.

6. Minimizing adverse impact on small businesses by using alternative regulatory methods:

There is no adverse impact on small businesses created by this amendment. This amendment imposes a different method of filing for small businesses to become certified as MBEs, WBEs, or verified as VBEs, which is an additional administrative step. It is not anticipated to create an adverse impact on the business.

Massachusetts Gaming Commission

By:

Shara Bedard
Paralegal

Dated: _____



Massachusetts Gaming Commission

205 CMR: MASSACHUSETTS GAMING COMMISSION
205 CMR 102.00: CONSTRUCTION AND APPLICATION

102.02: Definitions

MEPA means the Massachusetts Environmental Policy Act.

Minority Business Enterprise (MBE). A minority-owned business that has been certified by either the Massachusetts Supplier Diversity Office within the Operational Services Division, the Greater New England Minority Supplier Development Council, or both.

Money means cash or instruments that are convertible to cash in any negotiable currency.

Transfer is defined in M.G.L. c. 23K, § 2.

Veteran Business Enterprise (VBE). A Veteran Business Enterprise shall have the same meaning as the term “Veteran-owned small business concern” as defined by 38 CFR 74.1, the status of which can be verified by Vendor Information Pages on the U.S. Department of Veterans Affairs Office of Small & Disadvantaged Business Utilization website or by the Licensing Division of the Massachusetts Gaming Commission. Veteran Business Enterprise is inclusive of the Service-disabled veteran-owned business as defined in 15 USC § 632. Additionally, the term VBE shall include any entity certified as a VBE, as defined by M.G.L. c. 7, § 58, by the Massachusetts Supplier Diversity Office within the Operational Services Division pursuant to regulations promulgated in accordance with M.G.L. c. 7, §61(a).

Notwithstanding the foregoing, for purposes of 205 CMR 135.02(8) and 139.04(3), effective upon the issuance of an operation certificate to a gaming licensee, for vendors associated with that licensee the term VBE shall only include those entities certified as such by the Supplier Diversity Office, or verified with the U.S. Department of Veterans Affairs. (Note: vendors previously verified by the Licensing Division will continue to be recognized until the end of their existing contract.)

Vulnerable Populations means groups of people that studies have shown to be more susceptible to gambling problems than others including people with a history of alcohol or other drug abuse, people with a history of mental health issues, low income patrons of gaming establishments, and older adults.

Wager is defined in M.G.L. c. 23K, § 2.

Women Business Enterprise (WBE). A women-owned business that has been certified by either the Massachusetts Supplier Diversity Office within the Operational Services Division, the Women's Business Enterprise National Council (or its local affiliate, Center for Women & Enterprise), or both.



PLAINRIDGE PARK CASINO

April 4, 2019

Jill Lacey Griffin

101 Federal Street, 12th Floor

Boston, MA 02110

Dear Jill,

In response to your request for comment regarding the proposed Business Enterprise Definitions 205 CMR 102.02: Definitions, Plainridge Park Casino would like to provide the following feedback.

Plainridge Park Casino has developed a core group of diverse suppliers that are an important part of our success. We have enjoyed fostering these relationships and helping them grow not only at Plainridge Park, but at times within other Penn National Gaming properties as well as continually seeking to add suppliers to our diversity vendor pool. By adjusting the definitions of each diversity category as currently proposed, Plainridge Park Casino could see a significant decline in diversity spend simply due to the change in entities that the MGC will accept for diversity certification.

Our parent company, Penn National Gaming, is also committed to creating a diverse work force and supplier base that promotes an environment of value, respect and empowerment. As a growing national company, we are aligning our procurement practices with vendors that will have a significant impact on the enterprise as a whole. Keeping diversity spend at the forefront of these decisions, Penn National may enter into national agreements with WBE, MBE, or VBE vendors that are certified in other jurisdictions by entities no longer aligned with the definitions proposed by the MGC. Per your request, I have provided some examples of acceptable certification qualifications in other jurisdictions.

- State of Colorado – Accepts all certificates and affidavits from all states
- State of Missouri – Accepts all certificates and affidavits from all states
- State of Iowa – Accepts all certificates and affidavits from all states
- State of Ohio – Accepts all certificates and affidavits from all states
- State of Mississippi – Accepts all certificates and affidavits from all states
- State of Nevada – Accepts all certificates and affidavits from all states

Understanding that one of the goals of the Massachusetts Gaming Commission is to promote economic growth and development within the Commonwealth of Massachusetts, we are hoping you will consider expanding the list of certifications that will be accepted. For example, there currently are no options for



PLAINRIDGE PARK CASINO

a national certification under the MBE category. Based on our current vendor certifications as well as certifications accepted within other gaming jurisdictions, we would recommend the following considerations:

- National Minority Supplier Development Council
- All certificates from any state
- All certificates from any recognized diversity agency

Should the proposed definitions or a modified version of these definitions be approved, Plainridge Park Casino would respectfully request a 6 month “grace period” to allow for existing vendors to seek certification from the approved entities. At the end of the “grace period” we would like the option to reassess our diversity goals based on the new definitions and the feedback received by our vendors that may be asked to seek additional certifications.

