Swazey: I’d like to start out with you today about NBAC. First, can you talk about what your expectation were when you took the job? What role did you see for yourself at that time?

Meslin: Having followed all of the former bioethics commissions from the safe distance of an academic and from NIH I had my own views about what I thought a National Bioethics Commission should be about and what it should do. What was interesting to me was that this Commission had been underway for about a year or so, and with all due respect, with an incomplete and inadequate staff, had really gotten itself right into the fire with the cloning report after the Commission had started in October ‘96. In February the President wrote to Harold Shapiro and said, ‘write us a report on cloning.’ As an observer of this Commission I had both some doubts about its abilities as a group and some concerns. Irrespective of those things, this was for me one of those ideal confluences of all that I had been interested in over the last 10 or 15 years in bioethics. I had gradually been moving away from the clinical ethics world that I spent a lot of time in, in Toronto and Oxford, and the move to the NIH genome...
institute was really testing those waters, learning about grants and

administration and big science. So NBAC was the chance to test both my

interest and in hopefully my abilities in program development, program

management, national bioethics policy, and seeing whether both all that I

had learned and all that I had experienced could actually be tested. I also

was personally intrigued about whether I could pull it off. I knew that

there had been no philosopher who had been an Executive Director of a

national bioethics commission, not for the National Commission, not for

ACHRE, not for the President's Commission, the Ethics Advisory Board,

any of the commissions that we are all familiar with. So I was wondering

whether I could garner their respect and could pull off the task. To me it

was a no brainer, because quite honestly, although I enjoyed my time at the

Genome Institute for the 18 months or so that I was there in the ELSI

Program, it became clear to me after that time that I had learned as much

as I was going to and my future was not in grants administration, it was

not something that I aspired to. I went to Genome Project because of

Francis Collins; NBAC came along at exactly the right time to make a

move and see whether my own ideas about bioethics could come to pass.

Swazey:  Did you have any concerns about a philosopher doing what you are doing?

Meslin:  Sure.
Swazey: When I mentioned to Alex that you are the first philosopher in this job, he said with surprise “I hadn’t thought about that, but that’s right.”

Meslin: Well, Alex and I share a number of things, and I pointed out my being the first philosopher in this role. We were both the same age when we each began our respective careers as Executive Directors of the President’s Commission and NBAC, and sure I had concerns. I had concerns about whether this experiment in public policy construction and advice called the Commission would receive the views of a philosopher leading the staff. But those were not fatal worries because, modesty notwithstanding, the Executive Director position is leading the staff, the Commission is led by the chair, and Harold Shapiro is really one of the most phenomenal chairs that you’re going to find. His views about how the Commission functions, how it ought to function, what its goals and strategies are, are without a doubt more influential and have much greater weight. In some ways, as I mentioned in our previous conversation, I think that there may still be a group out there that would not consider me to be a philosopher, although my academic degrees are in philosophy. So I am not a classic philosopher who has come in and was seeking to impose a particular philosophic approach. Now, I say that this is almost cathartic and I know that that’s a good reason to have these conversations. I do have a particular philosophic approach, but it’s not unitary. I haven’t come in as a Utilitarian
or as a Kantian or with some other set of theoretical baggage. I think that
I'm a realist when it comes to the kind of work that a public body can do,
and my one set of concerns was whether a philosopher could manage a
public program like this. I had the usual amount of doubt but not so much
that I chose not to apply for the position. I was less concerned about
whether the Commission would accept the philosophic approach that I
had. I was more concerned as to whether the Commission would be
willing to engage in some significant philosophic discussion. I, as I said
earlier, knew from a distance that there were a lot of concerns about the
cloning report and the depth of philosophic scholarship and analysis that
went into that report. Having now been with the staff for a couple of years
I think that [the Cloning Report] is probably the best 90 day report on a
topic of this seriousness that you're going to find. Maybe if they had 180
days it would be all that better. I think, in retrospect, they have been very
open to more rigor and more depth of analysis from a philosophic
perspective; not all of that as a result of me. Quite frankly, some of it just
has to do with the fact that I became the first permanent Executive
Director. Before me there had been acting Executive Directors and acting
Deputy Executive Directors.

Swazey: Where did you come in in relation to the cloning report?
I came in after cloning. Cloning was done in July 1997 and I started here officially in February 1998. Through the courtesy of the Genome Institute and an arrangement that NBAC worked out I started to observe Commission meetings and the staff in November 1997. So this was well after cloning. The Commission had just started the two reports on research involving persons with mental disorders and the report on biological materials. Those two reports were underway and I inherited staff and I inherited those reports, so that was a real challenge.

So basically your positive expectations have been met about what a body like this could do?

I have a number of expectations; some of them have been met. One of the things that I was very intent on doing when I arrived was to increase the quality of the product, so to speak, the report itself as well as the process of deliberation. Before I arrived the Commission had a dysfunctional web site; before I arrived the Commission did not make available to the public all the information that it had available to it; before I arrived we didn’t put all of our transcripts up on the web site. I changed a number of small things that had nothing to do with being a philosopher, but just what a reasonable person coming into a public body would say and do. Many people still thought that NBAC was a NIH Commission, because it met for
the first year on the campus at NIH in Building 31. Among the first things
that I did was decide that we are not meeting on campus at NIH, because
we are not a NIH Commission. I'm trying to get our E-mail changed so it
doesn't say "NIH. GOV."; we changed the web site so it's Bioethics.
GOV. So I changed a number of things that I think that just made sense.
The web has been revised and it's going to be revised again to make it
more user friendly. We now meet in different parts of the country, in
places where people can get to. There have been other procedural things,
which is not what a philosopher would do, so I see my role as what an
Executive Director needs to do. It took me a while to realize what I had
fully inherited. It was very frustrating, but not for a minute have I really
worried whether I had made the right decision. This was the right thing
for me to do in my career at the right time, though there are lots of things I
wished I hadn't had to do or hadn't been saddled with. Alex and the
others had the luxury of coming in and being the Executive Director from
the beginning, creating the staff, creating the environment, creating the
space, working closely with staff. I had to not only inherit a new staff and
then figure out what I had, and see how many of them knew anything
about these issues -- we had a very young staff at that time -- but I also had
to catch up with the culture of the Commission. They had been working
together for a year, and yet they only had been working together on the
cloning report so that was a very odd situation. It was thrown together in
90 days and they didn’t have a public comment period. I instituted public comment periods for as many of the reports that we produced as possible.

So to get back to your original question, the expectations that I had were almost administrative expectations: get the office functioning, get the Commission moving in a direction, obviously with the support of the chair, where it would regain a certain amount of trust and confidence and respect, not only from the American public but from the academic world.

