COMMISSION ON THE REVIEW OF THE NATIONAL POLICY TOWARD GAMBLING
PUBLIC HEARING, PHILADELPHIA, PENNSYLVANIA,
MAY 28, 1975

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PUBLIC HEARING

3306 William J. Green Federal Building
Philadelphia, Pennsylvania

May 28, 1975
9:30 a.m.

SENATOR HUGH SCOTT
CHARLES J. HORIN, ESQ., CHAIRMAN
ETHEL D. ALLEN, M.D.
JAMES M. COLEMAN, JR., ESQ.
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Members of the Commission

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MR. MORIN: The hearing will please come to order.

This is the second in a series of regional hearings to be conducted by the Commission on The Review Of The National Policy Toward Gambling. Our first regional hearing was in Boston, Massachusetts. This, of course, is in Philadelphia. We will generally consider the topic of law enforcement in a gambling context. I am Mr. Charles Morin, chairman of the Commission. With us today are Senator Hugh Scott, Doctor Ethel Allen, Mr. Joseph Gimma, and Mr. James Coleman.

It is with a great deal of pleasure that as chairman of the Commission I greet Senator Scott to these hearings, and I have asked him if he would accept the chair for the hearings, and he has consented to do so. I now turn the chairmanship of this meeting over to Senator Hugh Scott.

SENATOR SCOTT: Thank you very much, Commissioner.

I will make an opening statement. We will try to hear some of the witnesses, and around 11:30, I will turn the chair over to Doctor Ethel Allen, if that's all right with you, sir, and we will continue from there.
Ladies and gentlemen, we seem to be pre-
cluded, like some television programs, by the big
event of the day, which many people thought might
have been a gamble, too, and that was the victory
of the Flyers. I think it ought to be entered in
the record that this is the day we are meeting,
so that the attention to the Commission On Gambling
will be subsidiary, I suspect, to the somewhat
larger expression of exuberance to be heard in
every corner of the City.

I would like at this time to welcome those
present to this second hearing of the Commission On
The Review Of The National Policy Toward Gambling.

The Gambling Commission was established
by Congress in 1970 to study gambling laws and prac-
tices in the United States. It was also mandated
to make recommendations that will enable the States,
as well as the Federal Government, to formulate
sound gambling policy. These recommendations will
be contained in the Commission's final report, ex-
pected to be issued in October of 1976. The Com-
mission has just published it's First Interim Re-
port, which describes the many gambling issues that
are now being studied as part of the Commission's
comprehensive research efforts.
In the early 1960's legal gambling began to reemerge as a potential source of untapped revenue for ailing State and local governments. Along with its reemergence came the reopening of many old arguments for and against gambling. And dozens of unanswered questions. Among these are:

What is the connection between gambling and organized crime?

How does legal gambling affect law enforcement efforts against the illegal operators?

Should gambling be legalized for revenue protection or to compete with illegal games?

Are these two goals compatible?

To attempt to answer these questions, the Commission has engaged in a fact-finding process consistent with the mandate given us by the United States Congress. The Commission has approached this task pragmatically, and under the leadership of the Chairman that was kind enough to introduce me, over the past year we have developed information through hearings in Washington, D.C. Last month in Boston, Massachusetts, where we began that phase of our inquiry which will take us to different areas of the United States, so that we may benefit from the perspective of well-informed
individuals who have an acute awareness of the nature of gambling in the various parts of the country.

Paradoxically, gambling is both accepted and condemned in America today. Some forms of gambling are sanctioned by various state governments and others are condemned. The States — hard pressed for additional revenue — have gradually adopted a more liberal attitude toward gambling because they recognize its revenue-producing potential. At the same time, however, laws remain on the books — in many cases enforced only minimally — that prohibit most types of gambling, principally casinos, sports betting, and numbers.

I may interject here that as one who a number of years ago tried thousands of cases involving gambling, the general permissive attitude of the community has shown really very little change as regards enforcement and punishment.

We understand that there is quite a story to tell about that here in the Philadelphia area, and we are anxious to hear it. We were also told that illegal gambling is, in the final analysis, a state and local problem which ultimately can only be resolved by state and local authorities. It is therefore essential that we learn the details of
your efforts to deal with this problem, since this
Commission has the responsibility of providing --
to Congress -- recommendations as to how our ex-
isting patterns of the laws might be changed to
improve their effectiveness against illegal gambling.

The Commonwealth of Pennsylvania has two
forms of legalized wagering -- the lottery and pari-mutuel horseracing.

The first lottery drawing in Pennsylvania
was held on March 15, 1973. Over the past two fis-
cal years, the Pennsylvania lottery has grossed
$260 million and earned approximately $119 million
in net revenue. These proceeds are devoted entirely
to assisting senior citizens of the State. Speci-
fically, the profits are employed to provide pro-
PERTY tax assistance, rent assistance, and free
urban mass transit service for the elderly. For
example, for the property tax year of 1973 approx-
imately 388,000 senior citizens of Pennsylvania
received about $53 million in property tax and/or
rent refunds. For this same period the Pennsylvania
lottery each week made possible over one million
free urban mass transit rides for all senior citi-
zens 65 years or older. Well over 80 percent of
the population of Pennsylvania agree that a public
lottery is a good means of raising funds for public benefit.

Pari-mutuel racing in the Commonwealth provided over 28 million in revenue to the State in 1974 and a slightly lesser amount in 1973, derived over a period of approximately 900 racing days each year.

Today, gambling profits represent -- on the average -- 2 or 3 percent of the annual State-level revenue in States where one or more forms of gambling are legal. Opponents of legalized gambling usually argue that these small additions to state revenue could be raised more efficiently in a form of honest, nonregressive taxation that does not disguise itself as a game. But supporters counter that although the percentages may be small, they represent real money used for the public good and are generated through contributions that are entirely voluntary.

On the other side of the revenue issue is law enforcement. Undisturbed by the expanding legal gambling market is a flourishing illegal gambling trade that law enforcement officials, prosecutors, judges, and the public are either unable or unwilling to eradicate. We find in this country today a
climat of benign prohibition of gambling. What
does this mean? It means that official restraints
impose only minimal burdens on gambling operators
and even fewer on the wagering public. Benign pro-
hibition translates into benign law enforcement.

Most police departments don't have the
manpower, time, or money to conduct thorough gam-
bling investigations. Many feel that gambling is
a low priority offense in comparison to crimes like
robbery, assault, burglary, rape, and murder. Gam-
bling-related corruption is widespread among local
law enforcement personnel, and this, too, substantially
weakens the enforcement effort.

It is widely believed that gambling is
the largest source of revenue for organized crime,
and that a certain -- perhaps significant -- amount
of the gambling proceeds are used by organized
crime to finance other, more socially harmful oper-
ations, such as loansharking, narcotics, and the
Corruption of public officials. The Justice Depart-
ment has estimated that the percentage of illega-
gambling controlled by organized crime ranges from
2 percent in the Southwest to 55.4 percent in the
Northeast, and is approximately 41.8 percent for
the Nation as a whole.
The connection between gambling and organized crime has been highly publicized in literature, film, and through the efforts of various investigative bodies, including the Kefauver Committee in 1951, the McClellan Committee in 1962, and the Pennsylvania Crime Commission in 1970. But the revelations produced as a result of these and other investigations have not weakened the trend toward legalization of gambling in the States, a trend based primarily on revenue considerations rather than the possible effects on organized crime. The response on the Federal level, by contrast, has been to intensify the attack on organized crime. The Justice Department is attempting to combat organized crime by depriving it of its gambling revenue. Thus, the campaign against organized crime is in large measure a campaign against illegal gambling. In addition to a number of Federal antigambling statutes, the Government has in its arsenal of weapons wiretap authority, witness immunity laws, and 17 strike forces consisting of high-level representatives from Federal investigative agencies.

Statistics are not available at this time on the percentage of illegal gambling reached through the combined efforts of Federal, State, and local
governments, but considering current estimates of
the amount of money wagered illegally each year --
as much as $39 billion according to the Justice
Department -- that percentage would seem to be
considerably lower than is needed to make the haz-
ards of a gambling profession outweigh the advantage.
The problem takes on even greater significance in
view of the trend toward legalization and the po-
tential it creates for a greatly expanded gambling
market.

The issues of increased legalization give rise to several questions:

If an attempt were made to eliminate
illegal gambling through legalization, should the
legal games be run by private operators licensed
by the government, or should the government operate
the games?

Is there any way to insure that the legal
games would be truly competitive with the illegal
ones?

Can the legal games be kept honest?

If governments want to prevent illegal
gamblers from exploiting the market of new gamblers
created by the current legal games, will they be
able to produce the money, manpower, legislation,
and the know-how necessary to accomplish the task?

We cannot answer these questions yet because we don't have enough reliable information about many complex issues surrounding all facets of gambling. Lacking hard facts and practical experience on which to base our arguments, many of us who debate gambling issues are forced to rely heavily on theories, guesswork, estimates, intuition, and emotion.

On the question of legalization, both advocates and opponents can present logical and plausible arguments to support their positions. Both sides may appear to be right, thereby adding to the confusion and further delaying affirmative action in one direction or another. If those of us who know the most about the subject cannot reach a consensus, the public can hardly be expected to do so. This is why no real gambling policy exists in any state, and why there is danger that everything bad about gambling today -- the corruption it produces and its link to organized crime -- may become even worse tomorrow. Legalized gambling may or may not be the answer to revenue problems or to law enforcement problems, but the time has now come to take a long, careful look at the issues.
The witnesses who are presenting testimony at this hearing may have a particular position that they urge the Commission to adopt. The questions that are posed by the members and staff of this Commission do not indicate a predisposition about the subject. As we are in a position where we must ascertain the arguments in opposition to and in favor of legalization of various forms of gambling, our questions, while they may appear at times to be pointed, are designed to test the factual basis of statements made by a witness. I ask, therefore, that you appreciate the purpose of the questioning and not draw conclusions as to a predisposition on the part of the questioner.

I may say that we have a number of witnesses at the hearing slated for today and tomorrow. I would also note that we do have biographical sketches of the various witnesses scheduled to appear. They will include the president of the Philadelphia City Council, Mr. Schwartz, Mr. George Rayborn, Executive Director of the Pennsylvania Crime Commission, or their representatives, Mr. James Barger, Commissioner of the Pennsylvania State Police, Walter Phillips, Special Prosecutor. This afternoon, if possible, we will hear from Judge Glancey of the
Municipal Court, Mr. Emmett Fitzpatrick, District Attorney, Mr. John J. Finley, Jr., President of Eagle Downs Racing Association, and Doctor Mark Haller, Professor at Temple University.

We will have an additional list of witnesses tomorrow. We hope to begin with Mr. Richard Thornburgh, appropriately enough, the United States Attorney for Pittsburgh who has just been nominated by the President to be Assistant Attorney General in charge of the Criminal Division.

Under the Reorganization Act of 1947 the witnesses are not required to read all of their statement. They may do so. Many witnesses do. It is permitted that statements may be offered in the record either by the witnesses or on behalf of witnesses who cannot be present.

Is Councilman Schwartz here yet? If not, if it won't take too long to do it, I suggest that we call Mr. George Rayborn. I like to start the hearings promptly so as not to keep witnesses waiting.

I call Mr. George Rayborn, Executive Director of the Pennsylvania Crime Commission.

We are not following a procedure requiring the swearing of witnesses, Mr. Rayborn, and I understand we have your biography. You are Executive
Director of the Pennsylvania Crime Commission.

Prior to this you were on the Impeachment Inquiry Staff of the House Judiciary Committee and you were the United States attorney in Los Angeles and worked for the Public Defenders' office there. I take it you are probably a friend of my very good friend Evelle Younger, Attorney General of California.

MR. RAYBORN: I know the Attorney General.

SENIOR SCOTT: Go right ahead.

MR. RAYBORN: May it please the Commission members and staff, I would like to introduce my associates this morning, Mr. Sanford Neiman, an attorney in our Pittsburgh office, and on my right, Dave Breen, Director of Field Operations for the Pennsylvania Crime Commission. I have prepared a statement that I would like to read into the record at this time.

The Pennsylvania Crime Commission is a fact-finding agency with no prosecutorial powers. Since its creation in 1968, the Commission has conducted several investigations involving gambling and the ability of the criminal justice system in Pennsylvania to cope with this type of activity.

In 1970, the Commission received allegations that a "serious condition existed in the
Johnstown area with regard to large-scale illegal gambling operations and their relationship to local government and law enforcement. The Commission's investigators gathered information showing that a number of well-organized gambling enterprises were operating in the city. The principal ones consisted of numbers banks, sport books, football pools, treasury-balance tickets, lotteries, raked card games, and coin-operated gaming devices. The information showed that these operations were being conducted with little or no interference from local authorities, and the Commission's hearings disclosed a pattern of systematic payment of monies for official protection of these operations.

In 1973, the Commission completed investigations in Carbondale and Phoenixville. In Carbondale, the Commission found that illegal gambling on a moderate scale operated openly. Most of the gambling establishments were located on Carbondale's main streets and primarily featured regularly conducted card games. The testimony of the people who ran these games, the players in the games, and virtually every police officer, was that they were aware that the games existed and that they had gone on for a substantial period of time without interruption.
In fact, the testimony established that the former Chief of Police himself frequented illegal card games at ten different specific locations. However, no direct evidence was uncovered in Carbondale that members of the police department received systematic cash payments from gamblers for protection of the gambling operations.

In the Phoenixville investigation, the Commission received testimony describing Phoenixville as a gambling town. The Commission found official tolerance of widespread gambling. The Phoenixville gamblers were so casual about the police that, according to the testimony of one police officer, a police officer was able to walk in the front door of the major gambling establishment and to enter the back room where a number of persons were gambling. The Commission discovered that police officials were apathetic toward gambling and that there was little police action to discourage gambling. There was substantial evidence that the failure of the police to take action against the gambling could be explained by the fact that the law enforcement officials profited by the existence of this gambling through protective payments. The Commission received testimony that the Chief of
Police and the Mayor received protection payments from gamblers. Other members of the police force received lesser payments.

In 1974, the Commission published the results of an eighteen month investigation into corruption in the police department of the City of Philadelphia. During this investigation, Commission agents found open and flagrant gambling in every area of the city. Gamblers plied their trade in candy stores, variety stores, grocery stores, restaurants, bars and clubs. These operations continued uninterrupted day after day with no interference from the police department. The Commission discovered that protection payments were being made to the police on a systematic basis by gamblers throughout the city. The Commission learned that the Police Department's policy regarding illegal gambling reflected the ambiguous attitude of the public-at-large toward gambling. The clear policy of the department required that a certain number of gambling arrests be made; however, the allocation of resources, both manpower and money, was inadequate to eradicate the large gambling operations which thrived in Philadelphia. Even when police officers made good arrests, it was unlikely that the gamblers
would be severely punished. A study conducted by
the Crime Commission of 1972 arrest data showed that
arrests for gambling in Philadelphia normally re-
resulted in discharge, regardless of the gambler's
position within the organization. The statistical
results of the gambling arrests were as follows:
91.6 percent of all those arrested were acquitted or
had their cases dismissed; 2.9 percent were given
probation; 4.0 percent were given light fines (never
more that $500); 1.1 percent were given suspended
sentences; and only 0.4 percent of all those arrested
were sent to jail.

In November 1974, the Commission published
its twenty-three month study of patterns of sentencing
in gambling cases in Allegheny County. This study
showed that the vast majority of persons who were
convicted of gambling offenses were never sentenced
to jail. Of 318 defendants who were found guilty in
1972, only one was sentenced to jail. During the
period June 6, 1973, to April 30, 1974, 164 defendants
were found guilty; only three of these persons were
sentenced to jail. As part of this study, the Com-
mission interviewed six judges of the Allegheny County
Court of Common Pleas. The judges were selected for
interview on the basis of their experience with
they handled more than 50% of the gambling cases finally adjudicated by the court in the period June 6, 1973, through April 30, 1974. According to the judges interviewed, the factors which most affect the sentencing decisions for gambling offenses are: (1) the judge's belief that the community does not regard gambling as the kind of offense which warrants a jail sentence or a stiff fine, unless the offender is a significant part of a crime syndicate; (2) the fact that most of the convicted gambling violators are housewives, unemployed war veterans, senior citizens, and disabled persons from the lower economic strata of society, without prior histories of violent crimes or felonies; (3) the lack of a serious, systematic law enforcement and prosecutorial effort to reach the higher echelon of organized gambling operations; and (4) a concern for allocating scarce judicial resources to the handling of offenses which are more dangerous and harmful to the community.

As a result of the Carbondale, Phoenixville and Philadelphia investigations, and the Allegheny County study, the Commission concluded that because of the cost of enforcing the gambling laws, in terms of corruption and the waste of
limited law enforcement resources, the State Legislature should re-examine the gambling problem and consider whether gambling could be more effectively dealt with through means other than the criminal laws. The Commission recommended that:

"If progress in reducing police corruption is considered a primary goal by the General Assembly, the present policy of regulating gambling through the criminal laws and the police should be re-evaluated and revised. Gambling should be regulated by the state. Fraudulent gambling practices should be criminal, and disobeying the appropriate state regulations should also be punishable. The state regulation should consist, however, primarily of taxing gambling proceeds, so that organized crime's greatest source of revenue will be significantly reduced, if not eliminated. Gambling profits should be utilized for the benefit of society as a whole. Police should not be involved in the enforcement of the state civil regulation of gambling."

Since the publication of the above-mentioned reports, the Commission has continued to investigate certain aspects of the illegal gambling business. Our preliminary information indicates that the situation has not changed. For example,
in 1973, the Commission learned that illegal gambling paraphernalia in the form of punchboards and lottery tickets was being shipped into Pennsylvania. This information was referred to the Pennsylvania State Police and in July and September, 1973, the State Police seized gambling material which would have had a street value estimated at over $500,000.

On April 15, 1975, the State Police, acting, in part, upon information furnished by Commission agents, seized 34 cases of punchboards, Lucky Seven tickets and other illegal gambling material which had been shipped into Pennsylvania. The estimated street value of those materials was $325,000.

In another investigation, Commission agents have encountered the kind of problems that have made the gambling laws inherently difficult to enforce. Commission agents received information that high-stake illegal poker games were being held at a particular establishment. The establishment was eventually raided by the local authorities. However, the authorities were thwarted in their effort to make a sudden entry into the establishment by the existence of a series of three doors. The third door was made of reinforced steel. In addition, there was an elaborate electronic buzzer system.
running from the first door to the inner room. No
evidence of illegal gambling was discovered.

Since 1970, the Commission has spent consider-
able time and money investigating and studying
the effects of illegal gambling and the ability of
the criminal justice system in Pennsylvania to cope
with this activity. Based upon our best information,
illegal gambling still exists and flourishes in
many parts of the Commonwealth. The attempts to
regulate illegal gambling through the criminal laws
have failed in the past and appear to be failing at
this time.

The present system of gambling laws pro-
vides us with the worst of all worlds: Thriving
illegal gambling operations netting organized crime
millions of dollars weekly in Pennsylvania alone;
tremendous waste of law enforcement and judicial
resources futilely attempting to enforce the laws;
and widespread corruption and an undermining of the
integrity of the police and public officials result-
ing from bribes to prevent enforcement of the laws.

At some point, society must make a judg-
ment whether it will continue incurring substantial
moral, political, and social costs or turn to alter-
native approaches to the problem. It must debate,
and then decide, whether it should react with
tighter criminal prohibitions or shift to control
through civil regulation.

The Commission does not possess the hard
data necessary to reach an unqualified conclusion
as to which of the alternatives would be most suc-
cessful in eliminating the evils caused by illegal
gambling. A number of authorities have suggested
that, of the available alternatives, it may be
that the best answer is to legalize the various
forms of gambling, tax the gambling enterprises as
normal businesses and vigorously audit the oper-
ations. If gambling is legalized, strict laws regu-
lating any gambling which operates outside the
established rules must be enacted and there must
be vigorous enforcement against v_olators.

The Commission recognizes that a recom-
mendation to legalize gambling may be unacceptable
to many concerned and knowledgeable persons. In
fairness to their position, the Commission acknow-
ledges that only infrequently have potentially ef-
efactive methods of enforcing the gambling laws been
applied. It is evident that, in many areas, dis-
trict attorneys have rarely worked closely with
local law enforcement officials in a conscientious
and determined effort to arrest and prosecute the higher echelon members of organized gambling syndicates. Probative evidence regarding particular defendants' relationships to criminal syndicates is seldom presented to the courts. In many instances, district attorneys have failed to utilize the procedure of a special grand jury to investigate organized gambling syndicates, nor have they sought grants of immunity for, and provided protection to, lower echelon criminal figures to encourage their testimony. Some federal prosecutors have effectively used these methods. It is quite possible that state and municipal prosecutors could achieve similar successes.

It would also be imperative for effective gambling enforcement that the courts responsible for hearing gambling cases adopt and apply consistent sentencing practices designed to achieve rational goals. At present, the judicial process is merely an administrative burden to illegal gambling operations.

The matter of the continued existence of large-scale illegal gambling must be brought to a conclusion. Society, principally through its legislators, must debate whether it should react
The present abysmal state of the gambling laws with tighter criminal prohibitions and law enforcement procedures, or shift to control through civil regulations. It is absolutely essential that one of these two positions be adopted. To take no action is to make a decision to accept the present conditions. The only beneficiaries of this reaction would be the gambling syndicates throughout the country. The damage to society continues to be too fundamental and too great to accept the status quo.

That concludes my prepared statement.

BY SENATOR SCOTT:

Q. Thank you, Mr. Rayborn. In your opinion has there been any evidence of a reduction of police corruption in Philadelphia since the issuance of your 1973-74 report, or do you have any information on that?

A. Senator Scott, we don't have any information on that. Since the issuance of the 1973-74 report the matters involving Philadelphia have primarily been taken over by the Special Prosecutor. The Crime Commission has not been actively involved in investigations in Philadelphia since that time.

Q. Generally speaking, in your opinion, what is the effect of gambling-related corruption on the ability of
the police department to perform its duties?

A. In the Commission studies, I believe, Senator Scott, that the effect of illegal gambling has been fairly disastrous on the ability of the police department to perform their duties.

In the study I mentioned secondly in Carbondale, we found that the police department, as far as we could tell, was not receiving payoffs for the protection of gamblers, but at the same time the police department was aware that gambling was going on and was taking no action. That trend, I think, ran through all the reports that we did, the Phoenixville report, the Philadelphia report, and all those reports. There was certainly awareness on the part of the police department of gambling, and no action was being taken.

Q. Your Commission has called on the State Legislature to reassess its policy of controlling gambling by criminal laws, really in effect not controlling it. Do you advocate the legalization of gambling? If so, what forms?

A. Well, I think what the Commission has done is taken a very limited position. The Commission has recognized and has stated in its report that, in its opinion, the present system of gambling laws is not operating. The Commission has further called on the State Legislature to study the problem and to come up with some
recommendations. The Commission, I think, has been fairly limited in its recommendation as to what the State Legislature ought to do. We have been most insistent on calling on the State Legislature to do something. We are not confident that we have the hard data to tell the State Legislature what to do.

Q. I have some familiarity with the history of wire tapping in Pennsylvania. When I was a prosecutor, it was first permitted. Then inter-statewide wiretapping was ruled out by the Court decision, and, finally, as I recall, intra-state wiretapping. I think one of them was the Novak case. Then a statute was enacted in Pennsylvania at the initiative of Sam Dash prohibiting wiretapping. So my question is: Would you recommend the enactment of a statute permitting wiretapping by law enforcement agencies in Pennsylvania?

A. Senator Scott, the report that we published in 1974 dealing with corruption in Philadelphia indicated that the police have a difficult time getting information because of the state of the wiretapping laws in the State of Pennsylvania. Since that time the Commission has not studied the problem. I don't think that on this record I can make a recommendation. Clearly the problem is made more difficult by the absence of wiretap laws.

Q. Do you think the Legislature ought to at least give
the most serious consideration to the possible legisla-
tion to permit wiretapping under controlled conditions?
A. I think if you are going to make a policy that you
are going to try to strictly enforce gambling laws, then
the Legislature should take a strong look at whether or
not wiretap laws are not one of the things that you need
to do that. I think if you do decide to enforce gambling
laws that you ought to look at the wiretap laws as being
one of the elements you might need to do that.

SENATOR SCOTT: Thank you. I am going
to move now to Doctor Ethel Allen for further
questions. Doctor Allen, as you know, is a distin-
guished member of the City Council of Philadelphia
and a member of this commission.

Would you go ahead, Doctor?

DOCTOR ALLEN: Thank you very much,

Senator Scott.

BY DOCTOR ALLEN:
A. I only have one question. I noticed in your testi-
mony where you say you recommended that it might be pos-
sible in answer to the problem to legalize gambling, and
that you recommended a tax on gambling enterprises as
normal businesses and a vigorous audit of the operations.

Why do you not recommend the alleviation of tax upon
the winnings as a possible edge on that whole system?
Doctor Allen, I don't know if the Commission considered that when it made this recommendation that you should go perhaps further to compete with illegal gambling and eliminate the taxing of winnings. Many authorities have recommended that. The Commission did not deal with that, and we have not had an occasion to deal with whether we should do that since the publication of the report that I referred to.

If it were to come up in the future, I would say you would have to consider that as to whether you wanted to do that.

DOCTOR ALLEN: Thank you very much.
Thank you, Senator.
SENATOR SCOTT: Thank you, Doctor Allen.
Chairman Morin?

BY MR. MORIN:

Q. You say that the Commission doesn't have the hard data necessary to make the recommendations. What sort of hard data do you need, in your opinion?

A. It seems to me one of the things you would want to know with hard data is what happens under the system now, where does the money go. One assumes a large portion of the money from illegal gambling now goes to organized crime. That may in fact be true.

Q. How are you going to get that data?
Very difficult. I don't know.

Did your Commission make any effort to get it?

Not as far as I know.

Do you have subpoena power?

We do have subpoena power. Yet the only hard data that the Commission has had that we published is the 1970 report on organized crime. In the 1970 report I believe we cited the figure of $240 million involved yearly in Pennsylvania in the number scheme.

What else would you need?

I think you would need more of that same kind of information, and you would need to document it.

Well, would you require data, for example, on what makes people gamble?

We didn't. I think it would be helpful if you had that kind of data.

Why the populace of Pennsylvania gambles so freely when they know it is against the law? Was there any effort made to get that sort of so-called sociological information by this Commission?

I can't answer that because I wasn't here at the time of the report. The report does not reflect -- none of the reports reflect that there was an attempt to get that kind of data.

Do the reports reflect why they would conclude
that gambling should be State regulated but that the
taxation should be primarily to tax the proceeds
and thereby drive organized crime out of its revenues?
What justification would there be for that conclusion?
A. Would you restate that? Let me see if I can un-
derstand.
Q. Perhaps, I didn't state it properly. I am quoting
from the report on page 6 of your statement, "Gambling
should be regulated by the state. The state regula-
tion should consist, however, primarily of taxing
gambling proceeds, so that organized crime's greatest
source of revenue will be significantly reduced."

Why did they conclude that taxing the
proceeds would reduce the revenues? Do you think
that organized crime is going to pay the tax?
A. I am not sure that I can answer that. Let me give
you an alternative that might have prompted that con-
clusion.

One alternative that you could consider
would be licensing individuals. If you licensed in-
dividuals, it might be that you would end up licensing
organized crime to carry on the gambling action. If you
did that, you might end up in the position that you
would simply transfer illegal organized crime gambling
to legal organized crime gambling.
Q. My question really is to the point though -- if you know or if the report shows -- if you knew why the Commission would conclude that taxing gambling proceeds would result in depriving organized crime of its greatest source of revenue. The Commission is clear that they think that organized crime is apparently going to pay the tax.