Thank you for sharing the information regarding the proposed changes and allowing us to be a part of the process. We truly appreciate the mutual respect in our partnership.

Sincerely,

Eli Haard

Regional Director of Strategic Sourcing

Penn National Gaming

Regulation Review Checklist

Agency Contacts for This Specific Regulation		
Todd Grossman		
Bruce Band		
Overview		
CMR Number	205 CMR 143.02	
Regulation Title	Gaming Devices and Electronic Gaming Equipment	
<input type="checkbox"/> Draft Regulation	<input checked="" type="checkbox"/> Final Regulation	
Type of Proposed Action		
✓ Please check all that apply		
<input type="checkbox"/> Retain the regulation in current form.		
<input type="checkbox"/> New regulation (Please provide statutory cite requiring regulation):		
<input type="checkbox"/> Emergency regulation (Please indicate the date regulation must be adopted):		
<input checked="" type="checkbox"/> Amended regulation		
<input type="checkbox"/> Technical correction		
<input type="checkbox"/> Other Explain:		

Summary of Proposed Action
Please describe the purpose of the regulation:
Amend the regulation to conform to best practices
Nature of and Reason for the Proposed Action
Action requested by staff to conform best practices

Regulation Review Checklist

Additional Comments or Issues Not Earlier Addressed by this Review	
None	
Required Attachments	
✓ Please check all that apply	
<input checked="" type="checkbox"/> Redlined version of proposed amendment to regulation, including repeals	<input type="checkbox"/> Clean copy of the regulation if it is a new chapter or if there is a recommendation to retain as is
<input type="checkbox"/> Text of statute or other legal basis for regulation	
<input type="checkbox"/> Small Business Impact Statement (SBIS)	<input checked="" type="checkbox"/> Amended SBIS



Legal Division

AMENDED SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this Amended Small Business Impact Statement in accordance with [G.L. c.30A, §5](#) relative to the proposed amendments in [205 CMR 143.00: Gaming Devices and Electronic Gaming Equipment](#). Specifically, **205 CMR 143.02: Progressive Gaming Devices**, for which a public hearing was held on August 1, 2019. These proposals were developed as part of the process of promulgating regulations governing the operation of gaming establishments in the Commonwealth, and are largely governed by [G.L. c.23K](#), §§4 and 5. 205 CMR 143.02 contains an amendment to describe an update to progressive controller security provisions; notice of which was filed this day with the Secretary of the Commonwealth.

The proposed amendment applies directly to gaming licensees. Accordingly, it is unlikely to have an impact on small businesses.

In accordance with G.L. c.30A, §5, the Commission offers the following responses on whether any of the following methods of reducing the impact of the proposed regulation on small businesses would hinder achievement of the purpose of the proposed regulation:

1. Establishing less stringent compliance or reporting requirements for small businesses:

As a general matter, no small businesses are impacted by this regulation, or the amendment therein. Accordingly, there are no less stringent compliance or reporting requirements for small businesses.

2. Establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses:

There are no schedules or deadlines for compliance or reporting requirements for small businesses created by this amendment.

3. Consolidating or simplifying compliance or reporting requirements for small businesses:

There are no compliance or reporting requirements for small businesses.



Massachusetts Gaming Commission

4. Establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation:

This amendment implicates a performance standard, as it is an update to security provisions.

5. An analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

This amendment applies directly to gaming licensees and therefore is not likely to deter or encourage the formation of new businesses in the Commonwealth.

6. Minimizing adverse impact on small businesses by using alternative regulatory methods:

This amendment is not likely to create any adverse impact on small businesses.

Massachusetts Gaming Commission

By:

Shara Bedard

Paralegal

Dated: _____



Massachusetts Gaming Commission

205 CMR: MASSACHUSETTS GAMING COMMISSION
205 CMR 143.00: GAMING DEVICES AND ELECTRONIC GAMING EQUIPMENT

143.02: Progressive Gaming Devices

(1) A gaming licensee and gaming device vendor shall comply with, and the Commission adopts and incorporates by reference, *Gaming Laboratories International, LLC Standard GLI-12: Progressive Gaming Devices in Casinos*, version 2.1, released September 6, 2011, subject to the following amendments:

(f) Delete the last sentence of section 2.5.9¹ and replace with: “Such access shall be detailed in the gaming licensee's approved system of internal controls in accordance with 205 CMR 138.53: *Progressive Slot Machines* and 205 CMR 138.62: *Payment of Table Game Progressive Payout Wagers; Supplemental Wagers Not Paid from the Table Inventory: (Reserved)* and shall, at a minimum, incorporate the following requirements. ~~The external progressive controller and/or bank controller shall be in a location approved by the Commission in a compartment or cabinet which has two separate locking mechanisms. One locking mechanism shall be maintained and controlled by the security department and the second locking mechanism shall be maintained and controlled by the slot department. Whenever the progressive controller and/or bank controller has been accessed, written notification shall be provided to the Commission.~~ Alternative measures that achieve the same level of security concerning access to the progressive and/or bank controllers may be substituted for two separate locking mechanisms upon submission to and approval by the Commission. **A progressive controller will be considered to be housed in a secure environment if it is either: (1) integrated into the gaming device's software, or (2) in an area that is dual key controlled with one key being maintained and controlled by the casino security department and the other by the slot department. Alternative measures that achieve the same level of security may be substituted for dual key controlled access if described in the applicable internal control submission and approved in accordance with 205 CMR 138.02. No controller may be accessed until written notice is provided to the Commission. Whenever the progressive controller and/or bank controller has been accessed, written notification shall be provided to the Commission.**”

¹ 2.5.9 provides: “Each progressive controller used with a gaming device shall be housed in a secure environment allowing only authorized accessibility.”

Regulation Review Checklist

Agency Contacts for This Specific Regulation		
Loretta Lillios		
Catherine Blue/Todd Grossman		
Overview		
CMR Number	205 CMR 152.04	
Regulation Title	Individuals Excluded From a Gaming Establishment	
<input type="checkbox"/> Draft Regulation	<input checked="" type="checkbox"/> Final Regulation	
Type of Proposed Action		
✓ Please check all that apply		
<input type="checkbox"/> Retain the regulation in current form.		
<input type="checkbox"/> New regulation (Please provide statutory cite requiring regulation):		
<input type="checkbox"/> Emergency regulation (Please indicate the date regulation must be adopted):		
<input checked="" type="checkbox"/> Amended regulation		
<input type="checkbox"/> Technical correction		
<input type="checkbox"/> Other Explain:		

Summary of Proposed Action
Please describe the purpose of the regulation:
Amend the regulation to incorporate the hearing process in 205 CMR 101; Add language allowing the Commission to revoke, limit, condition, suspend or fine a gaming licensee for knowingly violating 205 CMR 152.
Nature of and Reason for the Proposed Action
Action requested by staff to clarify the regulation

Regulation Review Checklist

Additional Comments or Issues Not Earlier Addressed by this Review	
None	
Required Attachments	
✓ Please check all that apply	
<input checked="" type="checkbox"/> Redlined version of proposed amendment to regulation, including repeals	<input type="checkbox"/> Clean copy of the regulation if it is a new chapter or if there is a recommendation to retain as is
<input type="checkbox"/> Text of statute or other legal basis for regulation	
<input type="checkbox"/> Small Business Impact Statement (SBIS)	<input checked="" type="checkbox"/> Amended SBIS



Legal Division

AMENDED SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this Amended Small Business Impact Statement in accordance with [G.L. c.30A, §5](#) relative to the proposed amendments to [205 CMR 152.00: Individuals Excluded from a Gaming Establishment](#); notice of which was filed on this day with the Secretary of the Commonwealth. This regulation was developed as part of the process of promulgating regulations governing the operation of gaming establishments in the Commonwealth and is primarily governed by [G.L. c. 23K](#) §§ 4(28), 5, and 45. The amendments contained therein are general updates and clarifications to Involuntary Exclusion provisions to ensure effective application.

These amendments apply solely to individuals who may be subject to exclusion from casinos in Massachusetts. Therefore, it is unlikely that they will impact any small businesses.

In accordance with G.L. c.30A, §5, the Commission offers the following responses on whether any of the following methods of reducing the impact of the proposed regulation on small businesses would hinder achievement of the purpose of the proposed regulation:

1. Establishing less stringent compliance or reporting requirements for small businesses:

As a general matter, no small businesses are impacted by this regulation or the amendments therein. Accordingly, there are no less stringent compliance or reporting requirements for small businesses.

2. Establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses:

There are no schedules or deadlines for compliance or reporting requirements for small businesses imposed by this regulation.

3. Consolidating or simplifying compliance or reporting requirements for small businesses:

There are no compliance or reporting requirements for small businesses imposed by this regulation.



Massachusetts Gaming Commission

4. Establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation:

These amendments not implicate a design or operational standard for small businesses.

5. An analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

As these amendments are directed at licensees and individuals, it is unlikely that they will deter or encourage the formation of new businesses in the Commonwealth.