I still feel that I’m not a government bureaucrat. I will go back to a university environment when I’m done, I suspect. So I still use the academic standard of excellence in the things that the Commission does. I wanted to get the Commission producing reports, I wanted them to be efficient in the production of reports, and I wanted to develop, in a sense, a resumé that the Commission could be proud of. They had been banking on their cloning report for some time and I wanted to get them back to a place, or if they hadn’t been there, to a place, where they would be seen and be perceived as a legitimate, public policy body, that could be relied upon for comprehensive and thoughtful deliberation. I think that we’re getting there, I really do. I think that the “Capacity” report, [research involving persons with mental disorders that may affect decision making capacity] which was the first one out on the blocks after cloning, was a good first effort. It was the first report of the sort of new model, where you spend time, you get testimony, you commission a number of papers,
and you go through many drafts. There are a lot of things that we did
wrong in that report -- a lot of groups that we didn’t speak to, we angered a
lot of the research community who thought that we were being far too
negative about research. The “Biological Materials” report [research
involving human biological materials] was a much better report overall,
cover to cover, than was the Capacity Report. I think that the Stem Cell
report [Ethical Issues in Human Stem Cell research] was a better report
then was the Biological Materials Report, both with respect to the
sophistication of the argument and the ability to withstand the pressure
from the outside. That report is a really good example of the philosophic
risks that I felt the Commission was entitled to take, and certainly had
Harold Shapiro not felt that way, it wouldn’t have gone that way. He
really led the charge because that’s the report where we said it would be
difficult to justify ethically why the federal government should fund the
use of stem cells and not fund the method of obtaining them. It’s just
ethically disingenuous. That was actually a phase that Alex uttered at a
public meeting. We had people from the extreme right like Richard
Doreflinger, who represents the National Conference of Catholic Bishops,
who said to me on more then one occasion “I disagree with your
recommendations but I respect the fact that you are ethically consistent in
making them” I took that as a kind of academic compliment about what
the report was able to do.
I’m actually very proud of the Commission. It’s easy for me, you know -- I’m on staff and staff is paid to take the hits and be critical and get the work done. It’s the Commissioners, and in particular it’s Harold, who I feel most strongly about; my respect for him is just quite profound. I’m learning a lot from this University president who’s an economist, who many thought “why is he being the chair of a bioethics commission, what does he know about bioethics.” I think history will judge his selection as chair of NBAC as one of the smarter things that the White House did.

Swazey: So you’ve generally enjoyed your working relationship with the Commissioners?

Meslin: Well yes, I’m quite lucky. I have a very good access to Harold. He obviously is still in Princeton and he’s not in our offices at all. He’s extremely accessible, he is very candid, he is thoughtful, and he’s the hardest working Commissioner by far. With that I don’t mean to be disrespectful to the other Commissioners, but he reads everything, he comments on everything. He will call me on weekends and in the evenings thinking about a problem and experimenting with ideas and this is a guy who has a very busy day job. And if not for him I think that in some ways the Commission might have foundered; he has a beautiful style of chairing. But I think that we staff have a good relationship with the
Commissioners. As in any group or committee, there are some Commissioners who are very active and who are very intent on the work and there are some who are not, and this is just the nature of a public bioethics commission. They are all wonderful people, they work very hard, but as an experiment in public policy deliberation you're always challenged by who you want to fill the roster, because you're required by Executive Order to have diverse representation, versus who could I get if I wanted the best advice.

Swazey: If you could set up any model you want, from what you just said would you bring in different groups for the different subjects, or do you think that it is better to have a continuity of Commissioners?

Meslin: It's a great question. I think that my answer is a little of each. Among the things that I feel strongly about with a Commission like this is they have to have a certain amount of humility. That is to say, these are the 18 members appointed by the President whose job it is to make recommendations. There was nothing in the Charter or the Executive Order that prevents us from obtaining outside expertise when we need it. I have taken full advantage of that either through the testimony that we've solicited, through commissioned papers that we have paid for, or in any other way I can. I think there is a strong value in the culture of the
Commission so they can trust each other to make mistakes and the like.

On the other hand, at the same time, and you know this from IRBs and Ethics Committees and all the other kind, there is a risk of the culture becoming so ingrained that becomes reified. We know what X Commissioner is going to say on this issue, and it’s just a matter of when they’re going to say it. The original model of the Commission is that there was to be a staggered rotation, but it happens to have worked out that that it didn’t occur because cloning threw the whole rotational structure out of whack. And the same thing occurred with the stem cell report. We were set to expire in October 1997 but that didn’t make sense so it was extended to expire in October 1999. Then stem cells came along, another Presidential request, and we were extended again until 2001.

My dream model would allow for that the continuity of a core with the newness of rotation. I have mixed feelings about a project by project basis because the question you have to ask is, “Do you like the model of the Commission picking its topics and working through our priority sets of topics?” You know, if we have 2 years and here are the 5 things that we think are most important and we’re just going to go through them one by one, or there are 3 versions to this option or 3 options, or do we want to only respond to Presidential requests? We [staff] are tracking various things and then respond when cloning or stem cell come up, or which is the model that we have de facto adopted. It’s currently a mixed model
where we have responded to some Presidential requests, cloning and stem
cells, and we've identified projects that we want to do like capacity,
HBM, and now our international project, which has been underway for
about six months. So that mixed model makes it difficult to fully respond
to your question. Using the mixed model, I think we've got the best of all
possible roles. We got Commissioners who now have some experience
and know what it's like to be Commissioners, just as I am learning what
it's like to be an Executive Director after a couple of years. There are
Commissioners who are learning and still need to learn about what it's like
to be a Commissioner and how to act. I mean, how is it that you either
decide when it's important to raise an issue because you feel strongly about
it and when are you going to be quiet knowing the consensus is probably
acceptable but you may write a personal statement at the other end?

And as you said, it takes time plus a lot of meetings, for people to start
talking to each other instead of talking at each other out of their little
boxes of expertise.

My understanding from what Harold Shapiro has told me was that, upon
accepting the chairmanship, he had said somewhat informally to Jack
Gibbons, the President's Science Advisor at the time, 'I'm happy to do
this, but can you please promise that we have at least a year just to develop
our culture, start learning what each other is like?’ and Jack’s office said, well we can’t promise it, but sure. Then 5 month’s later Dolly is cloned. That’s what can happen to the best laid plans for developing your work. Another factor in this, Judith, is that Harold made the decision earlier on to split the Commission into subcommittees, a genetics subcommittee and a human subjects subcommittee. I think he thought that made a lot of sense and in some ways it did. When I arrived I realized, having watched Commission meetings, that it was not as useful a model, because if these subcommittees were meeting separately and then coming together in full committee, they spent an inordinate amount of their time explaining to the rest of the Commission what their subcommittee had done. So they had to go through an education process that really held them back, and I recommended to Harold and he agreed that we should disband the subcommittees. It’s not that I object to breaking up into smaller groups. Many of those models are very, very, very useful. But the structure of divide up, meet and talk, while it certainly got the smaller groups to learn what each other was like, meant the other subcommittee had no way of knowing what had been going on, and we stumbled over this on a couple of occasions in both the Capacity and the HBM report.