A. I am not sure. I think that the implication might be that under the illegal system organized crime gets the benefits. If you take the system and make it legal and the state operates it without any connection with organized crime, the money comes directly to the state.

Q. Why do I infer that from this quotation from the Commission?

A. I believe that was the intent of the quotation itself. I can't give you a more detailed explanation of it. I don't think there is a more detailed explanation.

MR. MORIN: I yield.

Thank you Senator.

SENIOR SCOTT: Commissioner Coleman?

MR. COLEMAN: Thank you, Senator.

BY MR. COLEMAN:

Q. Mr. Rayborn, in the recommendation that Mr. Morin just referred to which your Commission recommended, of
course, to the Legislature, there is some ifs in that, but in your statement you refer on several occasions that society must decide whether they want strict en- forcement or they want civil regulation. Which is it from your own personal standpoint? Which do you prefer? Which would you recommend, I should say, to this Com- mission? Stricter prohibition or civil regulation, despite what your Commission's recommendation may be? A. I don't know that I can make a recommendation like that. The Commission has not done that. Personally, I don't think that it would be appropriate for me as Executive Director to make a recommendation that the Commission has not made.

Q. Again going back to what we just read before, that Commission recommendation, wasn't that to the Legisla- ture, or who was that to?

A. Public reports that we presented to the Legisla- ture.

Q. Does your Commission have the right to recommend legislation? Is that one of your duties?

A. We can make reports and present them to the Legis- lature with recommendation. The Legislature may or may not act upon them or follow up on them.

Q. This recommendation says that gambling should be regulated by the states. I assume, going with that,
you mean for strict enforcement.

A That's certainly what this recommendation implies.

Q Assuming that doesn't become a fact and that gam-
bling remains illegal, most types of gambling and those
that are now legal, such as the lottery or pari-mutuel
betting, your Commission would have the right to recom-
mand certainly to the Legislature that wiretapping be
permitted in the states, wouldn't it?

A We would.

Q You have the advantage of having seen effectiveness
towards combatting illegal gambling, I think, in certain
states. There is no question it has been effective?

A In some cases, yes. If I can just explain, Mr.
Clemens, we would have the right to make a recommend-
ation as part of a case study or situation study. We
don't just make recommendations to make recommendations.
We usually make recommendations as a part of a large
study, or something of that sort. If the situation
arose where we had a case study or situation study, we
certainly could include such a recommendation as a part
of that study.

Q In the early part of your written statement you
talked about a study showing that protection money was
paid in at least two towns on a systematic basis, and I
believe one of those places was Philadelphia, but there
has been no follow-up on this. In other words, your Commission doesn't --

As a result of the report we wrote concerning the corruption in Philadelphia, a special prosecutor was appointed, and the follow-up to the report has been done by the special prosecutor.

Q. Is it your understanding that these protection payments were to avoid any type of enforcement, or was it to be token enforcement? I notice the 91 percent figure which either were acquitted or dismissed. Was that, as you understood it, part of the protection; that there would have to be some token arrests to settle the problem in court, or was it to be completely looking away?

A. I believe in the report we mentioned there would have to be some accommodation arrests. In certain cases gamblers would be informed that they were going to be arrested and they would then be arrested.

MR. COLEMAN: Thank you very much.

SENATOR SCOTT: Commissioner Gimma.

MR. GIMMA: I pass, Senator. Thank you very much.

SENATOR SCOTT: Mr. Tom Farrell for the staff.

Mr. Farrell?
BY MR. FARRELL:

Q. Would it be appropriate for a district attorney to announce a policy of informing the police not to arrest gamblers and to announce publicly that he would not prosecute gambling violators?

A. Whether or not it would be appropriate, I don't know, Mr. Farrell. I think that a district attorney could achieve the same thing by announcing publicly that gambling has a low priority, and the results would be the same. I think either of those announcements really come down to a political matter that he would have to judge whether or not he could do that politically and survive and prosper, or whatever, and I would say in a sense it would be a political question.

Q. What has been the effect of the gambling laws on the total efficiency of the law enforcement apparatus? How badly has the law enforcement system been burdened by gambling cases? Is it a big problem?

A. I am sorry, would you repeat that, Mr. Farrell?

Q. Sure. Do the number of gambling arrests put such a burden on the court system in the State of Pennsylvania that it puts a burden on the prosecutors and judges to dispose of criminal cases?

A. Mr. Neiman was one of the attorneys responsible for the Allegheny study which involved the City of
Pittsburgh and others, and I would like to refer that question to him. They dealt with that question. They talked to judges about that. I would like to refer that question to Mr. Neiman.

MR. NEIMAN: As part of the study of sentencing participants in gambling cases in Allegheny County, interviews were conducted with a number of the judges responsible for sentencing. One of the principal concerns of the Chief Judge of the Criminal Division of the Common Pleas Court was that the present criminal laws on gambling do create a great burden for the courts. One of the most significant concerns was that harsher enforcement, whereby persons would be sentenced to jail or greater fines, would be a more considerable burden on the courts. He felt this would create a demand for jury trials and would lessen the number of pleas of guilty, and would greatly tax the existing resources. Basically, he felt -- and other members of the judiciary felt -- that presently the gambling cases occupied a considerable portion of the courts' agenda and that harsher enforcement of the gambling laws would occupy even a greater proportion, and this was his concern presently. This was one of the reasons that he felt there is not a thorough
dealing with gambling cases under the present system. There is not a utilization of pre-sentence reports. There is not a conscious effort to link the persons who are arrested to the higher echelons of organized crime. He was considerably concerned with the waste of resources under the present system.

Similarly, we found that the prosecutorial officials, law enforcement officials, were also concerned that under the present system much of their resources were utilized for gambling-related cases and this was a burden on them in dealing with problems that society considered with more concern, the actual street crimes.

BY MR. FARRELL:

Q. I have one final question. Has your Commission been given sufficient funds required to fulfill its mandate? If not, what kind of money would a state have to invest to fund the kind of studies and research needed to come up with a resolution to solve some of your problems?

A. I think that we probably have sufficient funds to do the job we are mandated to do. You have to realize we are not a prosecutorial agency. When you talk about a thorough job, you might have to consider whether an
agency should be a prosecutorial agency. Recognizing that we are not, I think we probably have sufficient funds to do the research and investigation that we are mandated to do.

MR. FARRELL: Thank you very much.

BY SENATOR SCOTT.

I have one last question. I don't think either courts or juries show very much concern about gamblers because of the attitude of society, small gamblers as against syndicated or organized crime; but why don't the state courts, the state district attorneys, use the immunity features more often, as the Federal U. S. Attorneys do, the offer of immunity to the small gambler if he can give evidence leading to a raiding of a syndicate?

Senator Scott, I don't know the answer to that. This is a legal problem in Pennsylvania with using immunity statutes. Where it is now, there is a case on appeal before the Supreme Court which holds that the immunity statute is limited to persons involved in organized crime. So if a small gambler was not a member of organized crime, he might be able to, at least right now, successfully argue that the immunity statute was invalid and did not reach him. Why the district attorneys have not used it more often, however, I don't know.

SENATOR SCOTT: Any other questions?
Statement of George Rayborn  
Executive Director  
Pennsylvania Crime Commission

The Pennsylvania Crime Commission is a fact-finding agency with no prosecutorial powers. Since its creation in 1968, the Commission has conducted several investigations involving gambling and the ability of the criminal justice system in Pennsylvania to cope with this type of activity.

In 1970, the Commission received allegations that a serious condition existed in the Johnstown area with regard to large-scale illegal gambling operations and their relationship to local government and law enforcement. The Commission's investigators gathered information showing that a number of well-organized gambling enterprises were operating in the city. The principal ones consisted of numbers banks, sport books, football pools, treasury-balance tickets, lotteries, raked card games, and coin-operated gaming devices. The information showed that these operations were being conducted with little or no interference from local authorities and the Commission's hearings disclosed a pattern of systematic payment of monies for official protection of these operations.¹
In 1973, the Commission completed investigations in Carbondale and Phoenixville. In Carbondale, the Commission found that illegal gambling on a moderate scale operated openly. Most of the gambling establishments were located on Carbondale's main streets and primarily featured regularly conducted card games. The testimony of the people who ran these games, the players in the games, and virtually every police officer, was that they were aware that the games existed and that they had gone on for a substantial period of time without interruption. In fact, the testimony established that the former Chief of Police himself frequented illegal card games at ten different specific locations. However, no direct evidence was uncovered in Carbondale that members of the police department received systematic cash payments from gamblers for protection of the gambling operations.2

In the Phoenixville investigation, the Commission received testimony describing Phoenixville as a gambling town. The Commission found official tolerance of widespread gambling. The Phoenixville gamblers were so casual about the police that, according to the testimony of one police officer, a police officer was able to walk in the front door of the major gambling establishment and to enter the back room where a number of persons were gambling. The Commission discovered that police officials were apathetic toward gambling and that there
was little police action to discourage gambling. There was substantial evidence that the failure of the police to take action against the gambling could be explained by the fact that the law enforcement officials profited by the existence of this gambling through protective payments. The Commission received testimony that the Chief of Police and the Mayor received protection payments from gamblers. Other members of the police force received lesser payments. 3

In 1974, the Commission published the results of an eighteen month investigation into corruption in the police department of the City of Philadelphia. During this investigation, Commission agents found open and flagrant gambling in every area of the city. Gamblers plied their trade in candy stores, variety stores, groceries, restaurants, bars and clubs. These operations continued uninterrupted day after day with no interference from the police department. The Commission discovered that protection payments were being made to the police on a systematic basis by gamblers throughout the city. 4 The Commission learned that the Police Department's policy regarding illegal gambling reflected the ambiguous attitude of the public-at-large toward gambling. The clear policy of the department required that a certain number of gambling arrests be made; however, the allocation of resources, both manpower and money, was inadequate to eradicate the large gambling operations which thrived in Philadelphia. Even when police officers
made good arrests, it was unlikely that the gambler would be severely punished. A study conducted by the Crime Commission of 1972 arrest data showed that arrests for gambling in Philadelphia normally resulted in discharge, regardless of the gambler's position within the organization. The statistical results of the gambling arrests were as follows: 91.6% of all those arrested were acquitted or had their cases dismissed; 2.9% were given probation; 4.0% were given light fines (never more than $500); 1.1% were given suspended sentences; and only 0.4% of all those arrested were sent to jail.5

In November 1974, the Commission published its twenty-three month study of patterns of sentencing in gambling cases in Allegheny County. This study showed that the vast majority of persons who were convicted of gambling offenses were never sentenced to jail. Of 318 defendants who were found guilty in 1972, only one was sentenced to jail.6 During the period June 6, 1973, to April 30, 1974, 164 defendants were found guilty; only three of these persons were sentenced to jail.7 As part of this study, the Commission interviewed six judges of the Allegheny County Court of Common Pleas. The judges were selected for interview on the basis of their experience with gambling cases. Collectively, they handled more than 50% of the gambling cases finally adjudicated by the court in the period June 6, 1973,
through April 30, 1974. According to the judges interviewed, the factors which most affect the sentencing decisions for gambling offenses are: (1) the judge's belief that the community does not regard gambling as the kind of offense which warrants a jail sentence or a stiff fine, unless the offender is a significant part of a crime syndicate; (2) the fact that most of the convicted gambling violators are housewives, unemployed war veterans, senior citizens, and disabled persons from the lower economic strata of society, without prior histories of violent crimes or felonies; (3) the lack of a serious, systematic law enforcement and prosecutorial effort to reach the higher echelon of organized gambling operations; and (4) a concern for allocating scarce judicial resources to the handling of offenses which are more dangerous and harmful to the community. 8

As a result of the Carbondale, Phoenixville and Philadelphia investigations, and the Allegheny County study, the Commission concluded that because of the cost of enforcing the gambling laws, in terms of corruption and the waste of limited law enforcement resources, the State Legislature should re-examine the gambling problem and consider whether gambling could be more effectively dealt with through means other than the criminal laws. The Commission recommended that:
If progress in reducing police corruption is considered a primary goal by the General Assembly, the present policy of regulating gambling through the criminal laws and the police should be re-evaluated and revised. Gambling should be regulated by the state. Fraudulent gambling practices should be criminal, and disobeying the appropriate state regulations should also be punishable. The state regulation should consist, however, primarily of taxing gambling proceeds, so that organized crime's greatest source of revenue will be significantly reduced, if not eliminated. Gambling profits should be utilized for the benefit of society as a whole. Police should not be involved in the enforcement of the state civil regulation of gambling.

Since the publication of the above-mentioned reports, the Commission has continued to investigate certain aspects of the illegal gambling business. Our preliminary information indicates that the situation has not changed. For example, in 1973, the Commission learned that illegal gambling paraphernalia in the form of punchboards and lottery tickets was being shipped into Pennsylvania. This information was referred to the Pennsylvania State Police and in July and September, 1973, the State Police seized gambling material which would have had a street value estimated at over $500,000. On April 15, 1975, the State Police, acting, in part, upon information furnished by Commission agents, seized 34 cases of punchboards, Lucky Seven tickets and other illegal gambling material which had been shipped into Pennsylvania. The estimated street value of those materials was $325,000.
In another investigation, Commission agents have encountered the kind of problems that have made the gambling laws inherently difficult to enforce. Commission agents received information that high-stake illegal poker games were being held at a particular establishment. The establishment was eventually raided by the local authorities. However, the authorities were thwarted in their effort to make a sudden entry into the establishment by the existence of a series of three doors. The third door was made of reinforced steel. In addition, there was an elaborate electronic buzzer system running from the first door to the inner room. No evidence of illegal gambling was discovered.\(^\text{12}\)

Since 1970, the Commission has spent considerable time and money investigating and studying the effects of illegal gambling and the ability of the criminal justice system in Pennsylvania to cope with this activity. Based upon our best information, illegal gambling still exists and flourishes in many parts of the Commonwealth. The attempts to regulate illegal gambling through the criminal laws have failed in the past and appear to be failing at this time.

The present system of gambling laws provides us with the worst of all worlds: thriving illegal gambling operations netting organized crime millions of dollars weekly in Pennsylvania alone; tremendous waste of law enforcement and judicial
resources futilely attempting to enforce the laws; and widespread corruption and an undermining of the integrity of the police and public officials resulting from bribes to prevent enforcement of the laws.

At some point, society must make a judgment whether it will continue incurring substantial moral, political, and social costs or turn to alternative approaches to the problem. It must debate, and then decide, whether it should react with tighter criminal prohibitions or shift to control through civil regulation.

The Commission does not possess the hard data necessary to reach an unqualified conclusion as to which of the alternatives would be most successful in eliminating the evils caused by illegal gambling. A number of authorities have suggested that, of the available alternatives, it may be that the best answer is to legalize the various forms of gambling, tax the gambling enterprises as normal businesses and vigorously audit the operations. If gambling is legalized, strict laws regulating any gambling which operates outside the established rules must be enacted and there must be vigorous enforcement against violators.

The Commission recognizes that a recommendation to legalize gambling may be unacceptable to many concerned and knowledgeable persons. In fairness to their position, the Commission
acknowledges that only infrequently have potentially effective methods of enforcing the gambling laws been applied. It is evident that, in many areas, district attorneys have rarely worked closely with local law enforcement officials in a conscientious and determined effort to arrest and prosecute the higher echelon members of organized gambling syndicates. Probative evidence regarding particular defendants' relationships to criminal syndicates is seldom presented to the courts. In many instances, district attorneys have failed to utilize the procedure of a special grand jury to investigate organized gambling syndicates, nor have they sought grants of immunity for and provided protection to lower echelon criminal figures to encourage their testimony. Some federal prosecutors have effectively used these methods. It is quite possible that state and municipal prosecutors could achieve similar successes.

It would also be imperative for effective gambling enforcement that the courts responsible for hearing gambling cases adopt and apply consistent sentencing practices designed to achieve rational goals. At present, the judicial process is merely an administrative burden to illegal gambling operations.

The matter of the continued existence of large-scale illegal gambling must be brought to a conclusion. Society, principally through its legislators, must debate whether it should react to the present abysmal state of the gambling laws with tighter
criminal prohibitions and law enforcement procedures or shift to control through civil regulations. It is absolutely essential that one of these two positions be adopted. To take no action is to make a decision to accept the present conditions. The only beneficiaries of this reaction would be the gambling syndicates throughout the country. The damage to society continues to be too fundamental and too great to accept the status quo.
FOOTNOTES


5. Id. at 191-193.


7. Id. at 41.

8. Id. at 22-23.

9. Id. at 1-2, and 79-81.


(No response.)

SENATOR SCOTT: Thank you very much, Mr. Rayborn.

MR. RAYBORN: Thank you and the members of the staff.

SENATOR SCOTT: We have the president of the City Council here.

I am sorry to delay you, Councilman Schwartz, but we had started with the witness and I thought we should finish with him. We are very glad to have you here. I understand that you are appearing not only in your own behalf but on behalf of the Governor who is not able to be here. I think he has some matter pertaining to the refugee situation today, and I will have the same problems with the refugees when this meeting is over.

Would you just go ahead in your own way? Did the Governor submit any statement or simply ask you to be present?

MR. SCHWARTZ: Well, Senator Scott, good morning. Perhaps, you have a misapprehension of my presence here. I am not here representing the Governor of the Commonwealth. The Governor unfortunately could not come, and the lady to your right asked whether I couldn't fill in and tell the
Commission what my feelings are about gambling and how I see it. So I want it clearly understood that I am here as a public citizen. I am here with some background in government, having been a member of the Legislature from 1953 to 1960, and having been a member of the City Council from 1960 to the present time. I am president of the City Council so I do have some background. In addition, the City Council has conducted a very thorough study of the criminal justice system, back about two or three years ago, and had every facet of the criminal justice system in the City of Philadelphia involved in that investigation. We did attain a great degree of testimony from the various component factors of the criminal justice system.

Now, I have not prepared a text. I do have some comments that I would like to share with the Commission.

SENATOR SCOTT: We would like to have those, and we accept your statement that you appear on your own behalf based on your position and your own experience.

In that connection the Commission had hoped to ask the Governor some questions, and I am going to ask the staff to prepare for the approv-
of the Chairman of The Commission a list of questions
to be submitted to Governor Shapp since we do want
his views as to how he thinks the State lottery
laws are working, how important its contributions
have been, what limit the State should impose on
gambling operations, the procedures regarding the
awarding of racing dates, particularly the compe-
tition between New Jersey, Delaware, and Pennsylvania;
what was his rational behind the signing of an anti-
eavesdropping law, and whether he thinks Pennsyl-
vania has a serious crime problem; whether he sup-
ports the special prosecutor in his efforts to ob-
tain more funds from the State Legislature, does he
have any plans for the extension of legalized gam-
bling in its many forms, and various other questions.
I know the Governor cannot be here, but I think he
could help us if he would be willing to answer some
of these interesting and pressing questions. Thank
you, Mr. Schwartz.

MR. SCHWARTZ: Senator, I don't know
whether the Governor is with the refugees or whether
he is with the Flyers. There is an awful lot of
refugees out on the streets of Philadelphia right
now.

If I may begin, sir, first of all, I
think we all recognize, and historically, that we had lotteries in this country even before the country was formed. Now, I believe that gambling should be licensed, or, even better, should be conducted by the Government itself. When I say, "the Government", I mean either the Federal Government, State Government, or municipal government, or a combination. I think that that would be best. I think it ought to be an absolute monopoly by the Government.

Now, through an investigation by the Council we discovered that there is an inordinate cost to the City of Philadelphia by the jam-up of the courts, court system, by what mostly are numbers cases. This is the lottery game where they pay 600 to 1, where people bet 5¢, 10¢, a quarter. The number writer is on the corner, and this is a rather large operation in the City of Philadelphia. They are arrested by the police. They go through the regular system of arrest and trial, and usually are fined $25 or $50 or discharged. This does clog up our court system and prevent the crimes that are more heinous, -- rapes, robberies, burglaries, arsons, assaults, -- from coming to trial as quickly as they should. It costs an awful lot of money. You may
not believe this, but the City of Philadelphia pays for all of the court costs in the criminal courts with the exception of the judges' salaries. They are paid by the Commonwealth. Everything else is paid by the City of Philadelphia, so that it is a burden upon the City. My recollection is that that budget in the City of Philadelphia is somewhere around $40 million. In addition to which, we give them free space in our City Hall, and those in charge, all of the court employees, are paid by the City of Philadelphia. All of the supplies, the material, the equipment, anything that is used. So that it is not only a burden on the Commonwealth; it is a burden on the City of Philadelphia.

Now, we have been trying to get the Commonwealth of Pennsylvania to pick up those court costs, because in each instance it is the Commonwealth versus, Commonwealth versus, yet the burden is placed upon the taxpayers of the City of Philadelphia.

I say to you that if we legalize gambling and don't have to make these arrests, and don't have to file them through our criminal justice system, through the courts, the cost of criminal justice will drop. Justice will be speedier on the more
heinous and serious crimes that we are interested in.

In Pennsylvania we had the harness racing first, followed by the pari-mutuel, and then the horseracing, the flats, so-called, and finally the lotteries. I don't think that we have a Sodom and Gomorrah here in Pennsylvania because you have gambling, legalized gambling. I remember when I was a member of the Legislature the Reverend Forney used to be up there in every session. That was in the very beginning when we first were considering harness racing, and the proceeds were to go to the schools, by the way. I would certainly recommend to this Commission that we legalize gambling.

We have off-track betting in New York. We ought to have it here in Pennsylvania. I watched television last night, and I saw where they now have a lottery system in Ohio by television. I think that's going to sweep the country. You become an instant winner just by watching television and having the ticket in front of you. Back in the bootlegging days with the Volstead Act, they tried to prevent drinking in this country, and as a result we had more violations than anything.

SENATOR SCOTT: On the day on which the
Volstead Act was abolished, as a district attorney
I quashed about 10,000 indictments.

MR. SCHWARTZ: So I think we have to look
at that. The control by the Government to stop
something just didn't work. Of course, drinking
to a certain extent leads to crime, and we recog-
nize that, but it is the lesser of two evils, in
my humble opinion. At least we got rid of racket-
eering, got rid of illegal profiteering that was
taking place, and the same thing, I think, would
be true if you legalized gambling, legalizing it on
anything, whether it is basketball games or prize
fights, or whether it is ice hockey or baseball games,
because there is betting that takes place with book-
ies on a regular consistent basis in Philadelphia,
and I think all over this country. Some of the
biggest money is made by bets that are made through
bookmakers by telephone on baseball, football, basket-
ball games.

I think one important thing that must be
done, you must not tax the winnings, because that's
the one advantage that the government would have.
That's one danger that we have at the present time,
because it is an illegal act that is taking place,
and because it is illegal, the winner does not have
to pay a tax on it. In most instances he doesn't pay a tax on it. Now, I would like to see the proceeds go to such things as schools, senior citizens, or youth, and not go generally into the treasury of municipal or state or the Federal Government. I think it ought to be used for a specific purpose, the profits that are derived from the gambling industry which will be run by the municipality, or Commonwealth, or by the Federal Government.

That's about my statement, sir.

SENATOR SCOTT: It seems to me for a specific purpose, itemization to increase the general revenue, as such, so that there would be a gradual lowering of the return benefits to the winner and devices entered into to find more profit to the general revenue; whereas if it is clearly earmarked, it does not seem to have been the progression in states that have done it.

MR. SCHWARTZ: Senator, I would also like to say that gambling is something that's been with us since the beginning of time. This game of backgammon that's become so popular, now that game flourished way back in B.C. and A.D.

SENATOR SCOTT: Parcheesi was named for the Persians, and the dice have been found in
prehistoric locations.

MR. SCHWARTZ: Right. We have a natural
tendency, all of us, to want to gamble a little bit
on something, and I say that that should be the
future.

SENATOR SCOTT: I appreciate your testi-
mony, Mr. Schwartz, and your sharing some experiences
that I have had here, of course, in this City years
ago.

Doctor Ethel Allen, would you ask your
fellow councilman any questions?

DOCTOR ALLEN: Thank you very much, Sen-
ator. It is not very often that I get an opportuni-
ty to put the shoe on the other foot.

Mr. President and I participated in the
Council Hearings that we had relative to the criminal
justice system. One of the things that we did not
get deeply into was the sentencing procedures of
criminals who were subject to court under viola-
tions of the Penal Code.

BY DOCTOR ALLEN:

Q Do you feel that there should be specifically man-
dated sentences for gambling offenses, or do you feel the
discretion of the judge should be utilized in that
direction?
Well, I am suggesting that you would have a different kind of criminal sentencing. I am suggesting that if you legalize gambling, the type of sentencing we have now will no longer exist. You would then have a punishment of some kind for violating the law. It would be a different law. It would be a law, just like the lottery today, where somebody would try to compete with the lottery. Now, it did happen, by the way, over in New Jersey. This is very interesting. You may or may not know about this. The gambling syndicate over there came over to Pennsylvania and bought up our lottery tickets at 50 cents a piece and sold them for a dollar, and then doubled the prize that the person would get. Now, this was ingenious on their part, and, of course, they had no overhead of any kind. I don't know what would happen if one of those tickets would have won, how they would have paid off, but it did occur.

However, Doctor, I don't think we have to worry too much. I think that there would be some kind of a criminal code required for violation, just as you do for our liquor laws today in the Commonwealth, or cigarette tax. However, it wouldn't be the same as you have at the present time. I think the penalties should be very heavy, especially monetarily, and I think there should be an imprisonment. I don't think
it is going to occur, however. I think that many of
these people that are engaged, the small people engaged,
in selling these numbers would probably be hired by the
Commonwealth or by the municipalities to do the very
same thing that they are doing now, but then they would
do it legally and they would be paying taxes on their
earnings. This is true of many of those grocery stores,
mom and pop stores, who were taking numbers before, I
am sure, and today are selling lottery tickets on behalf
of the Commonwealth of Pennsylvania and conducting what
is now a legal business.

   DOCTOR ALLEN: Thank you, Mr. President.
   Thank you, Senator.
   SENATOR SCOTT: Thank you, Doctor Allen.
   Mr. Chairman?

   BY MR. MORIN:
   Q. I take it what you are advocating when you say it
should be legalized is you are talking in terms of a
state legalization procedure.
   A. Basically, I don't know whether the Federal Govern-
ment would want to get into gambling as such. I don't
know. It would basically be the State Legislature
throughout this Commonwealth. You might need some kind
of Federal Legislation or changes in your current Federal
Legislation, because you do have the requirement, as I
recall, of a $50 gambling stamp and some other things that might require changing. However, I would like to see a sharing not only by the Commonwealth but by the municipalities in the revenues.

Q. In other words, you are not suggesting something in the nature of a national lottery?

A. No, sir.

Q. Or that sort of thing?

A. No, sir.

Q. In other words, you would prefer to leave it up to the states' options?

A. Yes, sir.

MR. MORIN: Thank you.

SENATOR SCOTT: Commissioner Gimma.

BY MR. GIMMA:

Q. Mr. President, have you any data as to whether, since the inauguration of lotteries and pari-mutuel in Pennsylvania, the illegal betting has diminished any or has increased any? Do you have statistics on that?

A. No, I have no statistics, but I will suggest that it's probably lessened to some degree. Because we don't have off-track betting, you still have the bookies, and you still have the phone calls to the bookies that are placing bets on horseracing, even though you do have pari-mutuel wagers, because people will very often want
to bet and don't have time to go to the track. So that
I would certainly advocate off-track betting such as
they have in New York, or some similar system. The
numbers game is flourishing openly in Philadelphia even
though we have a lottery. These people still like the
odds of 600 to 1 and it is easy for them; they walk
right down the corner and bet their dime or quarter.

Q. I was just wondering whether the illegal betting
has diminished any, because our statistics in New York
show that, in spite of the off-track betting and in spite
of the lottery, illegal betting has increased because it
created an atmosphere and, as you say, it is easy to bet
by telephone and there is no tax on the winnings. I was
wondering what happened here in Pennsylvania.