6. Minimizing adverse impact on small businesses by using alternative regulatory methods:

These amendments are not likely to create any adverse impact on small businesses.

Massachusetts Gaming Commission

By:

Shara Bedard

Paralegal

Dated: _____



Massachusetts Gaming Commission

205 CMR: MASSACHUSETTS GAMING COMMISSION
205 CMR 152.00: INDIVIDUALS EXCLUDED FROM A GAMING ESTABLISHMENT

152.04: Investigation and Initial Placement of Names on the List

(1) The Bureau shall investigate any individual who may meet one or more criterion for inclusion on the list in accordance with 205 CMR 152.03 upon referral by the commission, the Gaming Enforcement Division of the Office of the Attorney General, or a gaming licensee. The Bureau may investigate any individual on its own initiative.

(2) If, upon completion of an investigation, the Bureau determines to place an individual on the exclusion list, the Bureau shall prepare an order that identifies the individual and sets forth a factual basis as to why the individual meets one or more criterion for inclusion on the list in accordance with 205 CMR 152.03.

(3) The Bureau shall serve the order prepared in accordance with 205 CMR 152.04(2) upon the named individual advising them that it intends to place the individual's name on the exclusion list. The order shall also notify the individual that placement of their name on the exclusion list will result in their prohibition from being present in a gaming establishment and shall offer them an opportunity to request a hearing before a hearing officer to review the Bureau's order. The order shall be sent by registered or certified mail return receipt requested or by publication in a daily newspaper of general circulation for one week. The individual shall have 30 days from the date of the service of the order to request a hearing, except for notice provided by publication in a newspaper in which case the individual shall have 60 days from the last publication. Alternatively, the Bureau may provide an individual with in hand service of the ~~preliminary~~ order in which case the individual shall have ten days from the date of service to request a hearing.

(4) If a request for a hearing is received from the individual, a hearing shall be scheduled before a hearing officer **in accordance with 205 CMR 101** and notice of such, including the date, time, and issue to be presented, shall be sent to the individual. The hearing shall be conducted in accordance with 205 CMR 101.02: ~~Orders Issued by the Bureau or the Racing Division~~ ***Review of Orders or Civil Administrative Penalties/Forfeitures Issued by the Bureau, Commission Staff, or the Racing Division***. ~~If the hearing officer finds that the individual meets one or more criterion for inclusion on the list in accordance with 205 CMR 152.03 the individual's name shall be placed on the exclusion list. If the hearing officer finds that the individual does not meet any criterion for inclusion on the list, the individual's name shall not be placed on the list and the matter closed.~~ (5) ~~If no request for a hearing is received within the applicable timeline provided in 205 CMR~~

(5) If no request for a hearing is received within the applicable timeline provided in 205 CMR 152.04(3), the individual's name shall be placed on the exclusion list.

(6) In accordance with 205 CMR 101, a decision of the hearing officer may be appealed to the commission. A request for appeal to the commission shall not operate as a stay of the decision of the hearing officer.

152.06: Duty of Gaming Licensee

(6) The commission may revoke, limit, condition, suspend or fine a gaming licensee if it knowingly or recklessly fails to exclude or identify or coordinate with the Massachusetts State Police Gaming Enforcement Unit to eject from its gaming establishment any individual placed by the commission on the list of excluded persons.

152.07: Petition to Remove Name from Exclusion List

(1) An individual who has been placed on the list in accordance with 205 CMR 152.00 may petition the ~~commission~~ Bureau in writing to request that their name be removed from the list. Except in extraordinary circumstances, such a petition may not be filed sooner than five years from the date an individual's name is initially placed on the list.

(2) The individual shall state, with particularity in the petition, the reason why the individual believes they no longer satisfy one or more criterion for inclusion on the list in accordance with 205 CMR 152.03. Following an investigation, the Bureau shall prepare a written determination whether to remove the individual from the list and setting forth a factual basis as to why the individual does or does not continue to satisfy one or more of the criterion for inclusion on the list.

(3) The individual shall have 30 days from the date of service of the Bureau's determination to request a hearing before the hearing officer in accordance with 205 CMR 101.00: *M.G.L. c. 23K Adjudicatory Proceedings*. The commission shall schedule a hearing on any properly filed petitions and provide written notice to the petitioner identifying the time and place of the hearing. Such a hearing shall be conducted in accordance with 205 CMR 101.00.

(4) In accordance with 205 CMR 101.00: *M.G.L. c. 23K Adjudicatory Proceedings*, a decision of a hearing officer may be appealed to the commission. Removal of an individual's name from the list shall not occur until all agency appeals have been exhausted or the time for such appeals has run.

(5) An individual who was placed on the excluded list by virtue of an order of the district court, in accordance with M.G.L. c. 23K, § 45(i), may not petition for removal in accordance with 205 CMR 152.07.