Swazey: Are you going to get your work done by 2001?
We're going to get done by 2001 what we're going to get done. What I have done with Harold is set up a priority setting exercise, and the Commissioners were very excited about this. We looked at the criteria that are in the Executive Order for what counts as a topic, and very quickly the Commissioners came up with a list of 7 or 8 or 9 issues, research on children, social science and behavioral research and the like. International research made its way to the top of that pile, principally because of the HIV trials in West Africa; it had been on the agenda for sometime and we kept putting it aside. What we were able to do there through a stroke of brilliance on my part...

Says he in all due modesty!

With all due modesty, but when you hear the second half of the clause you'll see why it's ridiculously immodest! I asked Ruth Macklin to come and lead the international research project. So Ruth functions as the 19th Commissioner in some ways. She has been brought in on contract, and that report is sailing along wonderfully. So it's a version of your asking should you bring in people with particular expertise, and we did that. We hired on contract one of the Nation's foremost experts on international research ethics to come in and lead the staff effort, work closely with Commissioners.
How does that play out in terms of her enormously strong, passionate philosophical convictions about universal ethical principles? It seems to be playing out quite fine, largely because everything that Ruth does is done in the open. She makes clear her views are her own, and her role as a staff person, not a Commissioner, is to present them with the materials and allow them to make their judgments about these things. In my view, because I’m very fond of Ruth as a sort of an honest broker in this, she makes clear what her views are and she does not in any way hide them. It is not a secret agenda on her part. If you choose to oppose the staff’s views, first of all the good news is you’re the Commission, you can reject all of these views that we have. At the same time, she is not injecting or immunizing or inoculating the report with all of her philosophic argumentation. This is after all a Commission Report that covers a number of issues about regulatory matters, about how the informed consent requirements work in other countries. It will of course have what we hope to be an informed discussion about the universalizability of certain ethical principals. But as in most reports, and this comes back to how I think our reports should be written, it doesn’t have to take an advocacy position on the philosophic foundation, though it will have to take a very clear position on why it is making a
recommendation. So, for example, if the Commission recommends that there ought to be prior agreements between drug companies as sponsors and those institutions in other countries, which make clear the obligations that they have to subjects after a trial -- and this is a type of recommendation that we're working on now -- Ruth may have feelings based on certain theories of justice that underscore this. The Commissioners don't have to buy lock, stock and barrel her view to adopt a recommendation that they feel for other reasons might be a very useful recommendation. So to me it's very important that Commissioners know this and have read her materials. The other thing is that there is a kind of check and balance that goes on. We hear from the public, we hear public comments, we hear from the Peter Luries and the Sid Wolfs on the one hand, and we hope to be hearing from industry, the pharmaceutical companies and the biotech companies, on the other hand. The Commissioners know that the likelihood of their recommendations being implemented is directly proportionate to the reasonableness that the recommendations and the supporting justification provide, and it doesn't make a lot of sense for the Commission to appear to be a cranky or radical a group. I return to the stem cell report as an example: it went out of its way to try and craft a carefully reasoned philosophic argument that was generic enough to be appreciated by those who held different philosophic views, but specific enough to make the point that it made: it is ethically
acceptable for the Federal Government to use aborted fetal tissue and to
pay for that derivation. The Commissioners’ don’t say wishy washy
things. They didn’t say things like the New Republic said, when they said
the Commission ponderously grinds out an “on the one hand, on the other
hand paper flow, which mainly rationalizes indecision.” I’m planning on
writing a letter to the editor. In fact, the one thing that the Commission
doesn’t do is “on the one hand and on the other hand.”

Swazey: And the Commission issues fairly concise, short reports; it’s not like
picking up the Federal Register with your magnifying glass in hand.

Meslin: That’s right. So the international research report rose to the level of
priority. There are several others, and yet in the middle of this process,
when we became extended again, Neil Lane, the new Science Advisor to
the President, came to our September meeting and said that the President
would like us to return to our original agenda and focus a report on the
adequacy of the federal system for human subjects protections. What was
most enjoyable about this was there had been conversations between my
office and OSTP. This was not an out of the blue letter or announcement.
We wanted, as a matter of I would call it a wish that I had, to have the
Commission’s 5 reports to date really serve as extended case studies for
the original mandate of the Commission to look at the federal system.
Once we had on the books, established our CV’s, so to speak, those 5 reports, we would then be not only obligated to but entitled to take the step back and ask how should the system itself work, from the IRBs all the way up to the Common Rule. So that request from the White House was a welcomed request. It really will likely be the capstone report of this Commission, because what you will see on your bookshelf are 5 reports that themselves can show problems and issues in the system of human subjects research. Each of these will have recommendations, and the final report will be, “Dear Mr. President, we have looked both at specific topics and we have looked at how the system functions as a whole, from how the agencies interpret the regulations, to how IRBs are under-resourced, and the like, and here are recommendations for how to take this huge system, which is working well according to some lights, horribly according to other lights, over the next 20 years.” And that we will have done early, ahead of schedule, and under budget by 2001.

Swazey: Are you working on that now?

Yes, we’re working on that now. In the same vein as Ruth Macklin, I recruited Dr. Marjorie Spears to the Commission; she is the Deputy Associate Director for Science at the CDC. She is very well respected in the human subjects world of federal agencies. And because I think that the
biomedical model that the regs address is an outdated model, it doesn’t
accommodate social and behavioral research, it doesn’t accommodate
public health research, you need a respected scholar and scientist and
public policy person who can come in and help us make that case.
Marjorie is going to be doing that.

Swazey: It would be really nice if we could get the FDA and NIH regs congruent
under the Common Rule.

Meslin: Wouldn’t that be nice, and that’s really what the goal is. I happen to think
that these are philosophical questions, though the great mass of folks may
think that this is a matter of tinkering with the regs. I think that how you
ought to structure a federal system of human subjects protections is one of
the most profound philosophic questions that you can ask in bioethics.

Swazey: Well it’s that “ought” word that’s a big flag, as it should be.

Meslin: You know we have 17 agencies who’ve agreed to be bound by one set of
rules. Not every agency has agreed to bound by them. NBAC passed a
resolution in 1997 that all human subjects should be afforded protection in
research. It didn’t say whether it’s public or private, federally funded by
the 17 or not. My personal wish would be this is the report that NBAC
should be known for. This is the legacy report, largely because I don’t
know whether we would be re-extended yet again or whether we would be
stopped short depending on what happens on the 7th of November.

Swazey: Why do you think every commission, to say of nothing of all of the other
advisory groups etc., has focused on human experimentation over the
years? Why has human experimentation been a leitmotif?

Meslin: You know, I think there are probably 2 or 3 leitmotifs in this country.

Swazey: In this country?