A. I think that's the gimmick that you need, you have
to make the winnings tax free.

BY MR. MORIN:

Q. Including Federal Taxes?

A. Yes, sir.

SENATOR SCOTT: That's the reason, I think,
for the success of the British system, that winnings
are tax free. I have been there many times, and I
have seen or heard very little of any illegal bet-
ing.

A. (Continued) I agree, sir.
SENATOR SCOTT: It is so open and so much supported by society there. It is an accepted thing over there. Here you have everybody putting down a quarter or half dollar, and then if they win, they just have to find the local banker.

DOCTOR ALLEN: Not in my neighborhood.

SENATOR SCOTT: I understand about the mom and pop stores. Some of them couldn't have survived without that sort of thing, in their opinion, and if they could be persuaded, as apparently many of them have, to go into the lotteries, the selling of lottery tickets, I think it is all to the good. They were under pressure, including syndicate pressure, when they were forced to, as they saw it, write numbers.

Commissioner Coleman?

DOCTOR ALLEN: Senator, if I may?

Mr. President, Mr. Gimma is a member of the State Racing Commission of New York. Mr. Coleman is prosecuting attorney for Monmouth County, New Jersey, and Mr. Charles Morin, the chairman of our Commission, is -- what can I say about you?

MR. MORIN: Undistinguished.

DOCTOR ALLEN: He is a distinguished attorney from Washington, a member of the firm of
THE WITNESS: I don't know whether the Chairman has handled any number of cases. I happen to be an attorney -- well, I haven't practiced since I became president of City Council -- but many years ago I did represent a few defendants, so that I know just what it is like, and it is what I would term a bumpership business at best. They are very difficult cases to get convictions on, and, as Senator Scott put it so well, there is sort of a laissez faire atmosphere that pervades, everybody, the police, the judges, the court personnel. That is what is so terrible about it, what is so bad about it. As a result, you have violators who have been arrested 18, 19, 20 times and no conviction, or if they have a conviction, it was a $25 or $50 fine. The system is just clogged with this, and the paperwork is just insurmountable.

SENATOR SCOTT: It has so many evils. I speak as one who prosecuted many of those cases. The district attorney didn't believe there was very much wrong in numbers writing. The judge didn't believe it. The police, the arresting officers, didn't believe it. The jury, if there was a jury trial, didn't believe it. As a result, everybody
had to go through a charade with great cost to the county, the city, and the state, and without any lawful revenues emanating from it. There was a hypocritical charade involved, and still is in the whole business. Therefore I say it is a search for alternatives that engages us rather than suggesting any conclusions for this Commission.

Mr. Coleman?

MR. COLEMAN: Thank you, Senator.

BY MR. COLEMAN:

Q. I just have two questions, Mr. Schwartz. Would you also advocate along with the elimination of taxing on winnings that there would be a system where credit could be extended to the bettor to compete favorably with illegal operations?

A. I don't see how you could possibly do that. If you had a Government monopoly, I don't think I would be in favor of that.

Q. Isn't that one big aspect of illegal gambling, the extension of credit?

A. Well, you have Shylocking, and so forth. I assume that's what you are talking about more than extension of credit, because when they extend credit, there is usually an additional charge made in the gambling industry anyway.
Q. I have one other question. You talked about the numbers business flourishing here. You said, "flourishing."
A. Yes.
Q. Is there any question in your mind where the revenue goes?
A. It is a syndicate operation. I believe basically the number writer gets a certain percentage for all business that he does and moneys that he turns in, and then it goes right up the line.
Q. Does it in your opinion end up perhaps in organized crime?
A. I believe no.

MR. COLEMAN: Thank you very much.
SENATOR SCOTT: Ms. Marshall?
MS. MARSHALL: Thank you, Senator.

BY MS. MARSHALL:
Q. Mr. President, what is your opinion regarding the propriety of Government promotion of legal gambling such as advertising of the Pennsylvania State Lottery?
A. I think it is necessary that it be done in order that the lottery be successful, and I have no objection to it, any more than the advertising that takes place on other products that are commercially sold. I see no distinction or difference.
Q. Senator Scott earlier made reference to the English system, and that's a system which has, in a sense, regarded gambling as a vice, but nevertheless is publicly indulged, and therefore, legalization to them represented a form of control. Their system contemplates that there shall be no advertising, that there shall be no stimulation of a demand. Would you agree with that theory?
A. I think that in order to have this be successful, you have to advertise. You are not trying to eliminate it. You will never eliminate it. Perhaps, the British system is a little different because of the way it's been approached over the years. Perhaps, they don't have the syndication that we have. They don't have the crime element that we have and haven't had this kind of a problem because of their approach toward gambling over the years, and I think that it has to be promoted here. We have to let people know that they can buy a 50 cent instant lottery, for instance. I notice the lottery now has a system where, as I understand it, you buy a 50 cent lottery, and you scrape at the number, and it tells you whether you are an instant winner or not an instant winner. I have been to some of the drawings that have taken place on the original lottery, and they must be advertised, because if you get rid of the pernicious illegal activities that formerly existed, you can get away from...
advertising. However, I think at the present time in order to compete with and in order to stop the illegal activities, you must compete with it, and you must do it by advertising.

Q. Does your recommendation that gambling be legalized incorporate or contemplate licensing of operators, or do you mainly restrict it to the state?

A. I think it ought to be a monopoly operation by the Commonwealth, and the employees ought to be agents or employees of the Commonwealth or agents or employees of the municipality. I don't believe that this ought to be a licensed operation. You may be able to do it with off-track betting shops. A particular jurisdiction might decide that they would rather legalize and license that activity rather than have it operated.

We have the same problem now with State Stores, for instance, in the Commonwealth. Some jurisdictions have a monopoly such as Pennsylvania has with State Stores, and our jurisdictions have licensees that have liquor stores, so that it might be run either way or a combination of both.

MS. MARSHALL: Thank you, Mr. President.

Mr. Chairman, I have no further questions.

SENATOR SCOTT: You may remember, Mr. President, with the help of the Attorney General
we had some hearings in the judiciary of the House and the Senate. We changed laws to prevent Attorney General having to follow up on what was a very valid threat, that would move to close down certain state lotteries because of the violation of the interstate dissemination of information.

MR. SCHWARTZ: That was a real problem.

SENATOR SCOTT: We got some legislation through.

Do you have any other questions?

BY MR. GIMMA:

Q. Mr. President, don't you think that you would run into a conflict if you made winnings tax exempt with capital gains tax on capital assets?

A. I don't see why. The law is somewhat basically -- the legislature says it is, Congress says it is, and the courts say it is, so that I don't think that there would be any reason why legally you couldn't do it in one and not do it in the other. I don't think that is relevant. I don't think that one has anything to do with the other.

Q. It is a capital investment. I was just wondering if there would be a conflict.

A. I don't think of it as a capital investment. I think it is a short-term investment. We would call it something that would fit into our operating budget.
rather than our capital budget.

SENATOR SCOTT: You would have to have

an I.R.S. ruling.

MR. SCHWARTZ: You would need Federal

Legislation, no question about it.

SENATOR SCOTT: And following such ruling,

I am sure you would have to consider legislation

on it.

BY MR. MORIN:

10. Is the record clear that your recommendation or

your suggestion would include gambling on sports, as

well?

12. Yes, sir.

14. In other words, across-the-board legalization?


18. We have been very much

interested in your testimony, Mr. President, and

appreciate your coming down.

20. It has been a pleasure to

be here. Welcome to Philadelphia.

(Witness excused.)

22. Commissioner James Barger,

Commissioner Of The Pennsylvania State Police.

24. We appreciate your being here. I am sorry

for the little bit of a delay. You may just proceed
with your statement.

MR. BARGER: Honorable Senator Scott and honorable members of this Commission, I appreciate the opportunity of appearing before this Commission. I have previously forwarded the statement, but subsequent to forwarding that statement to the Commission, I received from your staff a suggested outline. Therefore, rather than dwell on the statement which you already are in possession of, I would sooner go into the areas of inquiry that were furnished to me by your staff.

MR. MORIN: Go right ahead.

MR. BARGER: The magnitude and degree of the gambling problem in Pennsylvania is aptly manifested in statistics which indicate that 34.9 percent per 100,000 population of the citizens of Pennsylvania are involved in illegal gambling operations. Of this group, 2.7 percent per 100,000 are involved in incidents of bookmaking and pool-selling, 23.1 percent per 100,000 are involved in lottery operations, and the remaining 9.1 percent per 100,000 are involved in miscellaneous forms of gambling, such as cards, dice, and others.

The types of illegal gambling experienced in the Commonwealth of Pennsylvania run the gamut...
of all popular forms: lotteries-numbers or policy racket, Treasury Balance tickets, Fifty/Fifty Club, Bingo, and vending machines which handle Fortune Tickets, et cetera ... sports betting on various sports events, i.e., football, baseball, basketball, and boxing, Casino Games -- Dice or Craps, Blackjack, Poker, Chuck-a-luck and paddlwheels, and, lastly, but certainly most important, Book-making and Poolselling -- the placing of wagers on horseraces. This last form of gambling, contrary to public belief differs quite widely from the legal forms of gambling or horseraces, and is quite complex as to forms of wagers and monetary returns.

The relationship of gambling to organized crime takes numerous forms, many of which cannot be detailed in an evidentiary manner and, therefore, can only be characterized as opinion based on "Police Expertise." The percentage of the total handle which is controlled by organized crime is extremely elusive due to the secretive and furtive manner in which this business is carried out. It can reasonably be expected that the Major Crime Figures will be insulated by several layers of underlinings who are the only ones visible to the police. Corporate structures with "Straws" in control offers another
method of insulation and, most importantly, the entire business is handled and operated over telephones which are now secure from police security.

Notwithstanding all these problems, it is estimated that 53.2 percent of the gambling in the Northeast States is controlled by organized crime. Equally important to the financial picture of organized crime is the number of persons forced into other criminal activity, e.g., loansharking — Hi-jacking, and street crimes, through their gambling losses and debts.

The problem of corruption and its connections with organized crime has always been present. The problem is one that is so complex that there is not sufficient time or space here to expound to great lengths on this aspect of gambling. Suffice it to say that the State Police have investigated corruption in its many forms with both positive and negative results. The inherent danger which I see in corruption is the subtle forms it takes which erode public confidence in governmental agencies and divides the police and the public which they serve.

The apparent weakness in present gambling statutes from the law enforcement point of view
would be inadequate penalties. It is a common statement of the gambling fraternity in arrest situations, "It is only money." Since the money referred to is so easy to acquire, its subsequent loss through the arrest process is easily accommodated. All police authorities know that the "Boss" in all gambling investigations is going to foot the bill for all legal fees, attorney fees, and fines and costs incurred by the subject arrested. The only remaining penalty he cannot accomplish for his subordinates is the jail sentence. The remedy here is obvious, appropriate and mandated jail sentences of sufficient length to prevent an immediate return to gambling activity, and the removal of a layer of insulation which will in turn bring the major offender within reach of the police.

On that subject I would like to relate to this Commission a personal situation. Back more than 20 years ago when I was a Sergeant in the Pennsylvania State Police, myself and a Sergeant of a local police department undertook a project to eliminate gambling from a western county in Pennsylvania. We worked at this for months, and we made no arrests until we had all of our evidence compiled, and through the courts, with whom we had full
cooperation, and with the district attorney we arrested every known writer, bookmaker, runner, banker in the county. They all appeared before the judge. Some stood trial. Some entered pleas of guilty. At that time in Western Pennsylvania there was an institution known as the Allegheny County Workhouse. Everyone of those convicted or who pled guilty were sentenced to a term of 6 months in the Allegheny County Workhouse, and needless to say, we stopped the racket in that particular county.

However, there is an ironic twist to that, and I think one of our most important problems in our Commonwealth, one of those we arrested and who served 6 months was a physically-handicapped gentleman who later, I learned, was back in the business again of writing numbers. I went to him and talked to him to find out why, and he said because of the business people in the various cities; they kept hammering, asking him, begging him to start running the numbers again. The business people I am talking about, not the lower class. I am talking about middle class. Then he went back and reverted to writing numbers again. We also found as a result of that investigation that the largest bookmaker in
that county, all of his largest bets came from business people, businessmen.

One of the things that I would like to state my personal opinion on is that when we are talking about legalizing gambling, whether we should or whether we shouldn't, my personal feeling is that those who place bets should be penalized, and I think if we can stop the individual businessman from placing a bet by realizing that he would also be subjected to a penalty and possibly a jail sentence, I feel that this would curtail gambling considerably.

Continuing with my prepared statement here, an apathetic public hinder police operations involving gambling through a lack of proper cooperation which is an essential ingredient to successful police operations of all types. The cooperation of the public in these instances is lacking primarily because those who possess the information are necessarily the same group who are the clientele of the gambling operators, reside in the areas wherein the gambling operations are located or are the recipients of benefits which spin off from these operations. A sizeable portion of the public is not aware of the operations and does not have the
interest or the inclination to get involved.

With regard to the resources committed to the gambling effort by law enforcement, it would appear to be adequate considering the severity of the problem, the amount of resources available, and the impact on the resources of other more critical problems. All too many times police administrators are faced with the question -- why waste time on gambling when there are rapes, robberies, burglaries, and murders being committed? This is a legitimate question and one which should be answered. The answer, in turn, lies in the proper administration of the Department's resources in accordance with the priorities of the myriad of problems confronted. Certainly the more serious felony crimes deserve attention and a greater share of the available resources, but the gambling problem cannot be neglected or disregarded, or its divisive and corrosive effect will further complicate an already intricate balance of responsibilities. The attitude of the Judiciary towards the gambling problem runs the gamut from total indifference to scrupulous attention to duty. Attitude in this instance cannot be imparted to a single answer for all individuals and situations involved. I believe
that the only proper way to assess this segment of
the problem would be to say that each and every
member of the Judiciary is obligated to set aside
all personal and political expediencies in favor of
the proper administration of the law in accordance
with the Rules Of Criminal Procedure and the proced-
dents of the Appellate Courts. There can be no
argument on the merits of who did what to whom over
what question of the law, as this results only in
a confrontation which can only serve to drive
wedges between the various segments of the judicial
system. Certainly with the context of the times
there is a need to align the system in a compli-
mentary manner so as to operate in the orderly
fashion for which it was designed, with all checks
and balances working to provide good social order.

Probation and parole practices are prac-
tically nonexistent in the area of gambling. The
usual sentence involves the payment of a fine and
the costs of prosecution. Sentences, if any, are
either suspended or not followed up by the probation
and parole staffs. This is not intended to be cri-
tical of the probation or parole personnel. They,
too, have their priorities, and available information
indicates the extent to which their caseloads
extend beyond their means. Any evaluation of the impact of probation or parole in their clientele involved in gambling situations would better come from those agencies, as the problems encountered and the information needed would be more accurate.

Corruption of law enforcement and public officials has a long history in the area of gambling, the mechanics of which are complex, to say the least, and vary from city to city, and sometimes from the various districts within a given city. I need not go into the various techniques, as these are aptly described in the various reports available, such as, the Knapp Commission Report involving New York City and the McClellan Committee Reports. I would, however, make one brief comment on what I consider to be the major concern of law enforcement administrators regarding corruption.

It has long been recognized that money paid to protect gambling operations will alternately provide sanctuary for other and more vicious criminal acts. Any police officer or public official who has a stake in preserving a corrupt gambling arrangement will also ignore other activities or gambling fraternities and locations which involve, but are not limited to, vice activities, narcotic traffic,
loansharking, labor racketeering, extortion, et
cetera, et cetera. The social costs emanating from
 gambling is enormous to say the least.

Court backlogs, I have no comment on it.
It is not a problem of major concern. Recent am-
endments to the Rules Of Criminal Procedure,
(Rule 1100) appear to be adequate at this time.

Sentences which do not deter recidivists
-- historically, arrested gamblers have been recidi-
vists of great magnitude. Previous remarks, that
is, under II-A, would be appropriate here. The
problem with recidivism arises from inadequate penal-
ties as now provided by law.

Failure of prosecutors to continue in-
vestigation after arrest, I see no problem here.
The investigative function is the prerogative of
the police. The question of whether it is pursued
is realistically demonstrated by the amount of
recidivism among gamblers. It is not uncommon at
all for gamblers to face several prosecutions during
one term of court, all involving the same or related
gambling charges. On legalized gambling, the ques-
tion of legalized gambling is not the prerogative
of the police. Therefore, the police input to an
inquiry regarding this subject would be improper
and therefore reserved for a review of police activity regarding enforcement of the illegal lottery statutes, which indicate that the state lottery has had little, if any, impact on the illegal gambling in Pennsylvania. Arrests for these type offenses occur on a daily basis, and there is no indication that the trend will decline.

Holders of out-of-state lottery tickets are not subject to prosecution as they are exempted under Section 5512, Paragraph C, which states: The purchaser of any ticket or device shall not be liable to any prosecution or penalty arising out of this crime and shall in all respects be a competent witness to prove this offense.

The areas covered in Sections C, D, and E do not encompass situations within the purview of the police and would be more properly the prerogatives of the law-making bodies of Government. Notwithstanding this position, it would be in order to say here that the police experience indicates that the legalization of gambling is no panacea for the control of gambling or the corruption that subsequently arises. When legalization occurs, the only thing that changes are the stakes. Human frailties being what they are, it is difficult to perceive
that corruption arising out of gambling, legal or illegal, will ever be controlled without proper and decisive policing. In support of this position, we only have to consider the present concern of professional sport administrators and league officials who have expressed the belief that the legalization of sports betting would increase the temptation to rig games, fix point totals, and bribe athletes.

Considering the police prerogatives, the only recommendation to be made here is consideration to increase the present penalties now imposed for violations of gambling statutes. While the present penalties might well serve for first offenders, subsequent offenses of a similar nature would be more rigidly applied and increased substantially, especially in the area of imprisonment.

That's my prepared statement, and I will be most happy to send copies of it to the staff.

SENATOR SCOTT: I wish you would, Commissioner.

BY SENATOR SCOTT:

I noticed in your original prepared statement that you speak of the frustration of the law enforcement officers because of the fact that the public does not take
gambling laws seriously and by the courts through plea bargains, low fines, and only rare jail sentences, and your recommendation, Commissioner, considers whether there ought to be a distinct separation between legal and illegal aspects of gambling to destroy the double standards existing. You are not advocating legalization of gambling per se, but you are suggesting, as I read this, drawing a distinction between what might be called social gambling and the kind of gambling which is corrupt and which in fact actually leads to corruption. Is this a fair statement of your recommendation?

A. Yes, sir. We feel this double standard is difficult for any law enforcement officer to really understand or to enforce when we say because some charitable organization is running a lottery that's not illegal, that's perfectly all right to do. On the other side, if it is controlled by organized crime, that's illegal. So the police officer does not know where he stands, and it has to be spelled out one way or another.

SENATOR SCOTT: Doctor Allen?

DOCTOR ALLEN: Thank you, Senator.

BY DOCTOR ALLEN:

Q. You say that those who place bets should be penalized as well as those who take them, and under those circum-
stances you realize that adultery and fornication are
still crimes under the laws of Pennsylvania and in most states?

A. Not in Pennsylvania, Doctor.

Q. Adultery is no longer a crime in Pennsylvania?

A. Not under the new crimes code.

Q. I haven't read the crimes code, so I stand corrected.

A lot of people would be glad to hear that, I am sure.

Under the circumstances taking into consideration your statement that those who place bets should be penalized as well as those who take them, in light of the present problem that confronts the law enforcement agencies by the complexity of dealing with gambling statutes, et cetera, I would wonder about enforcing the laws on that premise if they are not capable of enforcing them on the current premise?

A. I don't agree that we are not capable of enforcing if we had tools with which to do it. I think we are capable of enforcing. However, my position on this is that if people, our businessmen, knew there was a possibility they were going to be arrested and a stigma placed on their reputation, I think we might curtail 75 percent of the bets if they knew they were violating the law.

Q. Let me give you an example. In Philadelphia, for example, we spend approximately 2 million dollars in law enforcement. Just on our gambling vice squad, which
had to do with numbers betting, bookies, et cetera, et cetera, we had a total of approximately 4,000 arrests. Of the 4,000 arrests, we only had four convictions. If you divide four convictions into 2 million dollars, it costs us approximately a half a million dollars per conviction. Do you think that in the current light of the financial situation of the nation per se, as well as the cities, that it is beneficial to spend that kind of money on that kind of a situation?

A. Not with the statistics that you gave, Doctor, but I would like to know why those statistics were -- with four convictions out of 4,000 arrests, there is certainly something wrong with our judicial system if that occurs.

Q. President Schwartz went into that when he stated that we have any number of arrests in Philadelphia during the week, at which time people are either discharged, placed on probation, or the case is completely thrown out, or they are remanded with a fine of $25 or $50 and they walk out of the doors. Under the circumstances, we are spending moneys getting them into the courtroom, getting police into the courtroom to testify as to the arrest procedures, finding them, getting the applications, the court process per se, all of which runs into $100 per individual who appears before the court. If under this premise we legalize gambling, which you object to,
I assume from the statement that you made, we would save these kinds of moneys, and the men who are now currently working in the vice field could better serve the purpose of working in the field of drug addiction, narcotics, all this type of thing, as opposed to arresting a little 80-year old lady on Medicare. I have one constituent who has been arrested for the eighth time in the last two months, who never wrote a number and is totally sanctified as the expression goes, but they keep getting her mixed up with another lady two years younger who does write numbers. I think under the circumstances, the police wouldn't be troubling the little old lady, and the other lady who is doing it would be doing something legal.

A. Are you telling me this little lady is playing 5 cents a day on the numbers?

Q. She just happens to look like the lady who does.

A. This is what they usually characterize as numbers, some poor old lady who plays a penny a day. However, there are individuals who play up as high as $25 a day on numbers, and who ruin families, and end up in corruption. A percentage of it goes for corruption of police officials.

My personal opinion is that any person in government who condones this -- I mean accepting payoffs and protection money -- does not belong in any phase of our government,
be it a police officer, whoever he may be.

Q. Have you found instances of corruption in the police department, either state or local police department, to have increased over the period of years in proportion to the gambling activities over a number of years?

A. No. Of course, I have taken the position, since being Commissioner, I do not involve our department in investigating another police department. I do not think this is a proper policy because we do have to work with other police. I pulled our men out of Philadelphia because I do not feel that's proper. I think that's a job for the Justice Department. I am sure there is corruption, there has to be, and I feel that personally that if every police officer from the lowest rank to the highest rank in any municipality, state, county would do his job fully and arrest every number writer he knew, they could stamp out the numbers lottery pretty fast. This does not occur.

Q. I can't agree with you, Commissioner, based on arrest alone, because if a person is arrested and not brought to court, found guilty, and then sentenced, penalized for his activity, if you merely arrest and you have a revolving door where he just goes in the jailhouse and then comes out when his attorney shows up, we haven't abated anything under those circumstances, and this is
what I think we are getting into at the present time.

We are spending large sums of money without accomplishing any purpose.

A That's a good argument, but I think police officers who use this for a crutch for not arresting people involved in gambling are wrong. It is the same when we have many Supreme Court decisions handed down which unquestionably hamper police, but you can't hide behind those. You still must do your duties, and there is a proper way of doing them.

DOCTOR ALLEN: Thank you very much, Commissioner.

Thank you, Senator.

SENATOR SCOTT: Chairman Morin?

BY MR. MORIN:

Q I am wondering about your own experience here in Pennsylvania. I am curious that you withdrew the State Police apparently from investigations of the local police department. You say you think it is the job of the Attorney General?

A Justice Department, yes, sir.

Q United States Justice Department?

A No, no, I am talking --

Q Your own Justice Department?

A Yes, sir.
Q. Who would they use?

A. They have investigative bodies, and they are conducting investigations. The thing is, Mr. Chairman, there is no question our most heinous crime is the biggest problem of law enforcement agencies. Many times crimes occur in areas that we police which subsequently end up in Philadelphia or another large city. We must work and cooperate with those police departments in those types of crimes, heinous crimes. If we are going to break down our cooperation and correlation of information by investigating one another, we are never going to be able to accomplish the job.

Q. Have you had any problems with infiltration in the state lottery, or attempts to?

A. Not to our knowledge at this time. There has not been, but on that subject, you know, we talk about legalizing lotteries, and I think if we go back through our history, so many articles have been written on that. In fact, I had a project that I prepared when I was a student attending the F.B.I. Academy in Washington, D.C. in 1965, 10 years ago, and I find the same information in that context that I find today. There doesn't seem to be any change. We have constant studies, reports, many good reports, written about what has happened in history as far as gambling is concerned, but we never do anything...
about it. I hope that this Commission here will do some-thing about it, will put some teeth into this one way or another so we do not have these double standards of gam-bling and so the patrolman knows where he is going.

MR. MORIN: I have no further questions.

SENATOR SCOTT: Commissioner Coleman?

MR. COLEMAN: I have no questions.

SENATOR SCOTT: Commissioner Gimma?

MR. GIMMA: Thank you, Senator.

BY MR. GIMMA:

Q. Does your department keep a file, fingerprint file, of known gamblers in the Commonwealth?

A. Yes, sir. We have an intelligence file on known gamblers and those of organized crime figures. Of course, if a person is arrested within a municipality it is up to that municipality to furnish a copy of the finger-prints.

Q. That was my second question. Do you cooperate by confirming with the local police that you have such a record on certain arrests?

A. Any inquiry we respond to it, yes, sir.

Q. You do?

A. Yes, sir.

Q. If you know, since the lottery and pari-mutuelbet-ting became legal in Pennsylvania, do you know whether
illegal gambling has lessened or diminished any?

I don't think it has diminished, but I will say
that since we have pari-mutuel betting and harness racing,
our people have been involved in many investigations. I
personally know of an example in Washington County where
gambling figures have gotten to the jockeys or to some
other attendants at the track, and they have tried to
coerce them or have them hold the horses in check, or
something to change the betting odds, and really this is
in its infancy, pari-mutuel betting, and already we find
many instances of this. There again, I wonder what can
happen. Temptation seems to be a great thing to people,
and some fall very quickly to temptations.

MR. GIMNA: I have no further questions.

BY DOCTOR ALLEN:

 Commissioner Barger, under your system does your
State Police office investigate any individuals who are
named by the Governor to be heads of the commissions
relative to racing or any other such activities?

A. Yes, we do. We have what we call a Background
Verification Report. We have two different types; it all
depends upon the position the individual is applying for.
We get requests from the Governor's office, and we do
make a background investigation report on all of them.
I know we must fingerprint members of the Racing
Commission. I know it was at one time, and I think that
is still in effect.

Q. You are just an information-gathering agency then
for the Governor's appointee?

A. That's all.

Q. Do you know of any rules in the State of Pennsylvania
that would prohibit a convicted felon from serving as
a member of any of the commissions, the Lottery Commiss-
ion, Racing Commission, or anything of that nature?

A. I know of no administrative code, and that's prob-
ably what would have to cover that.

Q. I am particularly interested in the case of the re-
cent nomination of Mr. Corletto, who was convicted of
income tax evasion, et cetera, and served time and was
given, I think, probation as far as sentence was con-
cerned, who has been named as the director of law en-
forcement for the new harness tracks here in the State
of Pennsylvania, and I was wondering how you compare an
appointment of that magnitude with the type of activity
that goes on in either your department or any of the law
enforcement agencies here in the State of Pennsylvania.

A. That was quite widely publicized. I read that my-
self. Of course, as I said, when our people make an
investigation, background verification report, that is
simply factual, and we send it back to the requesting
CONTINUED

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agency, and it is up to them to make the decision whether or not they are going to hire that individual. We do not make that decision for them.

Q. Is there any question on your application form to the State Police Department which asks if a person has ever been arrested and/or convicted?