Meslin: Yes. I think there are a number of reasons, and anyone who comes up
with the unified field theory for this will get the bioethics equivalent to the
Nobel Prize. Here’s what some of those things are, from my perspective.
Just to give you some snapshot ideas, one is we inherited a lot of post-
Nuremberg material, which sprinkles its way through the popular culture.
Secondly, there was the confluence of all the things that happened in the
late 1960’s, both social and cultural change and the revelations from
Beecher and Papworth and Senator Kennedy’s interest, the Tuskegee
hearings, and all of those things conspired to produce the National
Commission’s activity. I don’t think that people fully realize, though
maybe they do, how important the National Commission’s entry into the
public debate was for bioethics. Since the National Commission’s activity
with human subjects research, it became the magnet for what many
thought were most of those important issues. There are, however, a
number of other things that are a little more worrisome to me. One is that
this country doesn’t have universal health care, and in many ways, because
access to health care issues has been an area of carefully protected
lobbying and politicking by health care organizations and even the
government, it was a kind of off bounds or out of bounds bioethics’ topic
until the President’s Commission came along and did all of its important
work on securing access to health care. I’m not trying to read an “X Files”
theory into this, but in some ways human experimentation is a very
American-like topic because it includes all of the issues of risks, personal
autonomy, money and hope for cure and care that has occupied how
science policy work has gone on. That is not a insignificant factor.

Swazey: Just to interject, when the President’s Commission was discussing doing
access it was a really divisive topic, because some of the staff and some of
the Commissioners said this is not an ethical issue. I think it was Alex
who finally put his foot down and said it certainly is, but the opposition
view was this is a matter of economics etc.
Economics, exactly.

And I think that that fits into the larger issue, to me, of social justice and health care mostly having been “delisted” or deselected by bioethics, except for a handful of people like Norm Daniels and Allen Buchanan.

I think that that’s exactly right. It is the in the same way that those of us who spent time in hospitals doing clinical ethics work found fairly quickly that there was a glass ceiling, and the glass ceiling was you can’t talk about resource allocation questions. Your job is to worry about the bedside stuff or patients’ getting information, informing the nurses. I don’t want to minimize this; it is extremely important and very valuable.

But bioethics was kept at a distance in the hospital, and I guess by analogy at the public policy stage some of the fundamental questions of social justice and how it is that the nation responds to people in need are left off the agenda. The case studies are sensational -- like gene therapy deaths or the Willowbrook research -- and it’s easy for these to become lightening rods for our collective focus. We must focus on these things. They are extremely important and no one would disagree that the history of human subjects research in this country is in itself a great curriculum for teaching about bioethics.
Swazey: And a lot sexier then access to health care.

Meslin: A lot sexier.

Swazey: But you know, at the same time social justice/health care hasn’t made the bioethics Washington agenda, it hasn’t really made the scholarly academic agenda of bioethicists either, and to the extent that is fed in at all to what’s considered appropriate in the polity.

Meslin: Yes, and this is why, just going back to what we inherited, NBAC’s charter is human subjects research and genetics. Now there are perfectly benign reasons for why that’s the case. It inherited some of ACHRE’s activity, and there was some unfinished business from the President’s Commission and even the National Commission, which makes a lot of sense. There is 10 years worth of human subjects’ issues that a commission could deal with. But I do agree with you. I think that in some ways the majority of the work has compartmentalized human subjects research or human experimentation in the clinical mode. I have yet to see an excellent piece, and if there is and I’ve missed it then apologies to whoever that is, about priority setting.

Swazey: Bioethics really hasn’t gotten much into the macro level, whether it’s
access to health care or priority setting and the ethical issues in that.

Meslin: Well I'll tell you, this is among the reasons that I came to NBAC. My own view is that the next generation of bioethics scholarship absolutely must take on and join forces with public policy. Bioethics is in its adolescence right now and if it wants to do the work that it's capable of doing. I have been extremely energized by how bioethics can contribute to but has yet to fully contribute to public policy, and the evidence is all around. Look at all our best bioethics centers, and we do have a lot of good bioethics centers in this country. There are few of them that can focus all of their attention on public policy. We know who they are and they have exceptional people and talent at those places, but the field hasn’t given permission in some way to this.

Swazey: How much of it is training and competence to deal with that arena? I’m thinking partly of talking with Norm Daniels about the multi-channeled, knowledge and expertise you have to have to start working in a health system arena if you’re going to do it well.

Meslin: Of course, you know, there are different ways of doing this. I see a very important developmental phase right now for which there needs to be appropriate funding opportunities and willingness by the participants to
start to develop those core competencies. I don’t presume that you can just bring a bunch of people together and sort of say “now it’s your turn to start recommending policy.” The experience that I have with NBAC tells me that there are a lot of things that we must be able to develop competencies in before we start doing anything normative. So that developmental phase can last for a period of time. Norm is a great example, because for quite some time he has been such a respected scholar, and still is a respected scholar, but he has worked often times by himself. As he has branched out to work with Jim Sabin and others on health care systems, and the benchmarking work he’s done in Europe, it’s just been fabulous to see that. I’ve had some of the similar conversations with Allen Buchanan. You know, the Brock/Daniels/Buchanan holy trinity, so to speak, is a great national resource.

Swazey: Or the lonely threesome.

Meslin: We’re seeing evidence of that, for example, at John Hopkins with its Greenwall Fellows Program. The other thing that should not be very difficult is something the early philosophers and sociologists and anthropologists and others who went into hospitals early on learned both the hard way and the easy way -- what it meant to go into someone else’s turf. So long as there’s a healthy amount of humility here the field has far
more to offer than I think it even realizes. Because the offering can be
done at the level of institutional policy or government policy or
transnational policy. And it can certainly be offered where I think it will
likely matter most, which is bridging the so called formal health care
issues with the issues that really matter to government, domestic policy,
foreign policy, economic development, trade. Once bioethics starts to
indicate its interest in and willingness to learn about these issues then it
has a great hope of maturing to adulthood. My own interest is in those
areas. I read with great interest Jonathan Moreno’s book *Undue Risks*. As
he was writing it, I was reviewing it and it kept striking me that this is a
topic that could have been read as simply another human subjects’ story,
which is a wonderful human subject story. But I think it also is a great
example of the way that bioethics and foreign policy should be fleshed out.
But I really think that’s something that we have to learn to do. I read with
great interest Secretary Albright’s remarks at the AAAS meeting about
science and foreign policy. That’s a wonderful development. People are
critical now that she didn’t say “anything” at the meeting, you know, but
the Secretary of State came to the AAAS meeting, for goodness sakes!
When was the last time that happened? So I measure this development in
incremental steps, and it may be that international issues will be the way
that this starts to sort of bring it together; it’s not just human subjects
research. We’re finding in this international research report, for example,
that the ethical issues and experimentation are really only one part of it. There are drug pricing questions, there are issues of prior arrangements or agreements, how the International Conference on Harmonization, a big international document, is being used.

Swazey: There again, various people have said to me for a number of years now, what is there in the bioethics literature about the work and roles of pharmaceutical companies, and drug pricing, and I say, almost nothing. Baruch Brody wrote a book. That’s it. Bioethics has sort of stepped back from some of these larger real world issues. I think you made an important point about: that to grow out of adolescence, bioethics has to get over its problems of hubris that adolescents tend to have. One area that I’ve been talking to people about, which you would know from your work in clinical bioethics, is the relatively new interest in leaping into organizational ethics. Very few people in clinical bioethics feel that they need any competency in organizations.

Swazey: That’s about it. Bioethics has sort of stepped back from some of these larger real world issues. I think you made an important point about: that to grow out of adolescence, bioethics has to get over its problems of hubris that adolescents tend to have. One area that I’ve been talking to people about, which you would know from your work in clinical bioethics, is the relatively new interest in leaping into organizational ethics. Very few people in clinical bioethics feel that they need any competency in organizations.

Meslin: It’s a perfect example, it really is. Because, you know we’ve always asked ourselves, and you asked this a long time ago, what’s the purpose of the
field anyway and what’s the competencies that are needed and who should
we be training to do what? And the field has to get out of the mode that its
job is to simply be the Housing Inspector, that it has to go in and find fault
so that it can demonstrate its knowledge, whether it’s to be critical of an
argument or whether it’s to be reform-like in a proposed regulation or
critical in a law review of some decision. The model of finding fault,
which is a very useful tool to have, will probably keep the field down or
suppressed. I am surprised at how many people feel uncomfortable at
describing best practices — at describing how people do things well and
offering an explanation, an additional explanation, sort of a valued-added
as to why things are going well.

Alex is one of the people that has written and talked at length about the
fact that bioethics has really been very focused on procedure, much like
American jurisprudence, which is why they are so compatible. It has sort
of studiously tried not to get into types of things like, best practices and
what makes best practices. Whether there’s a sense that that smacks of
making moral pronouncements that are inappropriate or...

Well, that’s another part of the lists that I was sort of rhyming off
eextemporaneously to you, and that is this discomfort that I think we have,
and I say “we” meaning both Canada and the United States, with trying to
judge either moral attitudes or behaviors or explanations in others.

Canadian bioethicists try to be a bit more polite about this than American bioethicists, but in general once you start walking down the path of morality and theology people get a little uncomfortable, and bioethics and research ethics becomes a convenient haven. Because in research ethics you don’t think about religious views very much.

Swazey: But it seems to me, say go back to your example of best practices, you can take that as the subject of your inquiry and analysis, and you conceivably can even draw on social science, heavens above!, and whatever other knowledge base you want, and tackle it and examine it and say “what are the issues involved and what makes the best practices?” Without standing with Moses’ tablets and saying “these are thy best practices.”

Meslin: This is exactly right.

Swazey: But they haven’t done that.

Meslin: Nope. Bernie Lo is one of the Commissioners who speaks about this a lot. I don’t know whether his fellow Commissioners hear him, because sometimes it may be interpreted as “let’s not be so hard on researchers, they have a tough enough time and they’re working very hard”, which is
true. But I’m not sure whether I agree entirely with the thesis that bioethics has been predominantly procedural. I think what’s happened is there’s been a kind of corpus callosum phenomenon that the vast majority of the stuff that we know we about and hear about has been procedural. But the work that is substantive, for example, Henry Richardson’s work on specified principlism, is as sophisticated as the field is right now in the critique of principlism. It doesn’t get wide airing and the reason that is doesn’t get wide airing is we don’t have a translation device. If we could only find a way to make Henry’s work, as an example, and it need not be his, accessible to those proceduralists, we might be on the road to building a field. Alex is not wrong, but personally, I couldn’t subscribe to the view that the majority of the work or even the most fundamental work is done in procedural ethics. Some of the most valuable work is being done on procedural issues and without it the rest is just commentary anyway. It’s the goal to try and get something to occur. What we have not done well is any really deep work on the ethics of the procedures themselves. How is it that a national commission, to come back to NBAC, does its work and it sends its report to the President? Someone decided early on in our life, prior to the Executive Order being signed, that we would not have the same power that the President’s Commission had to force agencies to respond to our recommendations.
Swazey: Do you know the history of that? I assume it was a political decision.

Meslin: I don’t know the history. I plan on finding out about it when I leave the Commission and want to write a bit more about it. I think that it’s an extremely important issue that public bodies like this have. It’s in the same bucket with “so how come we only have temporary bioethics commissions in this country,” when Albania has a permanent National Bioethics Commission, and Georgia has a permanent Bioethics Commission, and the Ukraine has one, and a you know, these countries also have national health care. Eventually a picture starts to emerge.

Swazey: Where do you come down on a permanent commission?

Meslin: That’s an easy one. I actually think that if you’re going to have a commission that there ought to be a permanent Commission. You can evaluate it after a period of time to see whether it’s doing the things you want it to do. But I think there are far too many almost procedural and housekeeping issues that make it hard for a temporary body to do its work. A very boring example but a very relevant one for me as Executive Director was we didn’t know whether we were going to be extended. There was a rumor of this. I have 16 staff members, some of them are single mothers with children who wanted to know whether there was
going to be paycheck after the 30th of September, and I had to say I don’t
know. The White House told us that it was a certainty, but the Executive
Order wasn’t signed until mid-September for a commission that was going
to expire on the 30th.

Swazey: That’s hardly a trivial matter.

Meslin: It’s a very important thing and it also makes it difficult for
Commissioners. Are we finishing up this report or are we going to face
extinction? We’re going to face the same thing come the November
election. And I have not been told whether there is a desire for the
Commission to be extended beyond October 2001. Obviously the sort of
simple view is if it’s a Republican Administration then the Commission
would not be extended. It’s possible that with a Republican
Administration on the day after inauguration, or the 21st of January, they
may say we’re going to get rid of all of the Federal Advisory Committees
established during the Clinton Administration. They’re entitled to do that.
So we would stop working in January. I would like to know whether it’s
going to be January or the following October. Now that Senator Bradley is
out of the race, if it’s Vice President Gore who becomes the President I
don’t know whether he would simply allow the Commission to continue
and expire like it’s supposed to, nothing is supposed to change, or whether
he would stop or start again, or establish a permanent Commission.

Swazey: It’s a lot of uncertainty.

Meslin: A lot of uncertainty. So my wish, my preference, would be that the Congress and the Executive Branch would not be so nervous about permanently establishing a National Bioethics Commission. And the Biomedical Ethics Advisory Commission, the BEAC, from the mid-'80s tells me a lot about why they’re nervous. I feel saddened about that. But after awhile, when you keep extending commissions for two years at a crunch, you sort of have a permanent commission. We’re already the longest serving bioethics commission in American history. We were established in October 1995 and I’m speaking to you now in March 2000 and the Commission is slated to go until 2001. That’s 6 years; no other bioethics commission has lasted 6 years.

Swazey: Are you surprised at all that you have not been tasked to do a quick report on gene therapy?