A. I don't know whether that's on the form itself. However, I know definitely that's one of the things that our men check into. They go to the courts of the county in which the person resides, and they check the records to see if he did have a past criminal record.

Q. When you say, "criminal record," does arrest constitute a criminal record in the State of Pennsylvania?

A. Not an arrest, only if he is convicted.

BY SENATOR SCOTT:

Q. Probation would constitute a criminal record, wouldn't it: There would have to be a conviction or plea?

A. Right. There is another recent one, but I don't recall the name now. He pled nolo contendere to a charge, which in effect is the same as pleading guilty.

Q. Could you give us the name of that person for the record?

A. I don't know it.

Q. Would you be able to find it in your records?

A. Not here.
1. Q. Would you go back and find it and furnish it to the Commission?
2. A. Definitely, Senator.
3. Q. Your report on Mr. Corletto would have shown his record of conviction and having been placed on probation when you submitted that report?
4. A. Only if we investigated him, Senator, at this point until I check our records, I do not know. We do not investigate all of them.
5. Q. Would you please furnish the information as to whether you investigated the record of Mr. Corletto and whether that criminal investigation was included in the report which you furnished?
6. A. Most happy to, Senator.

DOCTOR ALLEN: Thank you very much, Mr. Barger.

SENATOR SCOTT: Mr. Farrell or Ms. Marshall?

MR. FARRELL: I have no questions.

SENATOR SCOTT: Thank you, Mr. Barger.

(Witness excused.)

SENATOR SCOTT: Good morning, Mr. Phillips.

It is very good to have you here, and I want to congratulate you on the kind of work you are doing as the special prosecutor, and, for the record,
Additional Statement of James D. Barger

AREAS OF INQUIRY

I. General Statement of Illegal Gambling Problem

A. The magnitude and degree of the gambling problem in Pennsylvania is aptly manifested in statistics which indicate that 34.9% per 100,000 population of the citizens of Pennsylvania are involved in illegal gambling operations. Of this group, 2.7% per 100,000 are involved in incidents of Bookmaking and Poolselling, 23.1% per 100,000 are involved in Lottery operations and the remaining 9.1% per 100,000 are involved in miscellaneous forms of gambling such as cards, dice, and others.

B. The types of illegal gambling experienced in the Commonwealth of Pennsylvania run the gamut of all popular forms: Lotteries - numbers or policy racket, Treasury Balance tickets, Fifty/Fifty Clubs, Bingo, and vending machines which handle Fortune tickets, etc....Sports Betting on various sports events, i.e., football, baseball, basketball and boxing, Casino Games - Dice or Craps, Blackjack, Poker, Chuck-a-luck and paddle wheels, and lastly, but certainly most important, Bookmaking and Poolselling - the placing of wagers on horse races. This last form of gambling contrary to public belief, differs quite widely from the legal forms of gambling on horse races, and is quite complex as to forms of wagers and monetary returns.

C. The relationship of Gambling to Organized crime takes numerous forms, many of which cannot be detailed in an evidentiary manner and therefore can only be characterized as opinion based on "Police Expertise". The percentage of the total handle which is controlled by organized crime is extremely elusive due to the secretive and furtive manner in which this type of business is carried out. It can reasonably be expected that the major Crime Figures will be insulated by several layers of underlings who are the only ones visible to the police. Corporate structures with "Stiffs" in control offers another method of insulation and most importantly, the entire business is handled and operated over telephones which are now secure from police scrutiny. Not withstanding all these problems, it is estimated that 53.2% of the gambling in the Northeast States is controlled by Organized Crime. Equally important to the financial picture of Organized Crime is the number of persons forced into other criminal activity, e.g., Loansharking - H2-jacking and street crimes, through their gambling losses and debts.

D. The problem of corruption and its connections with Organized Crime has always been present. The problem is one that is so complex that there is not sufficient time or space here to expound to great length on this aspect of Gambling. Suffice to say that the State Police have investigated corruption in its many forms with both positive and negative results. The inherent danger which I see in corruption is the subtle forms it takes which erode public confidence in governmental agencies and divides the Police and the public which they serve.

II. Agency Opinion as to Problems

A. The apparent weakness in present Gambling Statutes from the Law Enforcement point of view would be inadequate penalties. It is a common statement of the gambling fraternity in arrest situations, "It's only money". Since the money
referred to is so easy to acquire its subsequent loss through the arrest process
is easily accommodated. All police authorities know that the "Boss" in all
Gambling investigations is going to foot the bill for all legal fees, Attorney
fees and fines & costs incurred by the subject arrested. The only remaining
penalty he cannot accomplish for his subordinates is the jail sentence. The
remedy here is obvious, appropriate and mandated jail sentences of sufficient
length to prevent an immediate return to gambling activity, and the removal of
a layer of insulation which will in turn bring the major offender within reach
of the police.

B. An apathetic public hinder police operations involving gambling through a lack
of proper cooperation which is an essential ingredient to successful police
operations of all types. The cooperation of the public in these instances is
lacking primarily because those who possess the information are necessarily the
same group who are the clientele of the gambling operators, reside in the areas
wherein the gambling operations are located or are the recipient of benefits
which spill off from these operations. A sizable portion of the public is not
aware of the operations and does not have the interest or the inclination to
get involved.

C. With regard to the resources committed to the gambling effort by Law
Enforcement, it would appear to be adequate considering the severity of the
problem, the amount of resources available and the impact on the resources of
other more critical problems. All too many times, police administrators are
faced with the question - Why waste time on gambling when there are rapes,
robberies, burglaries and murders being committed? This is a legitimate
question and one which should be answered. The answer, in turn, lies in the
proper administration of the Department's resources in accordance with the
priorities of the myriad of problems confronted. Certainly the more serious
felony crimes deserve attention and a greater share of the available resources,
but the gambling problem cannot be neglected or disregarded, or its divisive
and corrosive effect will further complicate an already intricate balance of
responsibilities.

D. The attitude of the Judiciary towards the gambling problem runs the gamut from
total indifference to scrupulous attention to duty. Attitude in this instance
cannot be imparted to a single answer for all individuals and situations involved.
I believe that the only proper way to assess this segment of the problem would
be to say that each and every member of the Judiciary is obligated to set aside
all personal and political expediencies in favor of the proper administration of
the law in accordance with the Rules of Criminal Procedure and the precedents
of the Appellate Courts. There can be no argument on the merits of who did what
to whom over what question of the law as this results only in a confrontation
which can only serve to drive wedges between the various segments of the judicial
system. Certainly with the context of the times, there is a need to align the
system in a complimentary manner so as to operate in the orderly fashion for
which it was designed, with all checks and balances working to provide good
social order.

E. Probation and Parole practices are practically non-existent in the area of
Gambling. The usual sentence involves the payment of a fine and the costs of
prosecution. Sentences, if any, either suspended or not followed up by the
probation and parole staffs. This is not intended to be critical of the
probation or parole personnel. They too have their priorities and available
information indicates the extent to which their caseloads extend beyond their
means. Any evaluation of the impact of probation or parole in their clientele
involved in gambling situations would better come from those agencies, as the
problems encountered and the information needed would be more accurate.

F. Corruption of Law Enforcement and Public Officials has a long history in the area of Gambling, the mechanics of which are complex to say the least and vary from City to City and sometimes from the various districts within a given city. I need not go into the various techniques as these are aptly described in the various Reports available such as the Knapp Commission Report involving New York City and the McClellan Committee Reports. I would, however, make one brief comment on what I consider to be the major concern of Law Enforcement Administrators regarding corruption. It has long been recognized that money paid to protect gambling operations will ultimately provide sanctuary for other and more vicious criminal acts. Any police officer or public official who has a stake in preserving a corrupt gambling arrangement will also ignore other activities of gambling fraternities and locations which involve, but are not limited to, vice activities, narcotic traffic, loan sharking, Labor Racketeering, extortion, etc., etc., etc. The social costs emanating from gambling is enormous to say the least.

G. Court backlogs - no comment. Not a problem of major concern. Recent amendments to Rules of Criminal Procedure, (Rule 1100) appear to be adequate at this time.

H. Sentences which do not deter recidivists - Historically, arrested gamblers have been recidivists of great magnitude. Pervious remarks (II. -A) would be appropriate here. The problem with recidivism arises from inadequate penalties as now provided by law.

I. Failure of prosecutors to continue investigation after arrest - I see no problem here. The investigative function is the perogative of the police. The question of whether it is pursued is realistically demonstrated by the amount of recidivism among gamblers. It is not uncommon at all for gamblers to face several prosecutions during one term of court, all involving the same or related gambling charges.

III. Legalized Gambling

Question of Legalized Gambling is not the perogative of The Police. Therefore, the Police input to an inquiry regarding this subject would be improper and therefore reserved for

A. A review of Police activity regarding enforcement of the Illegal Lottery statutes indicates that the State Lottery has had little, if any, impact on the illegal gambling in Pennsylvania. Arrests for these type offenses occur on a daily basis and there is no indication that the trend will decline.

B. Holders of Out-of-State Lottery tickets are not subject to prosecution as they are exempted under Section 5512, Paragraph C, which states: The purchaser of any ticket or device shall not be liable to any prosecution or penalty arising out of this crime and shall in all respects be a competent witness to prove the offense.

The areas covered in Sections C, D, and E do not encompass situations within the purview of the Police and would be more properly the perogatives of the law-making
bodies of Government. Not withstanding this position, it would be in order to say here that the police experience indicates that the legalization of Gambling is no panacea for the control of Gambling or the Corruption that subsequently arises. When legalization occurs, the only thing that changes are the stakes. Human frailties being what they are, it is difficult to perceive that corruption arising out of gambling, legal or illegal, will ever be controlled without proper and decisive policing. In support of this position, we only have to consider the present concern of professional sport administrators and league officials who have expressed the belief that the legalization of sports betting would increase the temptation to rig games, fix point totals and bribe athletes.

IV. Recommendations.

Considering the police perogatives, the only recommendation to be made here is consideration to increase the present penalties now imposed for violations of gambling statutes. While the present penalties might well serve for first offenders, subsequent offenses of a similar nature should be more rigidly applied and increased substantially, especially in the area of imprisonment.
May 29, 1975

Honorable Hugh Scott
United States Senator, Pennsylvania
Commission on Review of the National Policy Towards Gambling
200 M Street, N.W.
Washington, D. C. 20336

Dear Senator Scott:

During the course of my testimony before the National Commission on the Review of the National Policy Towards Gambling on May 28, 1975, at Philadelphia, Pennsylvania, you directed several questions to me regarding Fred T. Carleto and whether or not this Department had conducted a Background Verification Investigation as a prerequisite to his employment by the Commonwealth of Pennsylvania. At that time, I indicated to you that the matter would be reviewed and you would receive an answer to your questions. The following information, therefore, is forwarded for your consideration in this regard.

This Department received a request for background verification regarding Mr. Carleto from the Executive Secretary of the State Harness Racing Commission. Pursuant to that request, an investigation was conducted by members of this Department which indicates that Mr. Carleto, who resides at 1850 North 71st Street, Philadelphia, Pennsylvania, was indicted on August 29, 1973, on charges of Income Tax Evasion (9 counts) and Signing False Returns. Further that Mr. Carleto was convicted of these charges on February 13, 1974, and sentenced on May 30, 1974, to pay a fine of seven thousand five hundred dollars ($7,500.00) and placed on five (5) years probation. Probation in this instance was terminated on March 3, 1975, by the Honorable Judge E. Mack Troutman.

The investigative report which contains this information is currently being processed through the Bureau of Criminal Investigation and will be returned to the requesting agency, the State
Honorable Hugh Scott  
Page Two  
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Harness Racing Commission, within the next few days for their further consideration. As I previously stated, this Department makes no recommendation as to the propriety of making such appointments but merely furnishes complete and factual investigative data.

If there is any further manner in which I or the Pennsylvania State Police can be of assistance to the Commission, please feel free to call on us.

Sincerely,

James D. Barger  
Commissioner

The situation regarding gambling in the Commonwealth of Pennsylvania is one which presents a myriad of problems for Law Enforcement. On one hand, we have legalized pari-mutuel betting on harness and flat racing and a Commonwealth-operated, state-wide lottery. At the other end of the spectrum, there exists illegal gambling on the "numbers game", illegal lotteries, pool selling and bookmaking, barbet games, crap games, and others which are operated by organized crime and other small but coordinated groups of professional gamblers. Somewhere in the middle of the spectrum exists what can be correctly identified as double standard gambling; the lotteries, games and machines oft-times operated by various religious, civic and service organizations and clubs.

Under these circumstances, it is extremely difficult to reconcile that there is any difference, philosophically speaking, between what is now legal and what is illegal insofar as gambling is concerned in this Commonwealth. An examination of the present status of gambling leads me to conclude that we can correctly place the various aspects of gambling into four (4) progressive levels: I - Legal Gambling, II - Private Gambling, III - Double Standard Gambling, and IV - Criminal Gambling. I would like to now make a few comments on the effect that each of these levels of gambling has on a community and law enforcement in general.

I - Private Gambling - does not impact greatly and usually exists in the form of small private card parties and crap games in the privacy of a home with no commercial aspects. Law Enforcement does not usually hear of such isolated instances of gambling, which could be technical violations of the law, and are even less likely to produce willing witnesses. Such forms of gambling can be considered as minimal and can be controlled by proper police action.
II - Legal Gambling - consists of legalized forms of gambling which have been sanctioned by Legislative Action. While not a violation of the law and of primary concern to law enforcement, it must be strictly controlled and policed to protect it from subversion by organized crime and corrupt influences.

III - Double Standard Gambling - exists where enforcement of Gambling Statutes are enforced rigidly only where organized crime or professional gamblers are concerned. Gambling in this instance is tolerated where social, religious, or service organizations are concerned, and thereby creates the double standard and the crux of the Police Dilemma. A critical examination of double standard activities indicates that these so called "social" games involve prizes of $5,000.00 and rare in money and other such desirable and valuable articles such as Cadillac cars and sometimes both. Regardless of how exciting or exhilarating these community activities may be, the cold fact remains that they are illegal, result in a double standard of enforcement, and are a divisive factor between Law Enforcement and the public they serve. Additionally, this condition creates a moral climate which will eventually invite an invasion by the next and most dangerous level, Criminal Gambling.

IV - Criminal Gambling - exists whenever and wherever there is a lack of or breakdown of law enforcement efforts at enforcement. There is ample evidence of the corruptive power and influence of criminal gambling, and I need not expound on this here. I would however make one short comment on that I feel is the erroneous belief of a portion of some social reformers and activists who regard gambling as a non-victim crime. One only has to review the history of government scandals, investigations into police corruption, and the social breakdown of communities and entire cities to find the victims who result from this level of gambling. There is simply no truth to the idea that gambling is a non-victim crime. The key to law and order in a community depends largely on the communal attitude toward this activity which has been correctly identified as the very core of underworld power and the corrupter of social order.

The situation portrayed here is complex and confusing. Frustrated law enforcement officials feel that efforts at enforcement of Gambling Laws are compromised by a public who does not take the gambling laws seriously and by the courts through plea bargains, low fines, and only rare jail sentences.
To place the problem in its proper perspective, I believe there should be an adequate study toward the legalization of the social gambling by the various religious, civil, and service agencies so that there would be a distinct separation of the legal and illegal aspects of gambling and thereby destroy the double standard which has so effectively thwarted legitimate law enforcement efforts. We, in Law Enforcement, can no longer be satisfied with the give and take of the double standard of enforcement and ask only that there be conformity to an acceptable law by all.

Lost my motives and aim here be misunderstood, let me say in closing that I am not advocating the legalization of gambling per se; history has adequately demonstrated the falsity of this remedy and the numerous aspects of the problem, which are too numerous to relate here. I ask only that the law, which is not enforcement's prerogative, be one that can be adequately enforced, realistically prosecuted, and uniformly punished.
state that you were formerly a U. S. Attorney, Chief Of The Narcotics Unit in the Southern District of New York. I will shortly have to leave for another engagement for which I apologize, but before I do and before you go into your statement, would you mind commenting on a matter which is of great concern to me, and, I expect, to the Commission? By way of history, let me say that I was a prosecutor for 15 years prior to the enactment of the 1975 wiretap legislation and the subsequent wire tap legislation signed by the Governor, which is also a matter of considerable concern to us. Would you be willing to discuss that before you go into the rest of your testimony, and then, if you would excuse me, I am going to ask at that time for Doctor Allen to take over.

MR. PHILLIPS: Certainly, sir.

SENATOR SCOTT: And I hope no discourtesy intended, but I didn't want to leave until we got your discussion on the impact of those two wire tapping acts on the prosecution of crime, and the movement to eradicate or reduce corruption of public officials.

MR. PHILLIPS: Well, as you know, there are really two aspects to that law. There is the
law that was passed in 1957, which prohibits any type of
telephonic wiretapping, and now there is the amendment
that was just passed last fall which prohibits even one-
party consentual monitoring.

SENATOR SCOTT: Body bugs?

MR. PHILLIPS: Body-bug type of thing, yes. This, of course, is now the most restrictive law
in the country in this respect, and goes well beyond what
the United States Supreme Court has said constitutes a IV
Amendment violation. The Supreme Court has said that it
does not constitute a IV Amendment violation to have a
bodybug, even without getting a court order first. Of
course, now you need a court order for a wiretap, but
even that isn't allowed in Pennsylvania.

You mentioned that I was a Federal prosecu-
tor in New York, and I can tell you from my experiences
there, the most significant cases that our office made,
particularly in the narcotics area of high-level narcotic
traffickers, were made through telephonic intervention,
as well as with body bugs.

SENATOR SCOTT: My observation of how these
things happen in the Legislature is that there come per-
iods of highly permissive climates from time to time re-
garding criminals. It may or may not be justified, but
one feels that there are many lawyers in the Legislature,
many of whom are engaged actively in the defense of
persons accused of crimes. At times there are
legislations passed which greatly increase the
difficulty of staying convictions.

The rights of the defendants are protected
by the Constitution, by our Constitution, too, by
the statutes, by the court decisions, and no one
would want to diminish or reduce the civil rights
of any person in this country. At the same time
the protection of the rights of society is the
paramount consideration within the framework of
civil protection. What concerns me about this
legislation is that it is the most restrictive in
the country, as you said. It was signed by the
Governor. I want you to tell us why it is that
you feel that this reduces the opportunity to ob-
tain convictions in cases where a violation would
have led to a conviction absent either the 1957
law or the later law which the Governor recently
signed. Would you mention situations in each
case where you are now so hampered that the effect
of these laws appear to be not only to increase
corruption, but to decrease opportunity to punish
corrupt acts?

MR. PHILLIPS: Corruption cases I have
found in my experience to be the most difficult
cases to get convictions. They require a great burden of proof for a jury to be convinced beyond a reasonable doubt to convict a defendant, and that is not surprising in light of the fact that corruption cases involve defendants with completely unblemished records, be they police officers or public officials, and you have got to have some type of corroboration. Your main testimony in a corruption case is generally going to come from somebody, an accomplice who was involved in a corrupt act with the public official or with the police officer, and his testimony is going to be tainted by virtue of the fact that he himself was involved in a criminal act, not to mention the fact that he probably -- particularly in police corruption cases -- has a prior criminal record anyway. So to be able to convict, you have to have some type of corroboration, and the best type of corroboration is a tape recording of conversations between the defendant and the individual testifying during the commission of the crime. You should have it right there for the jury to listen to as it unfolds. And no more classic a case can be the Watergate case in Washington where the jury foreman the day after the verdict said that the strongest evidence in the
case, despite how much they believed John Dean and the other witnesses, was the tape recordings introduced in that trial, because they showed the defendants engaged in the very action for which they were charged.

SENATOR SCOTT: No question about that.

MR. PHILLIPS: That creates a real problem, and particularly in police corruption cases. A police officer is not going to go around shaking down a law-abiding citizen, banker or bishop, as prosecutors are prone to say to juries; they are going to shake down gamblers, narcotic traffickers, other people with less than reputable backgrounds, as a result of which these individuals' testimony, the judge is going to charge, has to be scrutinized with the greatest caution. To be able to corroborate these people you need more than just physical surveillance of, say, the defendant's meeting with the accomplice; you need something more than that to convince a jury. I have tried cases, and I have been involved in cases where the tape recordings were the key thing, where I have seen jurors come back during deliberation to ask the judge to listen to the tape recordings heard during the trial.

SENATOR SCOTT: Therefore, the Federal
Courts, applying the Federal system, require the concerns of a Federal judge before the wiretapping except in that one curious gray area not yet decided, but in domestic and foreign espionage matters, the ability to marshal the evidence is very much greater than it is in the courts of the Commonwealth of Pennsylvania in view of the 1957 wiretapping statute; is that not so?

MR. PHILLIPS: That's correct.

SENATOR SCOTT: How are prosecutors impeded in the State Courts as against the Federal Courts by virtue of the new anti-wiretapping statute recently signed by the Governor, which I perhaps shouldn't characterize, but seems to me to be a warranty for the same continuance of corruption in certain quarters in the State. Compare it with the Federal Courts and point out how the marshalling of evidence differs now in view of that new law.

MR. PHILLIPS: Of course, the wiretapping statute goes directly and prohibits the intervention of telephonic communications. The new amendment that you refer to that you say has just gone into effect in Pennsylvania prohibits one party consensual wire or body bug, which means, for example, if a gambler comes to you and says, "I am being
shaken down by a police officer," and you want to wire him up, you simply can't do that in Pennsylvania, whereas on the Federal level you don't even have to go get a court order. In Pennsylvania you couldn't do it at all except in the very limited situation as I set forth in my statement where a law enforcement officer involved believes his life to be in danger, the Attorney General or district attorney can get a court order upon application, but then the tape isn't admissible in the criminal trial.

The anomaly of this law is that it allows the telephone company to intercept telephonic communications of completely innocent calls between individuals, and at the same time law enforcement cannot even get a court order to wire up where one party is going to consent to having him wired.

When the Legislature passed this amendment in November and the Governor signed it at the end of December, there was a lack of understanding that the public had for this situation as to what the law enforcement was being presented with by virtue of this restrictive bill, and I think it was a result of the post Watergate era, where the Watergate case started with people bugging an office, and a lot of revelations about the F.B.I.
conducting illegal wiretapping; but what the public didn't understand, it involved wiretapping, a blatant and flagrant violation of the law that didn't involve a law enforcement officer or somebody acting pursuant to his direction to be wired up for the purpose of gaining evidence against a criminal to be presented in court later on.

SENATOR SCOTT: Isn't it a fact, as far as you know, that there have been no charges involving legal wiretapping where a court order was obtained?

MR. PHILLIPS: That's right.

SENATOR SCOTT: Therefore, the public is under that misapprehension, and this new statute operates under a privacy label, but we have Federal privacy laws, which I have helped to draft with former Senator Sam Irvin, and I have supported all of these privacy laws. However, none of the Federal statutes begin to approach this protection of the criminal aspect which we have in both these laws, but most noticeably in the second one. Do you agree with that?

MR. PHILLIPS: I do, and I think it is unfortunate, too, when I hear on the radio, for example, that yesterday the New Jersey Legislature
has passed a bill to keep or continue the wiretapping statute on the books in New Jersey, which is much broader. In New Jersey you can actually wiretap, no problem whatsoever, with the one-party consentual thing, and the same thing in New York. I think it conveys almost an invitation to organized crime to leave New Jersey if the pressure gets too hot and to come to Pennsylvania.

SENATOR SCOTT: It seems to me that that is the effect of the act of the Legislature, and they are inviting crime into Pennsylvania by making it almost impossible to break up organized crime or syndicated crime that could otherwise have been broken up by application of procedures permitted in the Federal Courts and permitted in New Jersey.

MR. PHILLIPS: That's right. You can't make a case against an organized crime figure of any magnitude in the gambling area particularly, and as well as in corruption, unless you have the resources of wiretapping or at least one-party consentual monitoring.

SENATOR SCOTT: I very much appreciate your going into this, and now I will turn over the questioning to Chairman Morin. You have a very fine panel here, all of whom are more expert on
this subject than I am, so Chairman Morin will take
over.

I thank the rest of the Commission for
doming to Philadelphia.

MR. MORIN: I think what I shall do for
the moment then is to stand the Commission in re-
cess for 2 or 3 minutes until Commissioner Allen
returns. Then you can go ahead with your prepared
statement.

(Recess.)

DR. ALLEN: We will resume the hearing of
the Commission On The Review Of The National Policy
Toward Gambling. We will continue with the current
witness, Mr. Walter M. Phillips, Jr., Deputy At-
torney Officer of the Special Prosecutor, Common-
wealth of Pennsylvania.

Is that correct, Mr. Phillips?

MR. PHILLIPS: I am the Deputy Attorney
General, that's correct.

DR. ALLEN: Let me give you your due, Mr.
Phillips.

MR. PHILLIPS: I am state Special prose-
cutor for the City of Philadelphia.

The Office of the Special Prosecutor was
established by the Attorney General to investigate
and prosecute corrupt police and public officials in Philadelphia. It was created after the Pennsylvania Crime Commission conducted an eighteen month investigation into police corruption in the Philadelphia Police Department, and recommended that an office independent of the local District Attorney's Office be set up to investigate and prosecute police corruption. Shortly after we started in April 1974, our jurisdiction was broadened to include the investigation and prosecution of municipal and state corruption within Philadelphia. In addition to following up the investigations initiated by the Crime Commission, we have conducted investigations of our own. I would like today to discuss the relationship of gambling to police corruption and the problems inherent both in enforcing the gambling laws and in prosecuting police corruption.

Investigations conducted by our office during the one year of its existence have led us to agree with the Crime Commission's findings (1) that illegal gambling is open and widespread in Philadelphia and (2) that it is able to flourish because of paid-for protection from members of the Philadelphia Police Department.

The most common form of illegal gambling
in Philadelphia is numbers betting where a bettor
can place a variety of bets on the basis of a win-
ing number for the day. The winning number is
determined by adding the win, place and show payoffs
for certain races at a designated racetrack. The
bettor places his bet with a numbers writer who
frequently conducts his business openly in public
places such as on a street corner or in a bar. The
writer turns in his work to a numbers banker who
is insulated from any contact with the bettor, and
sometimes even from the numbers writer, since he
often has persons working under him whose duties
include collecting the writer's work and taking care
of police protection. These people, known to law
enforcement as the banker's lieutenants, are them-
selves rarely seen and therefore infrequently ar-
rested.

Almost all arrests by the police involve
numbers writers, and are almost always based on
their possession of numbers slips, that is, pieces
of paper used by the writer to record bets he has
taken. The strength of the case against the num-
bers writer thus will depend on the quantity of
numbers slips, more specifically on how many bets
are recorded in Pennsylvania. The argument often
made to the court on behalf of a numbers writer is that the relatively few bets written on the slips indicates he is a bettor, not a writer. The numbers writer represents the lowest echelon of a numbers operation, and since his crime is viewed as a victimless one -- indeed, his activity provides a source of recreation to a large segment of the population -- very few numbers writers are ever convicted, and those that are virtually never receive prison sentences. The statistics compiled by the Pennsylvania Crime Commission in its investigation of police corruption for the year 1972 with respect to the disposition of gambling cases are rather startling. During that year, 91.6 percent of all gambling arrests in the City of Philadelphia resulted in either dismissals or acquittals, and only .4 percent of those arrested for gambling violations ever received a jail sentence.

The leniency shown toward violators of the gambling laws by the judiciary is, to a certain extent, the result of the police department's policies. For example, the performance of an individual police officer as well as his whole unit is measured by the quantity and not the quality of gambling arrests. No effort has been made to infiltrate a
numbers operation with a police officer acting in an undercover capacity with the purpose of gathering evidence against higher-ups. Thus, practically all the defendants who are brought into court represent the lowest and least important members of a numbers operation — the writers who can easily be apprehended. In addition, pressure on police officers to make gambling arrests causes them to resort to unconstitutional means, such as perjured search warrants to gather evidence of illegal gambling.

When the police occasionally do arrest a high echelon member of a numbers operation, the results are usually disappointing. Recently, a case involving the seizure of approximately $75,000 worth of numbers work in the possession of a major gambling figure resulted in an acquittal by a judge sitting without a jury. At the close of all the evidence, the judge stated on the record that "there was more than just a little operation going on," an observation fully supported by the evidence, but nevertheless found that he had a "reasonable doubt". The judge's lack of reasoning in support of his verdict was significant, in that it reflects the general antipathy toward the prosecution of gambling.
cases.

The real evil that illegal gambling poses is that it constitutes the greatest source of police corruption. The payoff rate on winning the full number bet is 400 to 1 in Philadelphia, whereas in New York the payoff rate is 600 to 1, the difference being due to a greater amount of money being paid by the bankers for police protection. As the above statistics would indicate, protection is not sought for the purpose of staying out of jail, but rather to prevent disruption of the numbers operation. A numbers banker stands to lose a tremendous amount if he has to destroy his paperwork in order to avoid arrest upon a raid, because once the bettors find out that the paperwork for the day is destroyed, there will be a flood of claims for winning numbers, claims which the banker will be unable to refute without his paperwork. The corrupt plainclothesman, aware of this dilemma for the numbers banker, can make a quick profit for himself by selling a numbers banker the paperwork that has just been seized in a raid. It thus takes only one or two well-timed raids before a numbers banker becomes willing to make payoffs, and because numbers betting is widespread, gambling
related police corruption in Philadelphia is commonplace. Thus, gambling, unlike isolated instances of payoffs by drug pushers, can involve entire units within the police department. Gambling payoffs are generally received by one police officer, known as the "bagman", who distributes the money to others within the unit, thereby keeping to a minimum contact between the banker and the corrupt police officials.

I believe that one cause of gambling related police corruption is the general attitude, shared by the judiciary, that gambling is a victimless crime which provides harmless recreation for many individuals. Thus, allowing a numbers writer to ply his trade does not have the same stigma attached to it as does, for example, permitting a narcotics trafficker to engage in his criminal activity, which has a far more injurious impact, directly and indirectly, on the community. A law enforcement officer's mission is to see that persons who violate the law are apprehended and punished. Yet in Philadelphia the police know that most gambling arrests will be thrown out for one reason or another, and this generates an attitude that rather than waste time arresting gamblers, it benefits the
policeman to simply "go along with the system" and at the same time realize some pecuniary benefit.

Even assuming the police department were to concentrate its efforts on going after the major figures of a gambling operation, any success is highly unlikely in light of Pennsylvania's Right to Privacy Law. In this state, since 1957 wiretapping in any form, even by a law enforcement agency pursuant to a court order, is forbidden by statute. This in itself creates a tremendous obstacle to law enforcement in any efforts at enforcing the gambling laws, since any major gambling operation, whether it's a numbers bank or a sports betting operation, uses the telephone extensively, in fact, depends on the telephone to conduct its daily business. Contact between the major figures of the operation and their writers, the placing of bets by established and well paying customers, as well as the "laying off" of bets, are all done exclusively by telephone. Without being able to intercept these telephone calls, the apprehension of the top members of any gambling operation is virtually impossible. Occasionally, a raid may result in discovering a major figure on the premises, but as shown by the case I referred to earlier, a judge can point to
the circumstantial nature of the evidence and throughout the case. If the judge were confronted with recordings of the defendant as he was in the process of committing the crime, it might be a different story. In Pennsylvania, however, while the telephone company may lawfully intercept and overhear perfectly innocent telephone conversations in order to prevent cheating by customers on long distance toll calls, law enforcement authorities, even with a court order, are not allowed to record criminal conversations.

While the anti-wiretapping statute has been in effect since 1957, a more recent amendment to the right to privacy law has been enacted that has an even more crippling effect on law enforcement, particularly in gambling related police corruption. Last fall, the Pennsylvania Legislature passed a bill banning any type of recording of another's voice unless the individual whose voice is being recorded consents to having it recorded. This bill, which was signed into law by the governor and has taken effect, thus prohibits what is commonly known as a body bug. The particularly unfortunate aspect of this law is that its only exception for law enforcement is useless: when a law
enforcement officer believes his safety to be in danger the Attorney General or local district attorney may apply for a court order to allow a tape recorder to be worn by the officer, but the recording is inadmissible in a subsequent court proceeding. The entire Right to Privacy Law, as it is called, is now the strictest of its kind in the country.

The impact of this law on anti-corruption efforts is substantial. Corruption cases are difficult, if not the most difficult, cases for a prosecutor to prove. Not surprisingly, juries require overwhelming proof of guilt before they will convict policemen and public officials. Also, those who are witnesses to police corruption, that is, persons who are paying off for protection or are being shaken down, are generally criminals themselves and require extensive corroboration before their testimony will be accepted by a jury. From my experience as a prosecutor in federal courts where tapes derived from both court authorized wiretapping and one party consentual recording are admissible, I have found that there exists no stronger evidence than tape recordings of the defendant as he is committing the crime. This is particularly so in corruption cases where the defendant's impeccable reputation becomes
his strongest defense when presented through character witnesses as well as his own testimony and general appearance. Being able to bring to the jury's attention the defendant's other personality by playing tapes of his criminal conversations can thus become critical to the prosecution's case. This kind of evidence can no longer be gathered in Pennsylvania.

Prosecution of gambling related corruption is especially affected by the new Pennsylvania anti-eavesdropping law. As I've already mentioned, it is not uncommon for a numbers bank to be paying off an entire plainclothes unit or district usually through a bagman. Assume for the moment that the corrupt bagman, for whatever reason, decides to cooperate with a prosecutor to gather evidence of corruption by the police officers for whom he's been collecting payoffs. Since conversations between the reformed bagman, even with his consent, and the corrupt police officers is illegal, and since physical surveillance can probably do no more than establish that certain officers met with the bagman, which doesn't prove anything since they work together, the only available alternative for corroboration is to use marked money and arrest a police officer
immediately after a payoff. Of course, this would "surface" the cooperating bagman and thereby terminate the investigation, since no other police officer would ever deal corruptly with him again. The results would be one prosecution of one police officer, and subsequent sworn testimony by the bagman that an entire unit was on the take would be viewed with great scepticism, not to mention that without prosecuting any of the other officers no dent whatsoever would have been made on the serious corruption problem. The police department and the public could well view the situation as one rotten apple when in fact the true picture is that the entire barrel is infected.

In light of the courts' and society's attitude that illegal gambling is a victimless crime and the unavailability in Pennsylvania of the necessary resources to investigate both it and the police corruption it generates, I am in favor of considering some form of legalized gambling. I would not be in favor of legalized gambling controlled by private interests, because I think such a situation would be controlled by organized criminal syndicates. In addition, legalized gambling in the form of private casinos would require licenses to be
issued, zoning changes to be made, all of which
could give rise to another form of corruption --
payoffs to public officials for favorable rulings,
licenses, and the like. Accordingly, if any type
of legalized gambling is to be considered in Penn-
sylvania, it should be run by the state government
as is the state lottery. Thus, I think it would
be worthwhile for Pennsylvania to consider establish-
ing something akin to New York's Off Track Betting
Corporation. One factor that leads me to conclude
that such an operation might be worthwhile is that
it would generate a tremendous amount of revenue
for the state, a consideration that should not be
taken lightly.

In conclusion, I would like to emphasize
that my attitude toward legalized gambling is en-
tirely the result of my belief that the gambling
laws of Pennsylvania are simply unenforceable. They
are unenforceable because our law enforcement agen-
cies have neither the resources nor the desire to
enforce the laws, and the judiciary, joined by the
public, views gambling as a victimless crime which
should not be punished. Finally, the legalization
of gambling should be given serious consideration
because illegal gambling nourishes police corruption
and, with it, a disrespect for all laws and our system of government.

BY DOCTOR ALLEN:

Q. Thank you very much, Mr. Phillips. We note that you are in the Office of the Special Prosecutor under the Pennsylvania State Attorney General, which was created after the studies that the Pennsylvania Crime Commission recommended an establishment of an independent prosecutor to investigate charges of corruption in the Philadelphia Police Department. Illegal gambling was specified by the Commission for this corruption. Mr. Phillips, you are, therefore, in a good position to evaluate what changes, if any, have taken place in the Police Department with respect to corrupt charges. We also know from your statement that you are a proponent of the enactment of a wiretapping statute relative to organized crime.

The question that I would like to ask, the creation of your office and an independent prosecutor have, of course, in some circles become a political football, which is not the problem of the Commission here per se. However, even if you were to get the enactment of a wiretapping statute to aid in your investigatory processes, wouldn't you still be subject to the whims and fancies of the State Legislature relative
to your funding sources, and wouldn't political aspects of that premise create some difficulties for you in following up on corruption in either the police department or municipal government?

A. I think there is no question but that our office has become a political issue in the State Legislature, if not one of the hottest political issues in the State Legislature, and until we get the funding and image of permanence that we need, it is going to be very difficult for us to do the job that we were asked to do, specifically, investigate corruption, and particularly police corruption, because in the City of Philadelphia to come forward and testify against a corrupt cop is really putting your neck on the line, to say the least, when the Mayor of Philadelphia is the former Police Commissioner. And you don't put your neck on a line with an institution that looks like it is going to go out of business in the near future and, therefore, cannot protect your interest down the road, and I think that this is unfortunate. I think, also, that the anti-eavesdropping bill that was passed by the Legislature last fall was in many respects an anti-special prosecutor bill and a vote of affirmation by the Legislature of its feeling against the Special Prosecutor's Office. Again, I think that this is unfortunate, and I think it would be very difficult,
particularly if our office were to be behind it, to get any type of change in the Right to Privacy Law.

Q. Under those circumstances then, would you say that your office's activities are impaired to a great extent by the inability of your office to sustain itself with any level of permanency based not only on funds, but on the creation of statutes by the Legislature?

A. Unquestionably. Without giving you specifics, I can tell you that there have been individuals who have been involved themselves in corrupt activity that we have attempted to elicit corroboration from, and the biggest stumbling block has been where are we going to be several months in the future, so that their interest can in some way be protected by us, and we have really been hurt by that lack of permanent image, permanent funding you mentioned. You mentioned the anti-eavesdropping bill, and yes, the anti-eavesdropping bill and the amendment to it have hurt our efforts, because, in those instances where individuals are willing to come forward to cooperate with us about ongoing corruption, the first thing you want to do is wire them up to go out and continue their dealings with the individuals that they have been dealing with so you can make a case, and it is virtually impossible to make a case against those corrupt individuals unless you can wire them up to get
the corroboration that you need to hold up in court.

Q. In your recommendation that some form of gambling
be legalized in Pennsylvania, would the legalization of
those varities of gambling be effected in any way, shape,
form, or fashion by the continuance of the anti-eaves-
dropping law, or if it was wiped off the books, could
you then use as a system of checks and balances on legal-
ized gambling your wiretapping equipment?

A. Well, I am not sure.

Q. What I am trying to say is, suppose we legalize
various forms of gambling, racing, maybe a few casinos,
the lottery -- which is already legal -- illegal numbers,
for example. Since we have an anti-eavesdropping statute,
we could not check on the individuals who are partici-
pating in the legal gambling activities versus illegal
gambling activities, because the same law covers both;
am I correct?

A. Yes.

Q. So you feel in order to function adequately you
would have to have the removal of that statute as your
first premise, even before you legalize gambling?

A. Well, I don't know that you necessarily have to.

My recommendation is that at least there ought to be a
study done of the experience in New York of the Off-Track
Betting Corporation to determine the extent to which,
and I believe that the results would show that illegal
gambling in New York has been substantially diminished
as a result of the Off-Track Betting Corporation and the
ability to be able to make legal bets. I agree that you
cannot check up on off-track betting situations, at
least check up the way you would like to be able to
check up, if you haven't got a wiretapping statute.

However, I don't think that ought to be a roadblock to
consideration of such an operation.

Q. Would it be your recommendation, along with your
recommendation that there be some form of legalized gam-
bling, that the Special Prosecutor's Office be operated
in the entire structure so it would be an ongoing, per-
manent structure?

A. In other words, do you mean that the Special Pro-
secutor ought to be a permanent office in Philadelphia?

Q. If we decide to legalize some forms of gambling in
this state.

A. I don't think that the legalization of gambling
should have any particular effect on the permanence of
the office of the Special Prosecutor. There are a lot
of other forms of corruption that we are mandated to in-
vestigate, and, I think, there is a real need for the
Special Prosecutor in Philadelphia besides for gambling-
related corruption. The question of whether there ought
to be a permanent Special Prosecutor or not is a very difficult one to answer, because there are very good arguments both pro and con with respect to that, and it is something I think cannot be answered at this time, and perhaps couldn't be answered for another year or two.

DOCTOR ALLEN: Thank you, Mr. Phillips.

Chairman Morin?

BY MR. MORIN:

Q. I think that you perhaps just answered my question. I take it your funding is related specifically to corruption?

A. Exclusively.

Q. I am reading from your statement where you say, "I would not be in favor of legalized gambling controlled by private interests, because I think such a situation would be controlled by organized criminal syndicates."

I take it what you mean is you don't favor just an outright legalization of gambling, an announcement to the public, "Go ahead. You are all on your own," but rather some form of state-licensed gambling of private interests.

A. Well, I was thinking more along the lines of state control of gambling, legalized gambling. Again, to get back to the O.T.B. in New York, this is entirely run by the state so that you don't have private interests.
benefiting economically from it. My problem is that if you do have private interests involved in legalized gambling, it is going to be an invitation to organized criminal syndicates to set up ships and run casinos. Certainly this is going to put more money into their coffers from which they can finance other illegal activities, such as, manipulation of the stock market.

Q Would you have state control as you do have over the lottery? -- that much state control?

A Yes.

Q Do you have any recommendations thus far at least on the taxation implications?

A I really don't. I think this is something that really ought to be studied, and, again, I think the first place to start is the O.T.B. Corporation, because I think that it's proved to be rather successful.

Q That may not be so. I might say parenthetically there are very strong statements made to the contrary, that is, that the Off-Track Betting Corporation has made no dent in the illegal booking operations.

MR. MORIN: Isn't that right, Mr. Gimma?

MR. GIMMA: We had testimony before our Commission in Washington from the F.B.I. Head of the Crime Task Force for the Eastern Division. I asked him pointedly the question -- although I come
from New York, and I am chairman of the Racing Com-
misison -- if the establishment of O.T.B. in his
opinion had diminished illegal betting, and his
answer was that it had increased it, if my recol-
lection is correct. Also, in talking to people,
knowledgeable people, in New York that are investi-
gators, and so forth, they feel the same, that it
has created an environment, has created an interest
with usually a new group of nonbetting peopl:. They run out of case, and then they run to the
bookmaker.

I have heard that position, too, and I want to em-
phasize again what my position is based on, and that is,
as you can see from my statement, you really have a
vicious cycle going on here in Pennsylvania. You have
simply the general attitude that gambling is a victim-
less crime, which is an attitude, I think, that prevails
in a lot of places in this country; but, more importantly,
you have the attitude of the police departments where
they don't have the resources, and not having the
resources to go after major gamblers, and not having the
desire to go after major gamblers, they bring into the
courts before the Judiciary the most minor individuals
or participants in the gambling operation, as a result
of which, the judges do not send them to jail.
So it has become, in effect, a vicious cycle, and you cannot really blame the Judiciary for not sending them to jail. So there is an awful lot of resources that are devoted, both from the police department standpoint and from the Judiciary's standpoint, towards trying to enforce gambling laws and not getting anywhere. As a result, you are not devoting as much resources as you should, perhaps, on the part of the police department to solving other crimes, and the crime rate is going up in Philadelphia, and the crime rate is going up all over. We are not devoting enough of the resources, it seems to me, to get rid of the backlog of cases, which is one of the biggest problems that the judicial system faces. If they could get rid of these types of cases, maybe they could get on and reduce the backlog, because I think, this is very important if you are going to have any type of respect for the law. If you reduce the backlog of cases, the defendant knows if he gets arrested on January 1 he is going to go to trial in February or March, and the effect of swift justice has a great effect, deterrent effect, than does severe penalties in many instances. So what I am saying, from a negative standpoint you are simply not getting back what you are putting into it.

Q. It sounds that you are almost saying the police
are getting paid off for not enforcing laws that they
won't enforce anyway. That makes it perhaps easier to
take.

A. In part. Then there is the honest police officer
who joins the force and is confronted with a very dif-
cult situation as to what to do.

Q. Since you are specifically assigned to the corruption
issue, where does the gambling issue stand? That is to
say, how is corruption attributable to gambling as com-
pared to other criminal activities?

A. As I say in my statement, it constitutes a great
source of corruption of the police department.

Q. By far?

A. I would say it constitutes a much greater source
than, say, narcotic trafficking. Perhaps, the next
largest source in Philadelphia might come from bar owners.
It is difficult to say whether it is by far or by how
much, but I know it is greater, definitely the greater
source.

Q. You could not hazard a guess?

A. No, I couldn't.

MR. MORIN: Thank you.

DOCTOR ALLEN: Commissioner Gimma?

BY MR. GIMMA:

Q. Mr. Attorney General, you made a statement before
that betting in New York has lessened since the establishment of the O.T.B. Do you have any basis for that statement? Do you have any facts or figures?

A. No, I really don't; just some people I talked to. I have no underlying basis for that. I make this reference in my statement because I think it is something that is worthwhile to be looked at anyway.

Q. How long since you have been in New York?

A. I left New York April 1, 1974.

Q. Was Paul Curran the United States Attorney then?

A. Yes. I served under Paul Curran.

Q. By "state control" do you mean like the State Liquor Authority Commission and then licensed people with strict control over them, or do you mean just state run?

A. I mean state run.

Q. Well, if it is state run, how can it compete with illegal gambling, which was brought up by my colleague here, on credit?

A. That's a problem, and I think that's one of the biggest problems, because illegal gambling is run on credit. This, of course, invites loansharking, but I would be the first to admit that that would be one of the problems with establishing it because you have the credit situation involved in illegal gambling. I don't know what the solution to that is.
MR. GIMMA: I don't have any further questions.

DOCTOR ALLEN: Thank you, Commissioner Gimma.

Commissioner Coleman?

BY MR. COLEMAN:

Q. In the course of your investigation that you have in this position, have you been able to form any opinion as to what the gross handling of the illegal numbers operation is in the City of Philadelphia?

A. No, I don't.

Q. What about sports betting? Is that, in your opinion, prevalent in this area, also?

A. Yes, I think it is.

Q. Does that have the same effect that you related in relation to the police department and possible corruption, or the same effect as numbers, or would that be entirely different?

A. I think it does, but not as much as numbers, because I think numbers is much more widespread in Philadelphia.

MR. COLEMAN: I have no further questions.

DOCTOR ALLEN: Thank you, Commissioner Coleman.

Staff questioning will be conducted by
Mr. Ritchie first.

BY MR. RITCHIE:

Q. Mr. Phillips, we have been told as a solution by the Federal Government that there needs to be increased enforcement to be more effective in their fight against illegal gambling, which leads to their fight against organized crime. One of the recommendations they made was that states authorize electronic surveillance similar to the Federal system. I think the record should reflect I am sure you made your position known to a similar commission to this, the Commission on Electronic Surveillance, and, therefore, recommendations will be forthcoming in, I believe, about six or seven months, and I would like the record to reflect further that one of our valid consultants, Professor G. Robert Blakey, who is a presidential appointment, is present here today. I take it regarding the issue of wiretapping you are advocating that this Commission endorse some type of recommendation to the State of Pennsylvania as opposed to enactment of some Federal law that prevents the State of Pennsylvania from making a judgement on electronic surveillance such as they have made that you described in your testimony.

A. I think that would be an excellent idea. I think anything that could somehow persuade the Legislature to
1 somehow amend the last amendment to the Right to Privacy
2 Law so as to allow at least with a court order one-party
3 consentual monitoring.
4 Q Laying aside the fact that I am confident that the
5 wiretapping commission will deal with this issue, the
6 next recommendation that was made to us is that you need
7 to have special prosecutors, such as the counterpart of
8 your narcotics unit in the Southern District or strike
9 forces that concentrate on gambling in different parts
10 of the Government, as a Federal counterpart. You are a
11 special prosecutor, and I know that gambling is not your
12 primary objective, but it certainly is an integral part
13 of your work. You as a special prosecutor are recom-
14 mending some form of legalization. Is that because you
15 have been frustrated as a special prosecutor and you
16 would not think that this is a solution that has merit
17 nationally from this Commission's standpoint?
18 A No. My basis for advocating that some form of legal-
19 ized gambling at least be considered or studied or looked
20 into, and, perhaps, even come about in Pennsylvania, is
21 based not on frustrations on the part of me or the of-
22 fice, but based on what I indicated, that the Commonwealth
23 is devoting an awful lot of resources to the enforcement
24 of gambling laws and not getting anything in return.
25 Q I suppose my question is: Assuming that this
Commission should make an advisory recommendation to the States but it is up to them to decide whether or not they wish to allow or prohibit gambling, but if they wish to prohibit it they must have certain tools, and let's assume that the Commission would recommend that wiretapping for this type of offense was one of the tools, would you also endorse special prosecutors being part of that recommendation to deal with it?

A. To deal with the corruption problem, yes.

Q. What about the gambling problem?

A. No, I don't think a special prosecutor should deal with the gambling problem. I think the local district attorney ought to be able to prosecute just as vigorously gambling cases as any other cases.

Q. Do you have any evidence that any of them have?

The instances of arrests and the instances of convictions and jail sentences are a little discouraging.

A. I don't think you can blame this on the district attorney except to the extent to which he is abdicating his responsibilities to investigate as opposed to just prosecute. I think the D.A. ought to be part and parcel of the investigative process, in which case he does become very important in terms of what the overall picture is going to be. But right now the situation in Philadelphia at least is that the police department goes out
and makes its cases, which are voluminous to say the least, and hands them over to the D.A. to prosecute, and they get search warrants, have to try to hold it up in court, and many times it is thrown out. So I think right now the D.A., given the police department attitude and the Judiciary's attitude, is probably doing the best that he can probably do with the situation.

On the issue of gambling and corruption and the illegal gambling operations, when Patrick Murphy was Commissioner of the New York Police Department, it is rumored rather authoritatively that he imposed a policy of nonenforcement against certain types of gambling, that is, low-level enforcement, as a measure to decrease the opportunities for corruption from that type of gambling. Do you have any comments on those phenomenon, perhaps as you observed in New York, and whether or not you have considered that as an effective measure here in Philadelphia?

I think that that sounds like an excellent idea in many cases, because I think that the effect of it may well be to reduce the amount of corruption, and I think concentrating your efforts on the high-level operators first of all is the only way you are going to make any inroads into the illegal gambling problem. At the same time, I think it will reduce to some extent the amount
of corruption going on in the police department.

Q. That seems to be a little inconsistent, but that's the Police Commissioner who did that, and I think that's an unfortunate problem in Philadelphia, the police department attitude in this respect. Would you recommend that the police department attitude be mandated by some particular state statute that would institute a nonenforcement as to certain levels, that is, a decriminalization?

A. Well, yes. I don't know that a state statute is necessarily the answer. I do think, however, that the police department ought to change its policies rather drastically with respect to its enforcement of the gambling laws and not go after these low-level writers but go after the high-level people. Now, there they have a real problem because to go after high-level people, as I have indicated, you have to have some type of wiretapping laws on the books, which is simply not on the books. It seems to me if you are going to go after high-level people, you also have to consider undercover operations, and here I think is where the district attorney ought to take the initiative and sit down with the commissioners and discuss with them their attitudes towards gambling and why aren't they going after the high-level people.
MR. PITCHIE: Thank you.

DOCTOR ALLEN: Mr. Farrell?

BY MR. FARRELL:

Q. I just have a few questions. In the Pennsylvania Crime Commission Report on police corruption in Philadelphia they talked about a serious lack of cooperation with the Philadelphia Police Department in the course of their studies. Has your office had similar problems with the Department?

A. Yes. We have really gotten no cooperation, at least what I would regard as cooperation, with our investigation of police corruption.

Q. You have had to have considerable litigation between your staff and the Department?

A. Not so much with the Police Department, but we have had to, for example, subpoena records from the Police Department which we shouldn't have had to do, and we simply haven't gotten the Police Department wanting to go after police corruption. Their attitude is more of wanting to cover it up.

Q. Since that report there has been no serious effort by the Philadelphia Police Department to rid itself of gambling corruption at all?

A. No, or any other type of corruption.

Q. We have talked about so much police corruption.
What is the effect of gambling-related corruption on the ability of a police department to perform its duties to arrest major criminals and to protect citizens? Does that gambling-related corruption really affect a police force?

A. I think it does. I think that it's one of the most significant things. There was recently an L.E.A.A. study which was done about a year ago, which showed Philadelphia ranked highest in the country in terms of ratio between crimes committed and crimes reported, between something like 5 to 1, whereas the National was somewhere between 2 and 3 to 1. The primary cause of that was that the citizens have such a low regard for the police department that they simply didn't report crimes because they didn't think anything would come about as a result, and I think this is unfortunate. What happens is that corruption, be it gambling related or otherwise, breeds a tremendous disrespect for the law, not only on the part of the victims who are victimized by the crimes that are committed, but also on the part of individuals who are considering engaging in any type of illegal activity if they think they can pay off police to be successful.

MR. FARRELL: Thank you.

DOCTOR ALLEN: Are there any further
questions by members of the staff? Any further
questions by the Commissioners?

Thank you very much, Mr. Phillips.

(Witness excused.)

DOCTOR ALLEN: This meeting will be ad-
journed until we reconvene at 1:30 p.m.

(Luncheon recess.)
STATEMENT OF

WALTER M. PHILLIPS, JR.

DEPUTY ATTORNEY GENERAL
OFFICE OF THE SPECIAL PROSECUTOR
COMMONWEALTH OF PENNSYLVANIA

May 28, 1975
STATEMENT OF WALTER M. PHILLIPS, JR.

I am the state Special Prosecutor for the City of Philadelphia. The Office of the Special Prosecutor was established by the Attorney General to investigate and prosecute corrupt police and public officials in Philadelphia. It was created after the Pennsylvania Crime Commission conducted an eighteen month investigation into police corruption in the Philadelphia Police Department, and recommended that an office independent of the local District Attorney's Office be set up to investigate and prosecute police corruption. Shortly after we started in April 1974, our jurisdiction was broadened to include the investigation and prosecution of municipal and state corruption within Philadelphia. In addition to following up the investigations initiated by the Crime Commission, we have conducted investigations of our own. I would like today to discuss the relationship of gambling to police corruption and the problems inherent both in enforcing the gambling laws and in prosecuting police corruption.

Investigations conducted by our office during the one year of its existence have led us to agree with the Crime Commission's findings (1) that illegal gambling is open and widespread in Philadelphia and (2) that it is able to flourish because of paid-for protection from members of the Philadelphia...
Police Department.

The most common form of illegal gambling in Philadelphia is numbers betting where a bettor can place a variety of bets on the basis of a winning number for the day. The winning number is determined by adding the win, place and show payoffs for certain races at a designated racetrack. The bettor places his bet with a numbers writer who frequently conducts his business openly in public places such as on a street corner or in a bar. The writer turns in his work to a numbers banker who is insulated from any contact with the bettor, and sometimes even from the numbers writer, since he often has persons working under him whose duties include collecting the writer's work and taking care of police protection. These people, known to law enforcement as the banker's lieutenants, are themselves rarely seen and therefore infrequently arrested.