Meslin: I’m not surprised because I spent a lot of time in discussions with staff and others about this. It’s not that we’re not discussing it. We are, but Harold felt very strongly as did I, so that made it a clean sweep, that since the
Commission is not authorized to look at individual cases...

I don’t mean NBAC deciding to look at it, I meant a letter from the White House tasking you to a report.

It goes in two directions. We weren’t going to go out of our way and say we’d be prepared if asked, we would be prepared to do this, as we did with this human subjects oversight I’ve just described. “Dear Mr. President, if you want to ask us to do this we’re very receptive,” which is a far better strategy. We knew, however, that we would be looking at the RAC and the federal system of overseeing gene therapy, gene transfer experiments. So it was going to be discussed in some way, shape, or form. My sense, and this is only a sense because I don’t have any correspondence or even conversation to refer to, is that it’s like the bioethicist in the hospital setting who’s told by the president of the hospital “this bed closing thing is too important to let us have a bioethicists look at it.” And again, this is complete Meslin invention that the gene therapy issue is too important an issue to let a bioethics commission address it head-on. So I don’t know who is making recommendations to the White House about what NBAC can do. It’s on the public record that the day that the New York Times reported that a human cell had been fused with a cow egg, a press release was sent out by BIO asking the President to ask NBAC to write a report on
stem cells, and the day after we get a letter from the President. So there
are mechanisms quite beyond our control. I suspect that no one would be
interested in having NBAC do gene therapy. And there could be some
legitimate reasons. One is it’s happening too quickly and you don’t want
NBAC to have to write a 90-day job again. That would be unfair to the
Commission and unfair to the American public. If it took them 6-8
month’s that’s too long to keep a moratorium in place. So it’s a very
difficult...

Swazey: But we’ve had longer moratoria.

Meslin: We have. Would I object to NBAC looking at gene transfer research? No,
I wouldn’t object to it. I think the Commission could probably do
something. What we’re doing will be as valuable as writing a report on
the ethics of gene transfer experiments, and that is, in the course of
looking at the system, does the idea of having a National Panel, a quasi-
IRB with powers now, post- ‘96, is that idea still a viable idea? And we
can ask all the questions. We had the NIH, FDA and the RAC chair all
come to the last NBAC meeting. They came grudgingly but willingly, and
the reason that they came was we were not asking about Penn, we were
asking oversight questions about gene transfer experiments. What lessons
are we learning? Because we want to make a recommendations about “the
I talked to Gary Ellis today; he was at the RAC meeting yesterday. Were you there?

No I wasn’t.

Gary said one of the agenda items was, in the light of all of that has been going on, did they want to again have the authority to approve protocols, not just to review them. Only two of the commissioners wanted to have an approval role again.

Who were the two?

The chair and the consumer member.

Really, that’s interesting.

I would be interested to know why Ruth Macklin and Nancy King, for two examples, voted against an approval role.

I would only be guessing, like you would be, and it would be interesting to
hear what their reasons were. I actually think that the approval issue is a bit of a red herring in some ways. What is more relevant is the fact that they had approval and it was taken away from them, and that, in addition to all of the other non-overlapping regulatory matters of reporting adverse events, collectively contributed to this mess that we're in. It wasn't that if they were to have approval everything would have been fine. It would be far easier to have a common reporting relationship regarding adverse events, so that everyone knew what was going on. Did they have a vote about whether all adverse events should be reported to the public and if so when? That's the kind of discussion where the rubber hits the road.

Swazey: Gary was there partly because he was told that he might have to speak about adverse effects' reporting, why everything wasn't harmonized with respect to NIH and FDA. As he said to me, the simple answers is that the two sets of regs don't quite say the same thing.

Meslin: That's exactly right. And that's something that the Commission can say something about. We felt very strongly, and Harold and felt very strongly, about this lack of harmonization and the confusion that it causes. And that in and of itself is a principle that I think many of the Commission's recommendations try to adhere to. Not everything we say has to have a regulatory recommendation that flows from it. There are things that can
be done now. It is a very pragmatic approach that he adopts.

And I think that there are all sorts of other issues that NBAC could comment on. I mean, I am appalled by the stance that adverse effects are supposed to be proprietary information.

I can't believe that anyone would say that with a straight face.

I thought that was one of the most ill-thought-out public statements I've heard in a long time. But as Gary said, we've had proprietary research for a long time; what's new is hearing academic researchers say those adverse effects are proprietary information.

Yes, I know.

And Ruth Macklin went...

Just ballistic!

She was superbly scathing! How do you feel about the Belmont Revisited conference?
I have two things to say about that, in no particular order. One, is Jim Childress and Harold Shapiro and I are editing the papers into a volume, and for that reason I think the conference was a valuable. Second, it was good to see many of the principals there, especially for a sort of second generation of bioethicists seeing the principals talk about their, should we say, their memories of things.

Listening to Tom and Al with their accounts of who played what roles was pretty hilarious.

That’s where I was going to go next. It was worth the price of admission! In some ways that Tom and Al exchange was quite important and pleasing to hear because they respect each other, there’s no question about that, and when a field emerges you should be having these discussions and debates. It was in some ways also not pleasant to watch because it appeared to also have a bit of ego and ownership and “I was there and you weren’t.”

Well, Al did get a little red faced and cranky sounding.

But I guess my view is that they are certainly entitled to have their recollections and their memories. I do think, though that it was historically relevant. I remain convinced that the Belmont Report has been
an extremely seminal piece in American bioethics. And the evidence for it
is not only in the Social Science Index citations that show how often its
mentioned or how many times young and green investigators staple a copy
of it to their grant application as evidence of their compliance with ethical
principals, which I saw many times at the ELSI office. Nor even the
number of times that international documents and international guidelines
reference it. And reference it with reverence and not simply as a
descriptive “there’s a document that the United States uses.” The recent
Australian comprehensive guidelines, which go farther then any other
document beside the Canadian documents, cites Belmont within their first
3 or 4 pages. And what’s fascinating to me is how much it has made its
way out into the world without the accompanying explanatory context for
it. This was done in a particular time for a particular reason and under the
particular conditions. I’ve had phone calls from different countries in the
world, from Bioethics Commissions and Ministers of Justice. “We would
like to adopt the Belmont Report, are we allowed to do that? Can we do
that?”

Swazey: That’s fascinating.

Meslin: So to me, it’s almost as a matter of sociologic inquiry that the diffusion of
an instrument or a document can be used as a proxy for evidence of its
impact. It’s not identical to it, it’s just that somebody mentions it a bunch of times. Like these investigators who staple it but may never have read it.

Swazey: And that’s a different magnitude than another country saying can we adopt it.

Meslin: The other part of the Belmont Revisited meeting which I enjoyed a lot was the exchange between Ruth Faden, Alta Charo, Sue Sherwin, and Zeke Emanuel about community and about women.

Swazey: Before our time is up, can you talk some more about health care and social justice vis a vis bioethics?

Meslin: Nancy Jecker and I wrote a paper comparing Canada and the U.S. and their health care systems, looking at various theories of justice. It was really an experimental paper where, after going through the history of the two countries, we said it’s quite surprising because up until 1961 both countries had the same health care system. Canada didn’t have universal health care until Saskatchewan in 1961. So what happened? And then we proposed for discussion that while both enjoyed the same history of political theory and inherited the Locke-Hobbes-Hume approach, what happened in Canada was that they veered more to towards the Humian
conception of justice and the U.S. veered more towards a Lockean conception. We don’t know why that’s the case. You can’t point to an event. You could speak about the Constitution or the Bill of Rights or similar events or issues but there’s got to be something more going on, and we predicted 5 or 6 years ago that in the area of health care we would see a lot more confluence, conversions we call it, between the two systems. Because these were not bedrock foundational principles of a community-oriented moral intuition of justice in Canada, and mixing your labor with the earth and Lockean notion. They were cousins, these approaches, and there would likely be political factors that would move them towards each other. So the effort in the U.S. to try and expand health care is never going to happen to the extent that it is going to happen in Europe, and Canada’s adoption of small HMOs in places like Alberta, allowing people to pay for MRI’s and the like, is sort of proof of the principle that we were suggesting. And what that means is before too long the world’s two largest trading partners will be relatively indistinguishable except that the Canadian football league will still exist and the NFL will still exist. And yet what’s missing is a kind of radical notion of social justice that Canada probably had in the early 1960’s on the health care issue alone, health care meaning social welfare, but it did not extend uniformly across the country, and with the kind of division of economic opportunity from the Maritime so very poor and Ontario and so very rich it didn’t take long for the
Canadian federal government to say “we can’t afford to do all this.” But similarly we can ask the same question of what is likely to occur in 20 years with the European Community? Will some of the uniqueness of Denmark and England and France and Germany be washed away or melted in some way? Perhaps the Pacific Rim will be the only place there will be a different philosophical orientation to government.

Swazey: Let’s turn to religion in polity domains in bioethics. The cloning and stem cells reports considered religious views, I think for fairly obvious reasons given their subject matter, and since President Clinton specifically mentioned spiritual issues in his task order. NBAC invited a large number of religionists and moral theologians to testify. This has not always been true of all commissions and all topics, and there is a very, I think, interesting dialogue as to what you did with those religious perspectives and why it wasn’t appropriate to include them unless they were translated into secular terms. How much discussion and debate was there within the Commission, by the staff and Commissioners, about what you do with that type of input into 2 subjects that obviously have enormous religious or spiritual meaning?

Meslin: I really can only speak about stem cells because I wasn’t hear for cloning. There were two rationales, first of all, for why we did what we did. One of
those, to be very candid, was that among my responsibilities, or among my
felt responsibilities, and you could trace it back to our charter, was to
ensure that we at least understood what Congress was thinking about on
the stem cell issue. Congress meaning the staff of Congress. Soon after
the stem cell finding was announced 77 members of Congress wrote a
letter to Donna Shalala asking her to reverse the legal opinion that Harriett
Rabb [DHHS general counsel] had written that said it was permissible for
federal funds to be used for stem cell research because a stem cell wasn’t
an embryo and therefore didn’t violate the existing legislative ban. And in
discussions that I had with Congressional staff, as part of my normal
briefing, two issues came up, which I confess to you I really hadn’t been
thinking of. One of them “was so how come you don’t have any religious
folks on your Commission? Bioethics certainly touches on religious issues
and there isn’t anyone expert in that area on the Commission. Moreover,
all of all the academics with the Commission are from secular public
institutions.” So, I was asked, “what’s all that about? If you folks think
that you’ll have a hope of this report being reviewed by anyone and you
haven’t gone out of your way as Commissioners to indicate that you are
aware of and sensitive to those issues, then why bother writing the
report?” Well, I said that “the Commission is already the Commission. I
don’t know what their religions are specifically. So your comment is
helpful but it’s not useful in that we didn’t go and ask for Leo O’Donovan,
the President of Georgetown, to come simply because he wears a collar.

There probably are a variety of religious perspectives on the Commission, but I take the position that you don’t add Commissioners just for that reason.” The response was “Fine. What have you done to ensure that you have heard from people?” And I described the standard things that I’ve mentioned to you. We have public meetings, this, that and the other, we have a web site, we send out materials, we may get a paper or two commissioned. And the more I thought about it and discussed it with staff, and with principally with Jim Childress...

Swazey: And when the Congressional staff said ensure you heard from people, did they mean people with different religious perspectives?

Meslin: Yes. I’m glad you asked that. There were two versions to that description. One was “have you heard from people who have opinions about stem cell research from a religious perspective?” Meaning the academic community, that kind of perspective. Second, have you heard from or are you planning to hear from the so-called “community religious leader,” the head of a church, the head of a Synagogue? “Have you heard from the rabbis and the priests and the pastors and the folks who go to Temple or to places of worship on Saturdays or Sundays and talk about these things that they have read about in the newspaper?” And what I took away from
some of those conversations was two things. First, I myself am a
religious. My family’s background is Jewish but they were not religious. My bioethics has been very secular in my academic life. Having said that, I didn’t feel as a matter of methodology that it’s essential for every NBAC report to say “we’re now going to poll the community of X, Y or Z and find out what is going on.” It just seemed to me to be disingenuous. However, I realized that the stem cell has so many issues that have roots in American bio-politics around abortion and the beginning and ending of life that it could be very useful to us to both hear, and to be quite honest, appear to be listening to religious views. This was not a insignificant public relations opportunity, but in the best sense: not “look at us aren’t we wonderful, we invited 10 people to a meeting,” but it was sort of a damned if you do and damned if you don’t. If we don’t, on principle, then we’re setting a ridiculous precedent, and if we do invite people then of course we’ll be criticized because we didn’t invite the right people and we didn’t hear from the largest group and the like. The solution that we came up with, and I think has proven to be extremely valuable for both public relations and substantive purposes, was to convene a meeting of the Commission in round table format. All Commission meetings are usually held in a big hotel ballroom, a big squared U-shaped table, bright lights, very intimidating, witnesses come and testify to complete the U into a circle. This time I decided we were going to meet on campus at
Georgetown University in the Riggs Library around one table. The public
is there, it’s a public meeting anyway, but we would all be sitting together
in conversation. Each of the folks that we were going to invite would give
some opening remarks and then we would have a discussion, all of which
is transcribed, it’s on our web site, anyone can read those transcripts. We
didn’t know at that point, but hoped that if they gave written testimony we
could include it in the Appendix of the report. So the decision was this
was probably a good idea because we don’t want to enrage Congress for
no reason, and if they think that just the mere fact of inviting someone will
help the report be read, since we want the report to be read, that’s a good
item. So then the challenge was, so whom do we invite and what do we
ask them to do? We decided on the strategy of approaching scholars,
principally, who had thought about this issue in one way or another. We
were not in any way committed to trying to have representation from the
entire religious spectrum from A to Z. What we did, however, was go
back to the original list of the folks who testified for the Cloning Report
and then supplemented it as we felt necessary. With the following
important criteria. We did not want to appear to be inviting one person
from each religion, whatever that might have been. We wanted to invite at
least 2 and in some cases it turned out to be 3 people from several of the
major religions, in the hope that the Commissioners would hear whether
there was still within a tradition a uniformity or homogeneity of views or
whether there was heterogeneity. The hope was that if it were the case that
there was diversity across religious traditions that would be important
information. It wasn’t this positive, it didn’t prove anything, but it was
important to know so that we didn’t simply say that there’s a secular basis
for this. What we found to our surprise and pleasure was that there was
diversity within traditions as well as across them. So we had, for example,
Ed Pellegrino doing what Ed does, eloquent, forceful, principled,
conservative, virtually unwilling to compromise on the basic premise of
whether this is ethical or not, and within the same tradition Margaret
Farley from the Yale Divinity School. Eloquent, compassionate, strong
willed and demonstrated to all who were there, both by the force of her
argument as well as her references to the literature, that there is no one
single interpretation from the Catholic Church. That was a microcosm of
what we did with others. There were 11 people who participated in total.
For me it was a fabulous primer, because, for example, I was certainly
unaware of the diversity within Saudi Arabian versus Egyptian versus
Iranian Muslim traditions. My continuing feeling is that it was an
excellent decision on our part, because we were not using it as a polling
instrument. We never said we asked a bunch of religious scholars to come
and tell us what they thought – “Look at that, they told us a bunch of
things and now our report is supported by this.” We found that they came
to an agreement on a number of fundamental issues and they were in
disagreement on a number of issues. We were pleased to know that they
in some ways reflected the diversity of opinion that the secular community
also faces on this issue. There is no one view, and that more than anything
was gratifying for the Commission. Others have made use of that
summary; it’s Appendix E in the current report, and the full papers will be
published in the next month or so. The Congress made use of it, the
President made use of it. Harold Shapiro’s cover letter to the President for
the Stem Cell Report that says we considered the views of the American
public, including hearing important testimony from a number of religious
scholars. We did not pretend it to be anything other then it was. The other
important feeling that I had was that the physical geography of the room
was extremely important; we hope to repeat it. People were speaking with
each other, not at each other and those who were in attendance thought
that it was a pretty special meeting. The Commissioners who were there
thought that it was very valuable and kept referring to it. It had far more
impact then it deserved, in a sense.