Almost all arrests by the police involve numbers writers, and are almost always based on their possession of numbers slips, that is, pieces of paper used by the writer to record bets he has taken. The strength of the case against the numbers writer thus will depend on the quantity of numbers slips, more specifically on how many bets are recorded on the numbers slips. Since placing a bet is not illegal in Pennsylvania, the argument often made to the court
on behalf of a numbers writer is that the relatively few bets written on the slips indicates he is a bettor, not a writer. The numbers writer represents the lowest echelon of a numbers operation, and since his crime is viewed as a victimless one -- indeed, his activity provides a source of recreation to a large segment of the population -- very few numbers writers are ever convicted, and those that are virtually never receive prison sentences. The statistics compiled by the Pennsylvania Crime Commission in its investigation of police corruption for the year 1972 with respect to the disposition of gambling cases are rather startling. During that year, 91.6% of all gambling arrests in the City of Philadelphia resulted in either dismissals or acquittals, and only .4% of those arrested for gambling violations ever received a jail sentence.

The leniency shown toward violators of the gambling laws by the judiciary is, to a certain extent, the result of the police department's policies. For example, the performance of an individual police officer as well as his whole unit is measured by the quantity and not the quality of gambling arrests. No effort has been made to infiltrate a numbers operation with a police officer acting in an undercover capacity with the purpose of gathering evidence against higher-ups. Thus, practically all the defendants who are brought into
court represent the lowest and least important members of a numbers operation -- the writers who can easily be apprehended. In addition, pressure on police officers to make gambling arrests causes them to resort to unconstitutional means, such as perjured search warrants to gather evidence of illegal gambling.

When the police occasionally do arrest a high echelon member of a numbers operation, the results are usually disappointing. Recently, a case involving the seizure of approximately $75,000 worth of numbers work in the possession of a major gambling figure resulted in an acquittal by a judge sitting without a jury. At the close of all the evidence, the judge stated on the record that "there was more than just a little operation going on," an observation fully supported by the evidence, but nevertheless found that he had a "reasonable doubt". The judge's lack of reasoning in support of his verdict was significant in that it reflects the general antipathy toward the prosecution of gambling cases.

The real evil that illegal gambling poses is that it constitutes the greatest source of police corruption. The payoff rate on winning the full number bet is 400 to 1 in Philadelphia, whereas in New York the payoff rate is 500 to 1, the difference being due to a greater amount of money being paid by the bankers for police protection. As the above sta-
tistics would indicate, protection is not sought for the purpose of staying out of jail, but rather to prevent disruption of the numbers operation. A numbers banker stands to lose a tremendous amount if he has to destroy his paper work in order to avoid arrest upon a raid, because once the bettors find out that the paperwork for the day is destroyed, there will be a flood of claims for winning numbers, claims which the banker will be unable to refute without his paper work. The corrupt plainclothesman, aware of this dilemma for the numbers banker, can make a quick profit for himself by selling a numbers banker the paper work that has just been seized in a raid. It thus takes only one or two well-timed raids before a numbers banker becomes willing to make payoffs, and because numbers betting is widespread, gambling related police corruption in Philadelphia is commonplace. Thus, gambling unlike isolated instances of payoffs by drug pushers, can involve entire units within the police department. Gambling payoffs are generally received by one police officer, known as the "bag man", who distributes the money to others within the unit, thereby keeping to a minimum contact between the banker and the corrupt police officials.

I believe that one cause of gambling related police corruption is the general attitude, shared by the judiciary,
that gambling is a victimless crime which provides harmless recreation for many individuals. Thus, allowing a numbers writer to ply his trade does not have the same stigma attached to it as does, for example, permitting a narcotics trafficker to engage in his criminal activity, which has a far more injurious impact, directly and indirectly, on the community. A law enforcement officer's mission is to see that persons who violate the law are apprehended and punished. Yet in Philadelphia the police know that most gambling arrests will be thrown out for one reason or another, and this generates as well an attitude that rather than waste time arresting gamblers, it benefits the policeman to simply "go along with the system" and at the same time realize some pecuniary benefit.

Even assuming the police department were to concentrate its efforts on going after the major figures of a gambling operation, any success is highly unlikely in light of Pennsylvania's right to privacy law. In this state since 1957, wiretapping in any form, even by a law enforcement agency pursuant to a court order, is forbidden by statute. This in itself creates a tremendous obstacle to law enforcement in any efforts at enforcing the gambling laws, since any major gambling operation, whether it's a numbers bank or a sports betting operation, uses the telephone extensively, in fact
depends on the telephone to conduct its daily business. Contact between the major figures of the operation and their writers, the placing of bets by established and well paying customers, as well as the "laying off" of bets, are all done exclusively by telephone. Without being able to intercept these telephone calls, the apprehension of the top members of any gambling operation is virtually impossible. Occasionally, a raid may result in discovering a major figure on the premises, but as shown by the case I referred to earlier, a judge can point to the circumstantial nature of the evidence and throw out the case. If the judge were confronted with recordings of the defendant as he was in the process of committing the crime, it might be a different story. In Pennsylvania, however, while the telephone company may lawfully intercept and overhear perfectly innocent telephone conversations in order to prevent cheating by customers on long distance toll calls, law enforcement authorities, even with a court order, are not allowed to record criminal conversations.

While the anti-wiretapping statute has been in effect since 1957, a more recent amendment to the right to privacy law has been enacted that has an even more crippling effect on law enforcement, particularly in gambling related police corruption. Last fall, the Pennsylvania legislature passed a bill banning any type of recording of another's voice unless the individual whose voice is being recorded consents
to having it recorded. This bill, which was signed into law by the governor and has taken effect, thus prohibits what is commonly known as a body bug. The particularly unfortunate aspect of this law is that its only exception for law enforcement is useless: when a law enforcement officer believes his safety to be in danger the Attorney General or local district attorney may apply for a court order to allow a tape recorder to be worn by the officer, but the recording is inadmissible in a subsequent court proceeding. The entire right to privacy law, as it is called, is now the strictest of its kind in the country.

The impact of this law on anti-corruption efforts is substantial. Corruption cases are difficult, if not the most difficult, cases for a prosecutor to prove. Not surprisingly, juries require overwhelming proof of guilt before they will convict policemen and public officials. Also, those who are witnesses to police corruption, that is, persons who are paying off for protection or are being shaken down, are generally criminals themselves and require extensive corroboration before their testimony will be accepted by a jury. From my experience as a prosecutor in federal courts where tapes derived from both court authorized wiretapping and one party consentual recording are admissible, I have found that there exists no stronger evidence than tape re-
cordings of the defendant as he is committing the crime. This is particularly so in corruption cases where the defendant's impeccable reputation becomes his strongest defense when presented through character witnesses as well as his own testimony and general appearance. Being able to bring to the jury's attention the defendant's other personality by playing tapes of his criminal conversations can thus become critical to the prosecution's case. This kind of evidence can no longer be gathered in Pennsylvania.

Prosecution of gambling related corruption is especially affected by the new Pennsylvania anti-eavesdropping law. As I've already mentioned, it is not uncommon for a numbers bank to be paying off an entire plainclothes unit or district usually through a bagman. Assume for the moment that the corrupt bagman, for whatever reason, decides to cooperate with a prosecutor to gather evidence of corruption by the police officers for whom he's been collecting payoffs. Since conversations between the reformed bagman, even with his consent, and the corrupt police officers is illegal, and since physical surveillance can probably do no more than establish that certain officers met with the bagman, which doesn't prove anything since they work together, the only available alternative for corroboration is to use marked money and arrest a police officer immediately after a payoff. Of
course, this would "surface" the cooperating bagman and thereby terminate the investigation, since no other police officer would ever deal corruptly with him again. The results would be one prosecution of one police officer, and subsequent sworn testimony by the bagman that an entire unit was on the take would be viewed with great scepticism, not to mention that without prosecuting any of the other officers no dent whatsoever would have been made on the serious corruption problem. The police department and the public could well view the situation as one rotten apple when in fact the true picture is that the entire barrel is infected.

In light of the courts' and society's attitude that illegal gambling is a victimless crime and the unavailability in Pennsylvania of the necessary resources to investigate both it and the police corruption it generates, I am in favor of considering some form of legalized gambling. I would not be in favor of legalized gambling controlled by private interests, because I think such a situation would be controlled by organized criminal syndicates. In addition, legalized gambling in the form of private casinos would require licenses to be issued, zoning changes to be made, all of which could give rise to another form of corruption—payoffs to public officials for favorable rulings, licenses, and the like. Accordingly, if any type of legalized gambling is to be considered in
Pennsylvania, it should be run by the state government as is the state lottery. Thus, I think it would be worthwhile for Pennsylvania to consider establishing something akin to New York's Off Track Betting Corporation. One factor that leads me to conclude that such an operation might be worthwhile is that it would generate a tremendous amount of revenue for the state, a consideration that should not be taken lightly.

In conclusion, I would like to emphasize that my attitude toward legalized gambling is entirely the result of my belief that the gambling laws of Pennsylvania are simply unenforceable. They are unenforceable because our law enforcement agencies have neither the resources nor the desire to enforce the laws, and the judiciary, joined by the public, views gambling as a victimless crime which should not be punished. Finally, the legalization of gambling should be given serious consideration because illegal gambling nourishes police corruption and, with it, a disrespect for all laws and our system of government.
AFTERNOON SESSION

DR. ALLEN: The hearings of the Commission on the Review of the National Policy Toward Gambling are now reconvened. Our first witness this afternoon will be the Honorable Joseph R. Glancey, President Judge of Philadelphia Municipal Court, Philadelphia, Pennsylvania.

Good afternoon, Judge Glancy.

JUDGE GLANCEY: I have a brief statement. Would you prefer that I read it or you read it?

DR. ALLEN: As you please.

JUDGE GLANCEY: Thank you very much, ladies and gentlemen, for inviting me to appear here today. I think it is vitally important that we do have a national policy toward gambling and that this policy face up to the realities of gambling as it exists in our urban centers.

Attached as Exhibit 1 are figures for arrest and conviction in the City of Philadelphia for illegal gambling for the years 1969 through 1974 inclusive. If nothing else, these figures show that we spend tremendous amount of time and effort dealing with illegal gambling and end up
with only 10 percent of the defendants being found guilty and only one or two defendants ever going to jail. In our Court last year, for example, there were almost 3,000 arrests for illegal gambling with less than 250 found guilty and three being sentenced to jail. To continue this does not make any sense at all, and I would propose the following:

That the States authorize the local communities, by option, to permit off-track betting, sports betting, and lottery. The actual operations would not be conducted by the State itself, however, because of the bureaucratic overhead it would entail. I would propose that the State license private individuals to be bookmakers or what are known in Ireland as "turf accountants." State license fees could be based on gross revenue, and the individual bookmaker could deal with his customers on credit, by telephone, et cetera, all of which is necessary to be competitive with the existing bookmaking operation in this City.

In addition, the State would agree that the winnings would be free from State income taxation since the State would receive its revenue from license fees on the gross amount bet.
I would ask that the Federal Government recognize the need for such State-licensed establishments, and, in order to be competitive, it is imperative that the Federal Government exclude winnings from State licensed bookmakers from Federal income taxation.

I believe it is about time we stopped kidding ourselves about gambling. People do gamble; people will continue to gamble. The State should be receiving revenue from such gambling rather than spending tremendous amounts of time and money prosecuting "illegal" bookmakers.

I do have a supplemental statement after I had thought about that a little. I would like to make that if I could.

I understand that the Federal law enforcement authorities are of the belief that organized crime syndicates are behind illegal gambling in this country and that the proceeds of such gambling are used to carry on more serious criminal activity; mainly, narcotics, loansharking, et cetera. Drying up this source of revenue now available to such organized crime syndicates will be a great step toward lessening narcotics traffic and loansharking, if the Federal law
enforcement officials are correct.

In addition, legalizing gambling will lift from the local communities the tremendous burden of enforcement, both by the police department and through the courts. This cost is enormous, and if the police and courts did not have to waste time and money with gambling cases, their efforts could be directed in more meaningful areas.

The Federal Government must take the first step, however, by eliminating the impact of Federal income taxation on winnings from legalized gambling. Unless that is done, the States cannot compete with the illegal gambling operations and any attempt to do so is doomed to failure. The loss of income to the Federal Government can be compensated for by a decrease in general revenue sharing funds proportionate to the taxes not imposed. The local units of government which wish to have legalized gambling would not vehemently oppose this offset since the cost of enforcing existing gambling laws would be eliminated.

In conclusion, I must reiterate that the Federal Government, by insisting that organized crime is behind illegal gambling, is compelling
local units of government to carry an inordinate burden by strict enforcement of so-called "illegal" gambling, while at the same time the Federal Government is preventing the local units of government from legalizing gambling by imposing a Federal income tax on the winnings of bettors involved in legalized gambling.

This is a hypocritical position of the Federal Government and should be recognized as such, and I would hope that this Commission would face up to these facts and that the Federal Government will face up to its responsibilities. Thank you.

BY DR. ALLEN:

Q. Thank you very much, Judge Glancey. We noted that there were two convictions for gambling cases in the year 1971 that resulted in a sentence of two years or more. To what would you attribute this phenomena in light of the fact that none of the other cases prosecuted resulted in sentencing of that type?

A. Without looking at the particular cases, I wouldn't guess. I would assume it was because of prior criminal records, something else involved in it. It would have to be something like that. I would say I have been in the Courts since 1969, and when we talk about
organized crime being behind it, our average lottery
defendant is 55 to 60 years old, usually a black male
or female, very poor, and it is hard for us to
visualize them as being a part of organized crime.
Maybe they are. When we are dealing with that person
in the courtroom without any other input, any Federal
law enforcement official, or any other officials, we
deal with it as we see it, and it just seems to me that
the emphasis may be on arrests in these areas but very
little emphasis on conviction.

Q. Why would you say the emphasis is on arrest?

A. I believe the police feel by making the arrest
they are keeping the lid on. Having convictions would
require, for example, handwriting experts and a lot of
other more sophisticated prosecutorial things, and I
think that they just feel that it is not worth it to
the police department to do this in a courtroom. They
feel by making the arrest the person spends 10 or 12
hours down at the Roundhouse in the tank, then held for
Court, and he then has to get a lawyer, and they
probably feel that's sufficient to keep the thing down.

Q. In your judgment, Judge Glancey, do you feel that
if we are to maintain the current system that we have
there should be clearly delineated mandatory specified
sentencing of people brought into Court for gambling
offenses, or should we still continue to use the haphazard methods that we use? That is no reflection on the court system, but it is haphazard.

A. I think the word is discretionary, and I think that we should still use discretionary methods of sentencing. I am opposed to any mandatory sentencing. People are not like blocks. Each person is different from the other. I don't think we should say for gambling, first offense, 30 days, or like drunken driving, where the first offense is 7 days, that kind of thing. I think everybody has to be treated individually, and I would be opposed to any mandatory sentencing. If you look at the records, 90 percent of all gambling arrests are found not guilty, so the sentence wouldn't make a difference. 90 percent walk out.

Q. Why do 90 percent walk out? That was my next question.

A. I don't think the police are serious about getting the conviction, because they are very difficult cases to convict. If they find someone with a number slip in their pocket, you have to prove when the slip was written, that it was written by that individual, that he is in the business of writing numbers, not just a player, et cetera. It is very difficult to prove that,
unless somebody actually places a bet. That's usually the kind that are convicted. The patrolman says, "I placed 609 today with him," and that kind of testimony. You might get a conviction there, but then it has to be beyond a reasonable doubt. The defendant could say, "I didn't do it."

DR. ALLEN: Thank you, Judge Glancey. Commissioner Gimma?

BY MR. GIMMA:
Q. Judge, you recommended in your statement here that winnings should be exempt from income tax and also to license bookmakers. You didn't mean also to exempt the bookmaker from normal profit tax?
A. No, not at all; the winner, the bettor.
Q. Just the bettor?
A. That's right.
Q. Of course, I believe you are trying to relate this with years back -- and I go that far back, too -- when they said that organized crime ran bootlegging. When the Volstead Act was killed, there emerged a lot of fine citizens manufacturing and producing alcohol. Are you trying to relate that in the same fashion?
A. Very similar, yes. I think if, in fact, organized crime moved from bootlegging into numbers and lottery, therefore, we can move them out. If we moved them out
of liquor, we can move them out of numbers by competing with them. I think there are ways that can do that.

MR. GIMMA: I don't have any further questions. Thank you.

DR. ALLEN: Commissioner Coleman.

MR. COLEMAN: Thank you.

BY MR. COLEMAN:

Q. Your Honor, in the two tables that you presented to us here, I notice one says, "Philadelphia Court of Common Pleas (Appeals)." Are those appeals from the Municipal Court?

A. Yes.

Q. The Court where you sit?

A. Yes. Our cases can be appealed de novo to the Court of Common Pleas, and a lot of them are in this area.

Q. Of course, you list those guilty, and those sentenced, and so forth. May we assume that all those over and above the guilty were convicted after being tried, or were there dismissals outright for some other reason?

A. I would probably say up until 1975 most of those were either tried or dismissed to the Commonwealth, but the Court found that there was not sufficient
evidence in the Commonwealth's testimony to go forward, and they were dismissed. During the past couple of years the D.A.'s, because of the volume of crime, have been withdrawing prosecution in these cases, and a great many of them before trial. In other words, the D.A. will take a look at the file as it comes in, and they will say, "Well, it is a numbers case. How many numbers involved?" and they will write down, "Prosecution withdrawn," and that's the end of the case. In our City the D.A. does not approve the issuance of all warrants. The D.A. doesn't start all criminal prosecutions. The police in this City initiate all criminal prosecution. Then if the D.A. feels that it shouldn't go on, he can withdraw it prior to trial. I know in some cities the D.A. must approve all complaints before they are issued, but not in Philadelphia.

Q. Is it your court that is the court of original jurisdiction for gambling offenses?

A. That's right.

Q. Are these figures here all sort of gambling offenses, not only --

A. The ones I have here are just numbers. We have a limited amount of arrests for football pools and bookmaking, off-track bookmaking, which I would say wouldn't amount to 10 percent of what the
illegal lottery arrests are. Most of the arrests are for illegal lottery in the City.

Q. When you say that the police apparently don't care, are not serious about getting convictions, suppose they have a defendant who they have found in his possession five or six different slips with obviously different handwriting, not any that you would need an expert for, by observation there can't be any question that someone is possessing illegal lottery slips?

A. If someone were to tell me these are five slips, obviously in different handwriting, the obvious question is whether the same person could have written them. Are you asking me to be a handwriting expert then?

Q. Do you have a law that says possession of lottery slips is illegal?

A. Actually, our law was just changed in 1973 by the new Crime Code in Pennsylvania, and the law is no more exclusive than before. You had to be almost a writer to be found guilty in Pennsylvania. Since then, you can be -- I forget the word -- it is like trafficking in or dealing in the illegal lottery.

Q. Does your court issue such warrants?

A. Yes.

Q. Is that exercised at all by the police to any
extent?

A. Sure. In lots of lottery cases that is how the evidence is procured.

Q. As of the 2,818 arrests in the year of 1974, how many of those were on warrant, off the top of your head?

A. I would say probably 30 percent, roughly, are warrant cases, because generally surveillance is made of a house, and then he gets the warrant and goes into pick up the paraphernalia.

Q. The fines and costs, what is the typical fine for a first offense?

A. It used to be limited in Pennsylvania. Until 1973 we had a maximum of one year imprisonment for illegal lottery, and I believe it was a $300 or $500 fine. It is now five years' imprisonment since 1973, and the fine, I believe, is $5,000.

Q. That's the maximum?

A. That's the maximum.

Q. What is the minimum?

A. $150, $200 is generally the fine they get in our courts.

Q. Your Honor, in your experience have you recognized during the course of a year the same person coming back again?
1. I have seen a couple of them, yes.
2. Q. What happens with that person?
3. A. If I recognize them coming in front of me, I
can't try them because then I am prejudiced. I know
he has been convicted, so how can I try him on this
new case?
4. Q. Don't you get a pre-sentence report before you
sentence him?
5. A. After sentencing, yes, but not before trial. I
thought you meant before trial. After sentencing,
sure.

DR. ALLEN: If he is tried in January
and he comes back in February, he can't try him
again.

A. (continued) Some other judge has to try him.

Q. Is there any rule of thumb that a second time
around, third time around, now he is going away? Is
there no such procedure?

A. No rule of thumb on that. Every judge is on his
own. As you can see, most of them just don't give it
that much weight. They think there is so much other
crime in this City, and everybody places numbers, and
so... We do have a State lottery, too, and you can
play that without going to jail. Why can't you play
this lottery, the State lottery?
Q. That's not part of the judicial sentence procedure. 
A. I am sure it is there though. They live in the communities and they are certainly community conscious. 
Q. Philosophically, Your Honor, do you feel that the revenue from numbers goes to some laudatory end or purpose? 
A. No, I am sure it is not. 
Q. You really think by legalization of some other form of gambling it would stamp our illegal numbers? 
A. I think it would minimize it. It would never stamp it out. We have never stamped out bootlegging. We still have bootleggers in this City, but not nearly what we had back 40 years ago. 

MR. CLÉMAN: Thank you. 

BY DR. ALLEN: 
Q. Judge Glancy, of the 2,813 arrests that were made in 1974 for illegal lottery, how many had to make a court appearance? 
A. I would say really, you know, it would be a guess, Doctor, on that, because 1974 is when the D.A. started withdrawing a lot of cases. For example, there was an informal arrangement at the Roundhouse where defendants were arraigned, and if a defendant had less than 25 numbers or 50 numbers, the D.A. at the original preliminary arraignment had the discretion to
withdraw prosecution. So I would say most of these, at least 75 percent, in 1974 were withdrawn prior to trial. There were the arrests at the Roundhouse and then the cases were withdrawn. In other words, the Magistrate sits at the Roundhouse in an adjudication process. He cannot adjudicate; the only thing happens down there, the D.A. has to withdraw it if there are no Commonwealth witnesses, anything like that.

Q. Are those costs borne by the Common Pleas Court or Municipal Court or both?
A. The cost --
Q. Cost of the hearings.
A. The cost is borne by the City of Philadelphia.
Everyone but me gets paid by the City, and the City supports the entire thing.

Q. Under those circumstances, what type of backlog does a situation of that type where 2,818 people in one year must appear before some type of adjudicatory process in the criminal justice system constitute for you?
A. It has very serious repercussions. For example, because of a case like this going through our Roundhouse, which is the Police Administration Building, where we have a central arraignment court 24 hours 7 days a week, because of cases like this going in there,
we have usually a 10 or 12-hour arraignment wait
during the week, and on weekends it sometimes goes to
24 hours with people in there waiting to be arraigned.
Because of that the Supreme Court in Pennsylvania in
the past year has reversed at least five homicide
cases, one involving a patrolman in this area, on the
basis that they did not get arraignment without un-
necessary delay. As a result of that delay, they were
thrown out by the Supreme Court, and very serious cases
are now being discharged or sent back for new trials
by our Supreme Court because of the delay at the
arraignment. Part of the delay are cases like that
which jam up the system down there.
Q.  Would any purpose be served by creating a system
whereby lottery arrests, arrests of gambling offenses
of this minor nature, would be taken care of in the
precinct or district police court as opposed to being
brought to that central area, and thereby you would
free up your system at the Roundhouse to work with the
more serious crimes?
A.  We are moving in that area, yes. During this
past year now we have a citation program for the first
time in Philadelphia where someone arrested for a
summary offense, not a misdemeanor like this, but a
summary, are released on a ticket like a traffic
ticket, and they can come back for their hearings.

We have 11 police district hearing areas throughout the City, other courts other than the Roundhouse. We are proposing that misdemeanors of the third class, which are those cases where the sentence is one year in jail, that they be treated the same way. It would be very difficult, I think, for us to get misdemeanors, which carry a maximum sentence of one year, on a traffic-ticket basis.

I think there would be a lot of opposition by the police department and by the other people that think this is more serious. The Legislature must act because they made lottery from one year to five years maximum sentence in the last three years.

I could make some similar comment on the legislature in that ruling, Your Honor, but I don't since most of the folks that go into the system affected by that are not members of the Legislature or of their background.

My next question is -- and I thought since we have you here and our next witness has not appeared, we might as well give you the royal treatment -- my next question would be then: Once you have cleared the Roundhouse system and you are now remanded to the Municipal Court, what is the period of delay in time between your arraignment hearing and your hearing
in Municipal Court?

A. It varies. It is approximately 30 to 45 days.

We list cases from the Roundhouse arraignment within 30 to 45 days in Municipal Court for the first trial. If the case doesn't go the first time, it is extended for not more than 30 days. In our court right now we have close to 5,500 cases to be tried, and we try approximately 2,600 a month, so most of our cases are tried within a 60 to 70-day period. So this would take at the most two months before the case is tried.

Q. Do the attorneys for the defendants in cases of illegal lottery indulge in the same practice of judge shopping, if you will excuse the expression?

A. You can see by the records, they don't have to. Usually, they are found not guilty.

By the way, the City pays for the voluntary defenders, and I guess at least 90 percent of these defendants arrested for lottery are represented by public defenders, so if the syndicate is running gambling, we are paying for the syndicate's attorneys' fees.

Q. This is a point I was going to get to.

A. We are paying attorneys' fees for the Commonwealth, and we are paying the defendants' attorneys' fees, paying the Court costs, and nobody is going to
jail, yet everybody sort of feels better because we did arrest somebody.

Q. How many continuances do you usually get for a numbers case?
A. They are generally tried within the first or second time they are listed. Very rarely do numbers cases go beyond the second listing.

DR. ALLEN: Mr. Coleman?

BY MR. COLEMAN:

Q. Your Honor, do you feel, despite the lack of proof, that the majority of these people being arrested are numbers players, rather than number runners?
A. To be honest with you, I think many of them are number runners, but they are not proved to be guilty of that charge beyond a reasonable doubt.

Q. Is your court a jury court or not?
A. Nonjury, all nonjury cases.

MR. COLEMAN: Thank you.

BY DR. ALLEN:

Q. What would you do in a case of a numbers writer who uses the hand held printout computer, and he writes all his numbers with a hand held printout computer?
A. How do you prove it is in his handwriting?
Q. Right.
A. You have to prove it. Now, they sometimes don't
use numbers; they use letters, and some use different
codes instead of names, instead of amounts. Then the
Commonwealth says, "In our opinion that is a number
writer." Well, how do you know if it is in code?
That's what makes it so difficult to try these kinds
of cases.

DR. ALLEN: Mr. Gimma?

BY MR. GIMMA:

Q. You say if you legalize gambling, you will do
away with illegal betting, yet the lottery was
legalized in 1973, and I notice that, since these
arrests represent just lottery arrests, in 1974 you
had almost 500 more arrests than you did in 1973.
A. Yes. First of all, the lottery in Pennsylvania
is such that you don't pick your own number. In order
to compete with numbers you have to be able to pick your
own three-digit number on a daily basis with daily
payouts. It has to be a minimum of 50 cents to bet and
not be taxable by the Federal Government. If you do
that, you will compete with the number racket. If
you don't do that, you are not going to compete.
Q. In other words, these number arrests are not
really lottery per se; they are numbers games?
A. That's what we call lottery in this State, il-
legal lottery.
Another thing, too, I had a little crusade going in 1973 about all the cases coming in on numbers, and the police did start to cut down on the arrests, but then we started back up again, so it varies. If you are in the vice squad, you stay in the vice squad as long as you can show some results.

BY DR. ALLEN:
Q. How about bingo arrests?
A. That's funny. In fact, I think it is our high school -- my high school and your sister high school -- has been running a big bingo operation in the high school under the alumni association of the high school, and it is church related, and there have been no arrests for bingo.

Q. What about the nonchurch-related activities going on at the Philadelphia hotel that's sponsored by a group from New Jersey, the Portman Club from New Jersey?
A. Now it is sponsored by our high school.

By the way, the proceeds last year, $120,000, were given to pay the teachers' salaries for the high school. That's the result of the bingo.

Q. Under those circumstances, that's an illegal activity that is an acceptable illegal activity.
Throughout the State we have bingo, in all the firehouses, and everything. And you have the Puerto Rican numbers. We have quite a bit of that.

A. Bola.

A. We have 120,000 Puerto Rican residents from Puerto Rico.

Q. We don't arrest them either.

A. It is a weekly lottery run daily, and there is still a little confusion there about language, and all. There are some arrests made, but not that many.

DR. ALLEN: We will now hear from the staff starting with Marilu Marshall.

MS. MARSHALL: Thank you, Madam Chairman.

BY MS. MARSHALL:

Q. Judge Glancey, you stated that a very small percentage of the arrests involved bookmaking, that the predominance is the lottery. Is there any differential in sentencing those arrested for bookmaking and lottery?

A. Nothing factual. I would think that the bookmaker generally gets heavier sentences than the illegal lottery.

Q. What is the reason behind that?

A. Usually, they feel that they are businessmen, I imagine -- that's the way the judge feels -- rather
than someone 55 years old on Social Security or dis-
ability or Welfare just making a couple of dollars
writing numbers in the block.
Q. Is the determination then based on the gross
volume handled by the bookmaker vis-a-vis the lottery
person?
A. That's part of it.
Q. If your recommendations were to be followed by
the Commonwealth and if additional legal games were to
be instituted, such as a numbers game, off-track betting,
sports betting, et cetera, what would your sentencing
policies be with reference to those who would continue
to be arrested for illegal gambling?
A. I think most judges' sentencing policy would be
much more severe, because now we are taking that --
just like in the liquor cases; we have a legalized
system of distribution of liquor in the Commonwealth,
and if you do it illegally, then you get a heavier
sentence.

By the way, we handle liquor cases in
this City, too, and our sentences are much more severe,
for example, for a person operating a bootlegging opera-
tion than numbers.
Q. Although you did not make reference to it in the
statement, could you give us your opinion as to the
relationship between illegal gambling and police
corruption in the City of Philadelphia?
A I think as long as you give the police the
authority or discretion in this area there is a
possibility of corruption. Not only a possibility.
About two years ago I had a case involving the 17th
Police District, which is in South Philadelphia, sort
of southwest Philadelphia, where a police officer
testified in my court that his job every week was to
pick up the money from the number writer and he dis-
tributed it to the lieutenant, to the sergeant, and
everybody had so much to get, and he did it for a
period of a year and a half, and someone else did it
on the other shift. This was a continual thing. Men
did go to jail in this State for that. That patrolman
did. I thought, "Well, I guess he could be on the
take if that's available and the patrolman wanted to
do it," but what really hurt me is the fact that these are
men who come into the Court and testify in other cases
in our courtroom, and I don't know whether to believe
them. They may be bringing people in on number cases
who are not paying off, and if they are doing that in
this area, what are they doing in the narcotics area?
What are they doing in the aggravated assault area?
What are they doing in burglaries? It creates a cloud
over the entire police force in other areas.

Q You feel that would be alleviated through the
legalization process?

A It would help, sure.

DR. ALLEN: Mr. Farrell?

BY MR. FARRELL:

Q Could you elaborate and describe what your little
 crusade in 1973 was all about?

A I just started complaining to newspapers and had
 press conferences on what I am saying here. We were
 having a number of cases and nobody was being found
 guilty, and if you are really serious about it, you
 will find these people guilty, bring evidence in, really
 crack down. I think the newspapers sort of picked it
 up, and there were a few articles about it, and the
 cases did start to slack off.

Q Did that generate public pressure?

A Editorials in the paper, and that sort of thing.

Yes.

Q So the police department, they weren't feeling
 as much pressure to prosecute these cases?

A As long as it is on the books, I think the police
 department has to protect themselves. They have to
 prosecute as long as that law is there. Otherwise,
 they are criticized for not enforcing the law, and they
are in a bad position on this.

Q. When you talk about why a vice squad arrests gamblers are you saying it is job security, if you arrest gamblers you will get to stay on the squad?

A. I think you have a choice of jobs, harbor patrol, vice squad, or out in the street. From what they tell me, it is not that dangerous an area; just surveillance of someone's house for a couple days, and go in with a search warrant and make the arrest.

Q. If you legalize gambling, should you have a requirement that the people who work in the legalized system have clean criminal records, or do you accept people, for example, that have gambling convictions?

A. I think we should do the same thing we do in Pennsylvania with our liquor. It is required that people who distribute beer and who own taprooms have good criminal records. If there is a misdemeanor 10 years ago, that can be waived by the Board depending on the individual case. The fact that a man got involved in something in the past does not really foreclose him from getting into it now, but he must have no serious problems. I think we should use the same criteria that we developed in 30 years of handling licensing of beer distributors and liquor distributors.

Q. If you had a license system and there were some
corruption of public officials because of the licensing
process, would that still be preferred to the police
corruption?
A. Better to have the public officials than the
patrolmen corrupt if you are going to choose. I can't
say one is better than the other. However, I would
rather see the law enforcement officer not be
corrupt than someone sitting in Harrisburg giving out
the licenses, yes.

DR. ALLEN: Executive Director Mr. Ritchie.

BY MR. RITCHIE:
Q. Your Honor, since 90 percent of the experience
that you are basing your opinion on involves the
illegal lottery or numbers operation, would it be fair
to state that the Commission should accept your testi-
mony and your recommendations more towards the
particular illegal operation than, say, legalizing
wagerings on sporting events, or institution of
casinos within the Commonwealth?

A. Well, I think as far as wagering on sporting
events, we do have that. We do have track betting.
We just don't have off-track betting in Pennsylvania.
I think the logical extension would be licensed off-
track betting. I see no problem there. I would
hesitate as to casinos, because we don't compete.

There was no illegal casino operation in this State
that we would have to compete against.

Q. Are you sure of that?

A. If there is, I don't know, unless it is our
Bingo games. That's about it in our City. We have
card games, sure.

Q. Inviting your attention to the statistics of 1974
where 75 percent of those cases that were subjected to
arrest were withdrawn prior to trial, would it not be
just as efficient if there were some method instituted
that would preclude their having ever been brought to
any particular point where it would incur a cost? I
think it is something similar to what Dr. Allen's
earlier questioning concerned. Wouldn't it be your
recommendation that in the event that the laws are not
changed that administrative process be changed so that
those 75 percent that are going to be dropped in any
event can be weeded out earlier in the process rather
than later in the process?

A. I would agree to that, sure. I think we have to
ask initially whether they are going to be arrested
and just how far along the track do we get rid of them.

Q. Currently there was, at least on one of the major
networks, a program on the district attorney, and there
was some question raised regarding policies that were instituted. Would it be your recommendation that there be a statement by the prosecutor to not prosecute cases that have less than 50 slips so that the police will not bother bringing those types of arrests to any particular process?

A. That would be my second choice. I would rather see you eliminate the whole thing. We are still going to have the police out there. The arrests will be 55 slips. You will get maybe more numbers, and I don't think you really will solve the problem that way.

A. However, do you agree that if, in fact, such a statement were made that it would be at least an intrusion into the decision that has been made by your State Legislature that certain acts were crimes and certain acts were not crimes?

A. Yes, the Legislature says that, but it also gives discretion to district attorneys whether or not they want to bring action if they feel that they can't prove a case beyond a reasonable doubt. If you look at the records on the lottery, our district attorneys could say to the police department, "Since our track record for years has been 90 percent nonconviction, I am going to screen out 90 percent of these cases or 20 percent, because there is no sense in my sending them in
Q: Isn't that an evidentiary difficulty as opposed to a statutory difficulty?
A: Right. However, I don't think that would be conflicting with the Legislature. The Legislature said it is a crime to do this, but also the D.A. has a right to say whether the case should go to trial. The track records being so bad, he can say, "Nine out of ten cases go down the drain. Therefore, I am going to pull all but the very best ones to go into court."

Q: You indicated approximately 30 percent of those cases that were arrested were made on the basis of warrants issued pursuant to probable cause. Would that 30 percent be the majority of the 25 percent that was retained for trial? The cases that are based upon search warrants, do most of them go to trial as opposed to --
A: I couldn't say, because many cases with warrants end up with very little information, very little paraphernalia. I don't think there is any difference, whether it is with a warrant or without a warrant.
Q: It appears that you believe that a legal counterpart can be set up to offset the illegal numbers operation, but that legal counterpart is not the State-conducted lottery?
That's right. I think the State should license but not conduct it.

Q. The terms of the legal counterpart --
A. I am sorry. The State lottery, yes, of course. I imagine that's the only way we can probably do it to compete with the organized crime in the lottery itself.

Q. Assuming that they become competitive by allowing the player to pick a three-digit number and they are even so sophisticated as to have their computers able to conduct it on a daily basis, as long as the Federal income tax and the State income tax on the winnings are imposed, in your judgment, will those measures be doomed to fail as competition to the illegal operation?
A. Since the illegal operation is tax free, it will always survive.

Q. Then would it be your recommendation to the Commission that the issue of Federal taxation is basic to the judgment of legalization as opposed to the current process of prohibition; that unless the Federal Congress should enact a change in that particular statute that no form of legalization should ever be considered?
A. I am saying that unless the Federal Government does away with Federal income taxation on legal
2-32

1 gambling earnings, we are never going to effectively
2 compete with the organized crime in gambling. Now,
3 you may have some success, but you are not going to
4 compete with them. They are still going to survive.
5 If in fact that is where the money is going, to buy
6 narcotics and loansharking, that will survive, too.
7 Q. Assuming for the moment that the Congress does
8 not choose to change their particular tax treatment on
9 gambling winnings, would it then be your recommenda-
10 tion that this Commission should recommend that no form of
11 gambling be legal in the United States and that strict
12 enforcement measures be enacted because there would be
13 no competition?
14 A. I think we would take the second choice you men-
15 tioned earlier. Strict enforcement, as you can see,
16 leads to nothing, so why should we stay with that?
17 Unless the Federal Government gets rid of the Federal
18 income taxation on earnings, we should take other
19 steps. If the legislature cannot legalize it, then
20 things that our D.A. is doing in exercising his
21 discretion and not sending these cases into court are
22 the things we should move into. I think the courts and
23 the D.A. have to do what they have to do. If 90 percent
24 of gambling cases are going to be found not guilty,
25 it is senseless for us to prosecute them.
Q. If we cannot legalize, then we should decriminalize it by nonenforcement?

A. That's right, and I think there you are still going to have the problem. If you are looking for a National policy, that's no answer on a National level. I think we shouldn't have to carry the burden of the Federal Government putting income taxation on earnings. We as a city shouldn't have to pay for the police and the courts and the defenders and the D.A. to spin these cases around so the Federal Government can say we are going to keep the syndicate under wraps. Here they are getting money out of this illegal gambling, but, on the other hand, you are tying our hands with the Federal income taxation.

Q. Assuming, Your Honor, if I may for a moment, that we are going to continue that hypocrisy, how does decriminalization or nonenforcement help? It seems to me they are the same.

A. We are facing up to reality. In a five-year period, as we show here, nine out of ten gambling cases are found not guilty. It doesn't make sense to keep bringing into our court system 5,000 cases a year. What the D.A. is doing is eliminating the cases before they are brought into the courtroom on the basis there is not sufficient evidence.
What if the district attorney should decide in his discretion that no numbers arrests would be the best possible answer as far as eliminating 90 percent of your problem in terms of your background?

That's not discretion. A statement like that would not be discretionary. I think Mr. Fitzpatrick is here. He can answer that.

I am asking it from the standpoint of the judiciary. If that would rid you of 90 percent of your present problem, how differently would you treat the remaining 10 percent of gambling cases? Would they become more important to you?

I think we would have more time to give to them, sure.

Do you believe that the sentencing would reflect a much different treatment so that you might well cause a deterrent to be engaged in an illegal sports bookmaking operation and thus force everybody into the numbers operation?

I can't visualize that happening.

MR. RITCHIE: Thank you.

DR. ALLEN: Any further questions of the Commissioners?

Thank you very much, Judge Glancey.

(Witness excused.)
STATEMENT OF JOSEPH R. GLANCEY
PRESIDENT JUDGE OF THE
PHILADELPHIA MUNICIPAL COURT
BEFORE THE COMMISSION ON REVIEW
OF THE NATIONAL POLICY TOWARD
GAMBLING

Thank you very much, ladies and gentlemen, for inviting me to appear here today. I think it is vitally important that we do have a national policy toward gambling and that this policy face up to the realities of gambling as it exists in our urban centers.

Attached as Exhibit I are figures for arrest and conviction in the City of Philadelphia for illegal gambling for the years 1969 through 1974, inclusive. If nothing else, these figures show that we spend tremendous amounts of time and effort dealing with illegal gambling and end up with only 10% of the defendants being found guilty and only one or two defendants ever going to jail. In our Court last year, for example, there were almost 3,000 arrests for illegal gambling with less than 250 found guilty and 3 being sentenced to jail. To continue this does not make any sense at all and I would propose the following:

That the States authorize the local communities by local
option to permit off-track betting, sports betting and lottery. The actual operations would not be conducted by the State, itself; however, because of the bureaucratic overhead it would entail. I would propose that the State license private individuals to be bookmakers or what are known in Ireland as "turf accountants".

State license fees could be based on gross revenue and the individual bookmaker could deal with his customers on credit, by telephone, etc., all of which is necessary to be competitive with the existing bookmaking operation in this City.

In addition, the State would agree that the winnings would be free from State income taxation since the State would receive its revenue from license fees on the gross amount bet.

I would ask that the federal government recognize the need for such State licensed establishments and, in order to be competitive, it is imperative that the federal government exclude winnings from State licenses bookmakers from federal income taxation.

I believe it is about time we stopped kidding ourselves about gambling. People do gamble; people will continue to gamble. The State should be receiving revenue from such gambling rather than spending tremendous amounts of time and money prosecuting "illegal" bookmakers.
## PHILADELPHIA MUNICIPAL COURT

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## PHILADELPHIA COURT OF COMMON PLEAS (APPEALS)

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**Exhibit I**
DR. ALLEN: Let the record reflect that Mr. F. Emmett Fitzpatrick was elected District Attorney of Philadelphia in November of 1973. He has previously been an assistant district attorney and was admitted to the Bar of Pennsylvania in 1955. Mr. Fitzpatrick is also a member of the Pennsylvania and American Bar Association and member of the National Pennsylvania District Attorneys Association.

Mr. Fitzpatrick?

MR. FITZPATRICK: Thank you, Dr. Allen, and members of the Commission. I have with me today Mr. Michael J. Byrne, Assistant District Attorney on my staff, whose sole function it has been since I have been District Attorney to examine cases and determine which can be handled in a nonjudicial fashion, that is, either by screening or diversion.

I am somewhat unaware as to the nature and purpose of this Commission, and I am testifying here today primarily from my results as having been District Attorney of the City of Philadelphia for a year and a half. My testimony, except for whatever questions I can respond to, will be limited to my experience both as District Attorney.
for a year and a half, and as someone who has tried
cases in the criminal court system on both sides
for about 20 years.

When I first came to office, I think
the record should reflect there were unusual
restrictions placed upon me that had never before
been placed on any district attorney in Phila-
delphia, but which I suspect might be represented
in other sections of the Country. So it must be
germane here, germane in establishing the pa-
rameters of the problems I was faced with. I was
faced with an overwhelming backlog of untried
criminal cases. The Supreme Court of Pennsylvania,
effective the 1st day of April, said that all
criminal matters had to be brought to trial within
270 days. Effective the 1st day of July, all
criminal matters had to be brought to trial within
180 days. It was physically impossible for me to
have brought to trial all of the cases that com-
prised the criminal backlog when I became District
Attorney. It, therefore, became necessary for me
to do what, unfortunately, I think not enough
prosecutors are doing across the country, and that
is to establish priorities of those cases with
which we were going to deal.
In so doing, we tried to weed out the lame cases, those which had infirmities and had been continued for some period of time, and they are generally not in the category that you are interested in. I resolved that. While we were weeding out those cases which won't come to trial, we also had to keep the backlog from growing by eliminating the input of criminal cases into the judicial system in Philadelphia.

I regard my function in Government as being one of managing the assets which are supplied to me by the City Council. Dr. Allen can tell you well about that -- and I hope you voted for the extra money I wanted -- it is impossible in any jurisdiction, in my humble opinion, for any court system to try each and every case that somebody wants to put into it. In Pennsylvania they have weeded out most of the civil litigation and placed it in something called arbitration, which takes it out of the court system. On the criminal side, unfortunately, the practice for eight years was almost anything that got into the system had to go into a courtroom because there was a great deal of reluctance to dispose of it noncourtroomwise, either offer it for nolle prosse
or withdraw prosecution. I bit the bullet and decided I was going to do that, and I have done so.

In that regard we did a study of what took place in the Philadelphia court system concerning gambling cases for the years 1970, 1971, 1972, and 1973. We found that in the year 1970 of a total disposition of guilty cases of 4,720, five prison sentences were imposed. In 1971 there were 500 total dispositions and there were four prison sentences. In 1972 there were 4,059 total gambling dispositions, which resulted in 12 prison sentences. In 1973 there were 2,878 total convictions, which resulted again in four prison sentences. These figures were drawn from the annual report of the Municipal Court of Philadelphia, and they indicate that .00153 of the gambling arrests disposed of in court resulted in a prison sentence.

I might note that in my experience of 10 years as an assistant district attorney assigned to courtrooms trying, among other things, gambling cases, I found a great deal of reluctance on the part of the judiciary to impose prison sentences or even to find them guilty if they
could find an excuse not to. I, therefore, concluded that the public and the Judiciary in the City of Philadelphia was not concerned with the prosecution of gambling cases, and I think that proposition stands valid today. I decided that we would withdraw prosecution in as many of those cases as possible, because I believe that the discretion of the prosecutor not to prosecute should be based upon conditions they comprise in local communities. If your court system, which includes your judges who are elected by the people in some instances, your juries, who are the people, and your law enforcement authorities are not concerned with the particular problem, and if you have to exercise discretion because of limitations imposed upon you, the place to do it is in those kinds of areas, and gambling was a primary in that regard.

I note in the year 1974, which is my first full year -- although I did not start to screen and divert cases at all until April 1 and as a practical matter had no real effect for the first six months -- there were total dispositions of 3,225 cases and only five prison sentences were imposed. It stands as axiomatic that the
court is not going to send these individuals to jail. What they do with them is put them on probation, which overloads the probation department, and I might add, reaching into my hip pocket and shooting, that I have yet to see in my experience an individual sent back to jail for violation of probation which was imposed on gambling offenses. Or they impose a fine and costs, which, while it is usually paid, comes nowhere near compensating for the amount of time and effort which goes into the arrest of gambling figures. I have, therefore, concluded it will be the policy of my office not to examine each and every arrest, and this goes beyond the gambling field, and to place into the court system only those cases which have significance in the court system.

I apologize for not being able to define that any more clearly or definitely than it is. However, I can tell you only it is something that is recognized by an individual who has tried cases and who knows if you find a 67-year-old woman with two prior arrests from years ago with five numbers, there is not a judge on the bench in Philadelphia that is going to send her to jail. If he imposes
a fine, it is probably going to be paid by someone else. There is little we can do to rehabilitate that person under those circumstances, and we can no longer afford the luxury of having that person in the court system. We divert them.

I do not necessarily stand for the proposition that there should be no laws against gambling. I do think that may very well come. Offenses which are serious in nature and that would have a significance in the court system I reserve the right to examine in advance and try to place those within the court system. This discretion has been exercised largely by my office independent of the police department. The police department continues to make its gambling arrests as it sees fit in certain areas for its purposes, and I exercise my judgment in the area which cases I will prosecute. I don't necessarily think that this is an unhealthy dichotomy. As a matter of fact, I think the opposite is true. The functions of both offices are somewhat different. The police department, unfortunately, is governed by standards which deal more with statistics than anything else, and those which show a vast decline could very well be unfairly commented upon as regards the
efficiency or integrity of a police department, if suddenly the number of gambling arrests were going down. By the same token, I don't feel hemmed in by any of those standards. I have set my own standards in the operation of my office, and they do not depend on statistical analyses of what is being done. I think what I am doing in Philadelphia today is in accordance with the decisions that have been set and established by the courts, the judicial officials, and really the law enforcement officials in the City of Philadelphia, and I would be happy to answer any questions you might have.

DR. ALLEN: Thank you very much, Mr. Fitzpatrick.

BY DR. ALLEN:

Q. In the latter part of your statement you addressed yourself to something that was crossing my mind at that particular moment, which goes to show you what close communication we have. I noticed that your figures went from 4,700 to 500 to 4,059. How would you account for the wide degree of disparity between the 1972 arrest figure of 4,059 and your 1973 arrest figure of 2,878?

A. These are not our figures, Doctor, and I have no
way of accounting for that.

Q. What figures are these then?
A. These are dispositions, court dispositions. These come from the Municipal Court. It may very well be that 1973, being an election year for the incumbent district attorney, was not necessarily the most efficient period of time. I do know when I took over in January of 1974 I heard a lot of what we refer to in the general public as "cats and dogs," and many of these might have been gambling arrests. Some of the 1973 arrest figures might have found their way into 1974. As far as the 2,878 in 1973, I can't give you any reason for that. To the best of my knowledge, there did not exist in 1973 a policy of screening and diversion such as we now have.

Q. Can you delineate how many cases, or what percentage of the general backlog of cases, were what you might consider hardcore gambling cases like those which were alleged to or which were thought to have a very distinct connection with organized crime?
A. Doctor, I have never been able to, in 20 years, find a connection between gambling and organized crime. Most of the causal connection that has been drawn between gambling and organized crime is not drawn on individual arrests by the police department; but drawn
on a general conceptual basis and philosophic terms, and it is based in the best estimate that I have seen nothing more than someone's estimate. I cannot tell whether a 67-year-old black numbers writer from North Philadelphia is a tool of organized crime or is carrying on something that her husband may have started a year or so prior, or is operating entirely on her own. And I don't know that any police department has any way of figuring that out either. I don know that I have heard judges complain over the years that unfortunately they only get underlings in the gambling racket and never get the kingpins. That means that something is wrong on the enforcement part or perhaps there are not as many kingpins as the public would like to imagine.

I have seen nothing which would justify any theory in my mind that gambling in Philadelphia is some form of organized tentacle that is conducted by one or two or three people. As a matter of fact, I have seen exactly the opposite where individuals would appear to me -- without being able to further delve into their background or their lives -- would appear to me to be operating independently themselves or perhaps with a couple of people in the neighborhood. So there is no way that I have of telling you that those
crimes which resulted in going to court had some connection with organized crime.

Q. Would it be appropriate for a district attorney to publicly announce a policy of nonprosecution of gambling offenses and to instruct the public officials to act accordingly, and, if so, would the Mayor tolerate this? Would the Police Commissioner tolerate this? Would the Legislature tolerate this? Would the public tolerate this?

A. I don't mind coming down here and testifying on the day when the Flyers are having a big celebration on behalf of my office, but no way are you going to get me to testify on behalf of the Mayor or police department. I have absolutely no idea of knowing what they would tolerate. I do know it was very easy for me to discover what the courts were doing with gambling cases, but I read the readily available figures that came from the courts issued mainly from the police department, read those same figures, and they would have the same basis for curtailing arrest that you seem to be pointing to. I am not too sure that would be a bad thing, but I have no control over it. The Police Commissioner has said to me on occasion, "If you will write me a letter and tell me what kind of gambling cases you want me to arrest and what kind you don't
want me to arrest, I will do it." The unfortunate thing has been the composition of that letter, because once again, I cannot tell you in a given instance whether this case has or has not any significance in the court system. I am inclined to think there must be some circumstances in the police department that could reach a judgment similar to that at the time of arrest, but it would appear that their judgment, if it exists, is not being exercised and that we are being fed the same number of gambling arrests every year. I think it would take a major policy change at the top enforcement level for that in any way to be curtailed or changed. While I am in a position of cooperating with that, and I would develop men like Mike Byrne, and my people would have to read fewer files, for which we would be everlasting thankful, I am not in a position to dictate that. It has to be dictated by the executive. And my prosecutorial branch will continue to do so. You have to remember, also, that I have no enforcement policy in that area and that I take as input only that which is given to me by the police department. I take their reports, and that is what I operate on when we decide whether we will or whether we will not enforce gambling laws in that particular case.
Q. In light of your statement, Mr. Fitzpatrick, do you or do you not favor legalized gambling? If you do, to what degree?

A. That is a very good question, Doctor. I frankly don't know, to be perfectly honest with you. I don't think that we are at the stage now where we are setting up a new society and you are going to determine for the first time whether you are going to have gambling or not. If we were, the basis of our thinking would be on why we should ban it, and I can't think of any reason in the world why gambling should be legal except the people that receive the bets and don't pay off, or laws against gambling which undoubtedly have come out of religious belief that some people in our society have shared and some haven't, and today I think the nonsharers may be in some form of majority in that regard. Nevertheless, we have been subjected to a tradition of gambling arrests and gambling prosecutions. While no one can explain it, it's been around so long that gambling is wrong. I do not. In my own life I have seen an awful lot of gambling. I do know that most probably in one form or another gambling is almost by nature instinct. I think that one of those neglected forms of criminal prosecution is in the gambling area. We don't even come close to
arresting people who are charged with gambling. We have allowed so much of it in our society today with state lotteries, with racetracks, with Bingo, that we are really picking and choosing among those who are good gamblers and those who are bad gamblers, and how long we will continue to do that I don't know. I certainly wouldn't be upset to see all the gambling removed from the criminal law field and regulated in some sort of regulative office, perhaps as we do with our State Stores today, although I have no knowledge as to whether we should have it State operated, or it should be done in grocery stores. I have no way of knowing that. I do think if you are studying the basic theory of gambling, somebody ought to come up with a reason why it is wrong other than the fact that it funds organized crime. If it indeed does, I am sure organized crime, as it has been described to me, will find other things to finance it.

DR. ALLEN: Thank you.

Any questions, Mr. Coleman?

BY MR. COLEMAN:

Q. Mr. Fitzpatrick, does your office have detectives and investigators, also?

A. We have, sir, detectives and investigators who are supplied to us under Civil Service regulation. They do
have little investigation in this particular area. Unlike other prosecuting offices, my investigators operate more in a secondary fashion. They assist the assistant D.A.'s in preparing, for example, an important felony case, things which are overlooked, or witnesses turn up, and these investigators go out and do that. I do not have a task force within my office to enforce gambling laws. I think to do so is redundant. They are in force in sufficient number with the police department. I might add I do not have any task force in my office to investigate the commission of any other kinds of crime. We do not do it in burglary. We do not have special squads that talk to people. We take the input given to us by the police department and prepare those cases for trial.

DR. ALLEN: Mr. D.A., I should inform you Mr. James Coleman is prosecuting attorney of Monmouth County, New Jersey.

MR. FITZPATRICK: Congratulations, sir.

Q In the exercise, as you have explained, of the diversion of these cases, is there any discussion of these with the arresting officers, or is this purely done by your office?

A No, sir. We assume that the opinion of the arresting officer is sufficiently set out in his summary
sheet, and I would, frankly, be rather burdened myself
with the opinion of an arresting officer. A police
department officer, to begin with, he wouldn't, if he
made a bad arrest, come in and tell me so, because if
I told his superior, he would probably get in trouble.
So I see no reason to discuss it with the arresting
officer, although there may be indicated in the police
report that this is a very important gambling figure,
and I think we might in those cases call in the police
department and discuss it with them. More than likely,
if there were no reasons to substantiate it, the case
will go to court.
Q. The ones that you divert, or whatever the term is,
are those that you feel are a waste of time and the
cases where you cannot get a conviction?
A. Not in Philadelphia today.