Swazey: Should or can those perspectives enter into possible deliberations and
recommendations of a body like NBAC, other then saying “we listened to
them here they are.”? Because there certainly is not homogeneity in the
secular arena.
Meslin: Right.

Swazey: I think that it’s Courtney Campbell in some of his papers on cloning who makes the point that sometimes there’s the false impression that there is homogeneity in the secular dialogue, and policy groups have said “we can’t listen to religious voices because they’re...

Meslin: Because they are too scattered. I think the model that we used with stem cells was an appropriate model and could be repeated as many times as was necessary. I don’t think that it would be instructive for a public bioethics commission to constantly go to the well and say “let’s go back to get a bunch of religious leaders around here and have a special meeting.” I think that would be disrespectful to them, it would be using them for a purpose. I actually think that the methodology and the research question should drive the participation and the input that you get. Nothing prevents religious input, as the President’s Commission found, when the National Conference and a bunch of those folks wrote to President Carter and then later to President Regan and said “we’re opposed to X, Y and Z.” We’re happy to have that. Richard Doerflinger from the National Conference testified at many of our meetings and they wrote to us on many occasions and it’s part of a public record.
Swazey: When you do your deeper analysis, though, of why you’re making certain recommendations is it legitimate to drawn on, say, a moral theological perspective as opposed to a secular philosophical perspective?

Meslin: My bias would be that since this is an advisory commission that is structured around an academic model, it conducts research and it writes reports in a particular language, and is also a public body that must be seen to be doing its work, that the most appropriate way of conducting that deeper analysis is to ask religious scholars like Laurie Zoloth or Elliot Dorff to prepare the kind of material that explains what those views are and provides argumentation for it. To hear that people oppose something because it is contravenes scripture or God’s will is information, it’s almost empirical information, that has to be handled very delicately. I wonder whether the use of that would sort of come back to haunt a Commission if it was in the business of always, in a sense, going to a moral theologian and saying “We need a deep analysis from you and then we’re going to match it up against the secular analysis and somebody’s going to do a meta analysis and find out which is the better of the 2 arguments.”

Swazey: I’m not sure, you know, anyone would say “always do, that,” certainly Jim Gustafson wouldn’t but again, partly contingent on the topic is there, is there a place, and I think cloning and stem cell research would be obvious
ones.

Meslin: Yes, and we didn’t see a need for it in the Biological Materials Report because we went out of our way to say we’re not talking about fetuses or embryos, we were actually talking about bone and skin and blood. That’s not to say that there aren’t views about these things. Moreover, and you may have been going in this direction, we thought about but did not get a chance to invite and include -- we did it in another report on biological materials -- the perspectives from other cultural groups who have strong moral feelings but wouldn’t identify themselves as being religious. For example, we had a presentation in Portland from Native Americans on the body as property and what you do with pieces of the body....

Swazey: Those are very important dimensions.

Meslin: Those are. You might want to call it cultural, but even the nomenclature doesn’t work very well because the Commission has to in some ways resist the temptation to make sure that it’s doing a lot of listening to everyone at the expense of deliberating. On the other hand, a Commission that just simply deliberates without listening is a bunch of folks who are just sitting in a room. So I do think there is a proper role. It would likely be dependent on the topic and the most useful way, having watched the
Commission go though several reports, is both though testimony that
describes the moral point of view on these issues and can be supported in
language or text that can be prepared.

Swazey: It’s not a easy question, how to handle these topics in a polity framework.

Meslin: No. Now one thing that Gil Meilander said at this meeting, which was
really powerful and just so valuable, and it also fall in the category of “you
don’t have to be a scholar in moral theology to say this, was “don’t mix
around with words.” For instance, “don’t be talking about derivation of
fetal stem cells; be honest in the words that you use. I may disagree with
your recommendations but I don’t want to think that you are covering up
the true moral issues with sort of a sophisticated ethics argument when in
fact you don’t have to have sophisticated ethics argument behind you to
have a view on the moral status of the embryo.” It was such a powerful
reminder. Now, would the secular person have had the ability to say that?

Probably, but they didn’t. You know, when Ed Pellegrino speaks, he’s
speaking with all the force of the former President of Catholic University.

When Rabbi Elliott Dorff is speaking, even as opposed to Professor Laurie
Zoloff, there is a different impression, and when Rabbi Moshe Tendler,
who’s older and grayer is speaking, yet again a difference.
Swazey: I think on that note, though I could go for another several hours, I have to
get out of here for my next meeting. Many thanks, once again.

END OF INTERVIEW