MR. COLEMAN: Thank you.

DR. ALLEN: The next questioning will
be done by Commissioner Gimma, who is the Chairman
of the State Racing Committee of New York.

MR. GIMMA: Very good to meet you, Mr.
Fitzpatrick. I don't have any questions. I pass
at this time.

MR. FITZPATRICK: Thank you, Mr. Chair-
man.
DR. ALLEN: Mr. James Ritchie, executive director of the Commission.

BY MR. RITCHIE:
Q Mr. Fitzpatrick, the criteria that you have created for significance to the court system, is not based solely upon whether or not a prison sentence would be imposed, is it?
A No, sir. If it were, I would divert far more.
Q What else do you consider in fashioning the significance? What are the other indicia?
A We consider, first of all, the background of the defendant insofar as it is described to us.
Q By assuming that he has a prior gambling arrest but not conviction?
A Arrests are not an indication of anything to me; conviction is. 15 arrests and no convictions indicate that someone in the court system thought that he shouldn't have been arrested 15 times, there was not enough there, so that individual is approached in my opinion as a first offender. Prior convictions are one thing that enter into it. Do you want me to go down the line?
Q On the prior convictions, how current must they be?
A You see, what you are asking me to do is what I
told you already I can't do, because I have tried for
18 months to do it, and I have studied the diversion
programs of almost every prosecutor's office in the
United States of America that has one today. I have
sent my people as far as I can -- and Dr. Allen will
tell you I have been criticized for doing it -- but I
have read almost every diversion study that has been
put together, and I found the more specific they are
with criteria the less they work.

Let me give you a for instance that's
outside of this field. I have a diversion on drunken
drivers, and one of our cardinal rules that we feel
free to violate, if necessary, but I am the only one
that can violate it. Is we don't take people who are on
active probation. We ran into a fellow who back in
1952 killed his wife or some friend and did his time
in prison and was released on a lifetime probation,
and he was picked up and charged with drunken driving,
and he is still on parole in my opinion. I violated
my rule. I didn't see any reason in the world why this
man shouldn't receive the benefit of the diversionary
program for drunken driving because of that instance.
So we can't put down any years. When you put down
years, you end up arguing.

You get a feel for them, and you get a
feeling by knowing a judge either is or is not going
to put this particular defendant in jail or treat him
seriously. If you bring into court all the indicia of
a banker, you are able to recognize it because the
police are able to recognize 50 numbers slips and 10
convictions, but that does not necessarily mean that
those convictions are going to get you a conviction in
court, because we can't tell the court about it. If
they are not going to get a conviction in court, we
are not that interested in processing this case. I
will not process gambling cases in order to punish
gamblers by making them go to court. I don't think
it is proper, and I can't afford the luxury of doing
it any more because my courtroom time is far too
limited and precious. There is no time period. There is
nothing like if you answer yes to 5 questions you
automatically get a loan from your bank. It isn't
that simple. It requires reading and examination.

Q: Who besides yourself makes these deity-like
judgments?

A: Not really deity-like judgments, sir. It is the
function of a prosecutor in my opinion. A deity-like
judgment presumes, first of all, a great deal more
wisdom than I have. A prosecutor does not decide
whether a man is guilty or not. That is done by a
deity-like group called a jury or deity-like person called a judge. I decide whether or not to prosecute or not.

Q. If you had heard my questioning of the previous witnesses, I don't believe "deity-like" can be applied to the judicial as well as the prosecutor, and I should explain, sir, that I have some prosecuting experience myself.

Assuming then that you will answer my question and not be offended by my terminology, who is empowered to make this judgment besides yourself?

A. Mr. Byrne and Mr. Gilson of my staff.

Q. So you have a commission of three, if you will, that must review?

A. No, no, I didn't say that. I said that the prosecutors are the persons who are empowered to make that judgment besides me. There may, on occasion, in my absence from the office and because of the number of cases that we handle be other persons assigned to that unit. Moreover, each and every member of my staff who attends preliminary arraignments is encouraged to exercise that kind of judgment where they see cases that obviously do not belong in the system. Those cases are once again reviewed by Mr. Byrne or Mr. Gilson, or whoever is there at the time. The
operation in my office is somewhat of a team effort. We try to preserve uniformity by keeping those decisions in a limited area of people who consult with each other, but really in a very large area each assistant in the courtroom, if he discovers one of these cases that has crept in and feels that it shouldn't be, has the power to withdraw prosecution.

Q. Without any prior authorization from either yourself, Mr. Byrne, or the other member of your staff?

A. That's correct, prior authorization is not required. It has not been since the very first day I took office. I might add in that regard, I have recently prepared a diversionary manual, which we hope to have in publication within the next six weeks to make it available to each and every assistant, which sets forth in maybe 70 or 60 pages many of the criteria that have been found to exist for the diversion of cases, so the assistants will have some degree of uniformity.

Q. How many assistants, other than the three that you have named, do you have in your office?

A. I have 135 assistant district attorneys at last count, sir.

Q. Mr. Fitzpatrick, can you share with me for a moment some of the trauma I am sure that you have
experienced in trying to create this diversion program.

Is it not necessary for such a program where really
the tail is wagging the dog? Aren't you forced into
this by policies that have been instituted by the
department in terms of what they will authorize
an arrest for, as opposed to what you would have
authorized an arrest for?

A. Are you limiting that to the gambling field?

Q. I don't want to get into anything other than
gambling.

A. If it is the gambling field, I think what you say
might be true, although I would prefer to put it in
this light: If the police department did not make so
many reports, I wouldn't be forced to review these
files, and if they were to limit themselves to what
they regard as the more serious gambling arrests, we
would not have as high a volume to handle.

Q. Would it not be possible to institute a system
such as is experienced by the Federal system that the
arrest must be authorized by members of your staff in
certain types of cases before an arrest may be made?
Wouldn't that shortcut your problem considerably?

I am only talking about gambling.

A. My problem goes beyond that, and I don't think I
can have one set of rules for gambling and one for
other offenses. I have seen prosecutors' offices across the country where the police department must obtain prior approval of the prosecutor before an arrest is made. I do know that in some instances it works. In most instances it deters -- not deters; but delays the institution of process for a period of time, and I am not too sure that any better justice results from delay in that area unless you can set up a review system and screening system which is going to work with far more people; we are not talking about one shift of 8 hours, but 3 shifts, and you are talking about multiplying almost everything that we have by 3.

Q. Let's limit it to the gambling area.

A. I am not too sure that would solve my problem; but would just place the decision in another point in time. The decision eventually has to be made. Philadelphia tradition has been that the police department makes arrests and then the district attorney becomes involved, and because of the unique facts that we are one geographic unit, it has worked. It may not work in other areas as it has here, and I would be loathe to change it when I think my alternative that I have exercised here is quite adequate.

Q. Let's assume for the moment that a significant
gambling case is one that is not going to be like a fleeing bank robber, not going to go away, but is going to continue to be in operation or it wouldn't be significant, which normally lends itself to a fixed structure, identifiable to criminal intelligence, and lends itself to a selective prosecution. Don't you believe in those types of cases that the prosecutor or prosecutor's office should be part and parcel to the investigative process, including authorizing when that process might be completed by the execution of an arrest?

A. That is an unusual case in Philadelphia. That is an assumption that I can't make. You see, it happens even by accident sometimes that a police officer with otherwise proper authorization might stop a car and find it to contain a great deal of gambling paraphernalia. I would not want in that instance to delay the institution of process, because that runs contrary to the State of Pennsylvania, to several outstanding rules from the Supreme Court. One is the 180-day trial rule. You would have to immediately take them before somebody and tell them what they are charged with. The next day might be too late to do something, because he might never find him. I believe the alternative of having prosecutor authorization is not necessary and won't work
as well as the system that we now have, although I
don't recommend that this is the perfect system for
everybody. I can tell you for me it works.
Q. I don't want to be argumentative with you, but I
would only point out that there are any number of
statutes that contain --
A. I take it, sir, that you think prior approval
might be a benefit, and I take it that I think it
would not, so perhaps we have reached at least a
culmination. I certainly respect your opinion. There
are certain jurisdictions where it works, but for the
volume of cases that are handled in the fashion they
are handled here in Philadelphia today, I do not think
requiring prior approval would add anything.
Q. I don't want you to believe that I have reached
any conclusion at all. As Senator Scott said in his
opening statement, you shouldn't prejudge by any tone
of my questions or by other members of the Commission
staff.
A. I am sorry.
Q. Regarding the question of the uniform standards
which you are trying to employ in your office by the
compilation of this manual, is that something that
will be an inter-office document that would not be
allowed to be given to this Commission for whatever
benefit we might be able to derive from your experience?

A. I would be glad to supply you with a copy.

Q. We will be on record as requesting that.

Also, the figures of the study which your office has engaged in, I wonder if there is anything there recognizing that this is a public body that would not lend itself to --

A. I would be happy to hand you a copy. They come from the court figures, and these court figures are available. These are Municipal Court figures, and I am sure they can be supplied to you by the Municipal Court.

Q. The other question that I have has to do with the issue of selective prosecution. In your judgment is it your role to react to those cases that are presented to you as opposed to trying to determine what are the most formidable criminals in your area and moving against those forces selectively, as opposed to waiting for them to be caught doing something?

A. I am not quite sure that I understand.

Q. Let's assume there is a great deal of intelligence that Joe Bananas is running organized gambling in this City, but Joe Bananas is clipping coupons on the west side or east side or south side, wherever your well-to-do area is, and that all you have is criminal
intelligence. Do you seek to go against that gambler as opposed to catching what possibly might be 14 layers removed from Joe Bananas?

A. Were I to receive the information that you have hypothecated, I would go against that level. I would mobilize my people, and I would perform an investigation to see whether or not that information was reliable. But I don't do this as a practical matter. I have to get some sort of information, as you have hypothecated, because the assets of my office do not allow me at this point to run an enforcement branch. I don't have police officers cut looking for Joe Bananas. That kind of intelligence information does occasionally come to all law enforcement people, and I would, as you have hypothecated, follow it through immediately and as strongly as I could. However, I can't say that I have done it in the last year and a half, because I haven't gotten information. The arrests that have been given to me have come from the police department.

Q. Assuming that your diversion program becomes more and more sophisticated where only the most significant cases that go to the court system are those which your office processes, and assuming that Dr. Allen and the other members of the City Council continue to support
you through additional resources, would you not feel
that that type of capability is something that you
should have?
A. Are you talking "should" now, sir, as opposed to
if I were setting up a perfect prosecutor's office for
Philadelphia?
Q. Well, I suppose I was using them synonymously.
Tell me the difference.
A. The difference might be in our jurisdiction.
There is, I think, a responsibility upon the prosecutor
to apply that which is not necessarily in existence.
For example, if you have a large prosecutor's office
in a place like Cook County where many of the local
police departments are one-man or part-time organiza-
tions, there is certainly placed upon the prosecutor
an obligation to see that crimes are investigated in
the very beginning. The prosecutor's office in many
of those cities has, for instance, a homicide squad
that goes out every time there is a killing. They take
the photographs which are used in court; they dust for
fingerprints; conduct the laboratory tests. Now, here
in Philadelphia those functions have traditionally been
performed by the Philadelphia Police Department, which
has taken those assets from the City Council and has
given them directly to the police department. My
function has traditionally been broken down to a trial-attorney function, and it is only when the prosecutor's office has gone outside that function and made some sort of raid or some sort of publicity-related kind of thing that really the balance between the two departments has been destroyed. If people come to me with information that there does exist a large gambling organization and I knew that the police department would not properly conduct that investigation, I would do it. However, if you leave the second hypothetical out, that is, that I have full reason to know that the police department would properly conduct that raid, I would give them the information and let them do it, and I would feel in doing so I am fulfilling my responsibility as a prosecutor here in Philadelphia. At this point in time I don't think you can hypothecate the duties for prosecutors across the nation in general. You can probably hypothecate, for instance, the U.S. Attorney's Office, an assistant in charge of the F.B.I. that he wasn't very much confident in, and he might want to send out some other people; or you can have special squads, or strike forces. They are all problems that originate within certain units. I regard enforcement of the law, investigation of it, as being the primary duty of the police department, and I think
they do an excellent job in this area. I am resolved
to the fact that I am not going to compete with them
for the purpose of competing. However, were I to find
reason to believe they were not doing a good job, I
would go out and do it.

MR. RITCHIE: Thank you.

DR. ALLEN: Mr. Farrell?

BY MR. FARRELL:

Q. I take it you see no connection, at least none
that has persuaded you, that organized crime and
illegal gambling are one in this City?

A. If you are talking about evidentiary kind of
connection, sir, upon which I would base a conclusion
in my mind, you are correct, I don't see that. I don't
say it is or is not; I am saying I haven't seen it.

Q. You are not persuaded by the 1967 Presidential
Commission, for example, which is based on the very
assumption that illegal gambling is the lifeblood of
organized crime? You don't think the evidence in
those studies were based on sufficient --

A. My compliments to Congress and the Senate upon
their propensity and wisdom in passing the particular
Act, and I am not saying whether it was needed or not
needed on a nationwide basis. You have asked my
opinion in Philadelphia, and my opinion remains unchanged
in light of the fact that the Federal Government has passed legislature creating your Commission. I assume they have created your Commission to find out whether indeed there is a connection. You asked me my opinion, and my opinion is the same, and it remains unchanged in light of the passing of that legislation which could very well be appealed tomorrow.

Q. Testifying before us tomorrow -- and we will send you a copy -- is the gentleman from the Federal Bureau of Investigation who will tell us that, based on electronic surveillance in Philadelphia, the size of illegal gambling operations, and their locations, and problems of corruption, and other problems. Would you welcome an enactment by the Pennsylvania State Legislature of the wiretapping statute?

A. Would I welcome one?

Q. Would you support it?

A. I would have to see the particular bill. Once again, my policy on legislation in any area is to examine the bill and tell you whether I would support this particular bill or not. If they passed one, would I welcome one? I would, and I would use it within the boundaries of that legislation.

Q. You said before your resources have no enforcement
control. If a wiretapping statute were passed, would you be able to undertake investigations into organized crime in Philadelphia, or --

A. If you talk of me as the only investigating authority, I would not presume that I would be the one that would be given that particular power, although I might have some control over it. I would imagine the Philadelphia Police Department certainly would have the resources to do that. I am certain I can rely upon the benevolence of Dr. Allen and other comrades in the City Council to see that I perform enough wiretapping assignments that I need to go out to catch gamblers, but what do I do with them after I have them? That was the problem to which I addressed myself down here. My problem in this area is not in finding gamblers. I have more gamblers than I know what to do with. My problem is what do I do with them after I get them? I can't convict them because, I guess, the judges do not feel gambling is part of organized crime, and I suppose that feeling is based upon facts. When we go to court with these cases, we can't necessarily prove it is connected with organized crime in this particular instance.

Q. Is there a problem with your policy of, say, having any less than 50 number slips? Does this create
problems where, for example, the arresting officer
could negotiate with the person he is arresting to
determine how many number slips he reports, and that
way he has his arrest and he thinks you are not going
to prosecute?

1. We don't have a policy on a number of number slips.
If you are asking me whether an arresting officer can
negotiate with the person, I know nothing about that.
The person might say the officer negotiated to cut him
a deal and he went along with it, and then he says,
"Now, I don't want to go along with it." Then I have
an investigation into the police officer. I might add,
sir, in most instances a police officer, if indeed he
does that, would certainly deny he did it in the
interest of justice, and he would say he negotiated
information to lead him to future arrests. This is
something that we have been playing with for, Lord
knows how long. My problem, once again, is what
happens when I get them? It makes very little sense
to me to sophisticate the method of arresting gamblers
when I already have more than I know what to do with.

Q. Would it be appropriate or helpful or necessary
for you to announce publicly a policy of not
prosecuting gambling offenses, say, for instance, 50/50,
or whatever number? Would it be appropriate or
possible in your position as district attorney to
perhaps announce this to the police force so your
position will be clear that there is some clear policy
of nonprosecution?
A. I honestly don't know how I can answer that ques-
tion, because you have hypothecated something that
will not happen. I will never have a policy that 50
numbers I will prosecute.
Q. Are you able to set regulations?
A. I can set any number of regulations, that is, the
power to set regulations lies within the discretion of
my office.
Q. You are not limited?
A. Defining regulations is something else again, and
I have told you three times I am unable to do so. I
cannot put out something that says, in this instance,
"If you have all of the factors in Column A and none
of the factors in Column B, we will not process this
as a gambling arrest."
Q. Is your power to set regulations not limited by
the State Legislature, which, after all, has made
gambling an offense which in 1973 raised the penalty
for illegal gambling?
A. My power, I suppose, sir, does not exist
absolutely from God. I wasn't knighted. I was elected
by the people. Certainly it has certain regulations upon it. However, in spite of the various acts which the Legislature passed, I am still given what is known as discretion, a prosecutor's form of discretion. I don't know anywhere where that is limited. I just went through a large research project with the City court system over there as to whether or not I did have the power to withdraw, and all parties agreed, after sufficient research, that I did. I can withdraw now up until information time. Under the existing law I must offer a magistrate a transcript for nolle pross to a judge, so they have really expanded in spite of the fact that they might have done something different with the gambling legislation. They have expanded my powers in all areas.

MR. FARRELL: Thank you. We would like to thank Mr. Byrne for his help for assembling the data.

BY DR. ALLEN:

Q. I just have one more question, Mr. Fitzpatrick. During your tenure of office as District Attorney for the City of Philadelphia, have you made any determination of whether or not there has been any gambling-related corruption in the police department?

A. I have not. The determination of what corruption
may exist in the Philadelphia Police Department was
taken from me by the Attorney General, and now is
relegated in the hands of the special prosecutor.
Shortly after I came into office, we engaged in a
legal brouhaha regarding the creation of the Special
Prosecutor's Office. That has been resolved by an
agreement between he and I that were I to come upon
any sort of corruption within the police department I
would check with him to determine whether or not he
were handling the cases in that area, and, if so, to
turn it over to him. Beyond that there is a tacit
understanding between us that since this is the sole
reason for his existence, he will actively look into
those areas of police corruption. Now, I have had
occasion to have complaints registered with me regard-
ing corrupt acts by police officers, and it may have
been -- although my memory fails me at the moment what
the origin of those arguments were -- I remember one
lawyer we arrested for bribing a police officer to
change his testimony in some form of case on search
and seizure. I don't remember whether that was a
gambling case or not. We have had several instances
of that. But no instance springs to my mind where
the fact of gambling was the reason for the alleged
corrupt act of the police officer. However, the
Special Prosecutor might be able to bring more information concerning that.

DR. ALLEN: Mr. Ritchie?

MR. RITCHIE: Dr. Allen, I certainly want to commend Mr. Fitzpatrick and his office for the candor that he has shared with us regarding this problem.

You understand, Mr. Fitzpatrick, the Federal Government has testified that this is a local problem. We have now come to your community and have said, "How are you dealing with it? What do you suggest this Commission consider as appropriate criteria to resolve the dilemma that we presently have regarding this one area of criminal activity?"

Mr. Farrell and Ms. Marshall have shared with the rest of the staff the assistance you have provided, and we would hope that not only will you continue biting the bullet, but that your candor will be shared by other prosecutors across the United States. Again, we hope that in the future the work, important work, that you are doing regarding the diversion program as it relates to gambling, where you are much too overburdened with that as an issue, will be something that
we can be in communication with your office so
that we can understand and appreciate the
particular problems that you have in the county.

MR. FITZPATRICK: I would be happy to
share the results of my program with any member
of this Commission at any time, and I am sure you
will find Mr. Byrne continually helpful and
available to you at all times.

DR. ALLEN: Thank you very much, Mr.
Fitzpatrick, for your kind assistance and for
your appearance.

(Witness excused.)

Mr. John J. Finley, it is my pleasure
to welcome you to the hearing of the Commission
on the National Review of the Policy Toward
Gambling. We understand you are president of
Eagle Downs Racing Association in Pennsylvania and
that you are also the chief managing officer of
the Keystone Race Track.

MR. FINLEY: That's a corporation that
owns the facilities, and I have no title with
that corporation; only that we jointly own it.

DR. ALLEN: You may begin when you see
fit, sir.

MR. FINLEY: I have a short prepared
statement here. I have given a copy to the Commission.

My name is John J. Finley, Jr. I am president of Eagle Down Racing Association, which conducts thoroughbred racing meets at the Keystone Race Track in the Northeast suburban area of Philadelphia. Keystone is in the same Philadelphia metropolitan market area as the Southern New Jersey racetracks, Garden State in Cherry Hill, New Jersey, and Atlantic City Racetrack in Atlantic City, New Jersey. All three tracks draw from the same area of patronage, and essentially the same horse owners, trainers, and jockeys.

By reason of the fact that the Garden State Track, subsequent to the opening of Keystone, extends its racing meets beyond its traditional spring dates into the fall and winter seasons during which Eagle Downs and Continental conducted meets since their inception, and for which cold weather meets Keystone was designed, there has been direct competition between Keystone and Garden State. Those two tracks are approximately 15 miles apart. Such competition has been damaging both to the track operators and to the
states which derive substantial revenues therefrom. Because of the particular market conditions, geographical locations, and other factors peculiar to the area in which the foregoing competitive situation exists, it is my belief that the states themselves, through their respective racing commissions, are most competent to resolve the problems amicably and will do so. Those commissions are expert not only in racing, but in the factors and conditions which exist in the area from which both are concerned. It is my belief that a national governmental body, which must of necessity apply broad general standards, cannot, as effectively as directly concerned local agencies, solve issues which are essentially local in nature and concern. If states can cooperate as to matters of transportation, bridges, utility service, and other such matters which transcend state boundaries in given metropolitan areas, they can and will do so with regard to thoroughbred racing.

Thank you for the opportunity to appear before you.

BY DR. ALLEN:

Q In the absence of one of our Commission members,
Congressman Steiger of Arizona, I feel I must ask the question because he has some very definitive feelings relative to this subject. First of all, let me establish one thing. You do run Butazolidin horses at Keystone; is that right?

A. The law was passed just recently, yes.

Q. Do they run them at the Garden State Track, which is 15 miles away?

A. No.

Q. Do you feel then that it is a healthy circumstance for the racing industry to have a law effective in one state and not effective in another state when both tracks are in such close proximity? If so, how do you feel this affects the industry per se?

A. I imagine the other states will probably join in it. Our state passed it just recently without any thought to us, and I think actually they will pass it in general.

Q. What do you think the Butazolidin application to horses prior to a race has on the betting habits of the populace, specifically those who are using bookmakers as opposed to those who are appearing at the tracks?

A. I am afraid, Dr. Allen, I don't have an answer on this. I think you would have to call in somebody else.
Q. We have heard some discussion recently in talking about things of this nature relative to the fact that horses treated with Butazolidin -- being a physician, I know what Butazolidin is, an anti-inflammatory and rheumatoidal drug which has a lot of factors relative to it that are supposed to keep horses running on a near hundred percent level -- however, in the long run it may prove to have some deleterious effects which haven't been shown to date. Has the utilization of Butazolidin in horses in the Keystone situation versus Garden State situation improved the volume of people which appear at the track?

A. No, no noticeable difference, Doctor. Actually, I think it just lets some horses run that might have a sore foot.

Q. What level of Government would you think would most appropriately control the regulation of horse-racing? The Federal Government or the States?

A. I think I have said in my statement I think we can handle it at our own level. I don't think we need another Federal Bureau to help us. I had it in the milk business when I was in that, and I think we are on the same level here. We have our own police force, and we do an excellent job.

Q. Since you mention that you have your own police
force --

Q. Security force. Very recently in the newspaper media we were informed that a convicted felon, Mr. Fred Corletta, was to be named as the law enforcement officer of the harness tracks of the State of Pennsylvania. Do you have any feelings relative to a provision of a law that will regulate against having convicted criminals as members of your law enforcement arms, members of your commission?

A. As far as your particular racetrack, yes, I would have strong opinions, but as far as that is concerned, I think that is up to the Governor, Mr. Shapp. He did not come this morning. You could have asked him that.

Q. We were waiting for him for that purpose.

DR. ALLEN: Thank you very much, Mr. Finley.

Commissioner Gimma.

Commissioner Gimma is the chairman --

MR. FINLEY: I know the gentleman by reputation, and I have great respect for him.

BY MR. GIMMA:

Q. Mr. Finley, I really don't have too many questions. Do you have your own laboratory, or do you send --

A. We have the Dalare Lab, and I am very familiar
with them. They have been handling our dairy
products for about 70 years.

Q. They are very fine and they have a great reputa-
tion.

A. We have a pride in performance, and we want to
run the best racing. We tolerate no known gamblers,
throw them out.

Q. How long have you been open?

A. We opened up November 4.

Q. How is your attendance?

A. Well, you know, when the competition opens up
again, Aqueduct, you will feel the difference. We have
this one right across the river.

Q. However, you are doing pretty well, aren't you?

A. We are going to get by.

Q. My question is really to --

A. If you want to say we were doing very well until
such time when Jersey opened up against us --

Q. Well, economy has had a lot to do with it.

A. But I think this will work out. We are sure it
will be worked out by the two states.

Q. My questioning is not with the idea of some
conflict or competitive spirit. I just want to find out
whether Pennsylvania, traditionally Dutch Country,
whether they have taken to gambling and to racing.
A. Well, we supplied gamblers for all other states until such time as we opened up. All we want to do is keep some of it in Pennsylvania.

BY DR. ALLEN:

Q. Is that why you charge the 50 cent admission charge as opposed to --

A. That was a price war, too, at that time. It is the same as your gasoline.

BY MR. GIMMA:

Q. Do you think legalized gambling would go well in Pennsylvania?

A. I don't have an opinion really on that. I just don't think we need any more competition for the dollar. You know Coca-Cola is a competitor to WaWa milk. I didn't mean to get a plug there, but that's my company. So all forms of gambling, whether it be lottery or whatever, is a competitor to us, and right now I think as much as the State is our partner, I don't think that they may have to pass that one, you know.

MR. GIMMA: Thank you very much.

DR. ALLEN: Commissioner Coleman.

BY MR. COLEMAN:

Q. Mr. Finley, I notice you have great hope here that the respective racing commission in your state,
the state where I happen to be from, New Jersey, can
solve the present problem. I assume it is a problem.
A  Yes.
Q  There's been a suggestion in one of your earlier
meetings by someone -- I forget whom -- that perhaps --
A  I can supply if it you have lost it, Jack Krumpe.
Q  As far as regionalization of the racing commis-
sions, do you have any thought about that, whether that
would be possible? Of course, you talk about the
states being able to solve problems with transportation,
et cetera.
A  I think we can handle it ourselves, and I think
we have the modus operandi to handle it with the
state commissions, and they will do it.

MR. COLEMAN: Thank you.

DR. ALLEN: Mr. Ritchie?

BY MR. RITCHIE:
Q  You are opposed to, on all grounds, any type of
Federal circumvention or control, as I understand it,
sir?
A  In what form?
Q  Regarding racing and your business.
A  I think so.
Q  Would you then encourage us to reappeal the
exemption of excise and occupational tax that you
presently have so that there is absolutely no Federal
touching upon your industry?

A. I don't think I have an answer for that. I don't
think it is a question I want to answer.

Q. Well, obviously, you can't have your cake and eat
it, too.

A. That's like saying do I want to live in the United
States and pay taxes. I don't have much of a choice.
If you were the judge that were asking me that ques-
tion, I might give you an answer, but I think for a
commission to ask me a question like that, it is
obviously nothing I can do anything about.

Q. This Commission has to make a recommendation to
the Congress about whether the darling treatment of
the racing industry should be continued.

A. If you don't make the right recommendation, then
we will be all out against you, but as far as legaliz-
ing gambling, I don't have an opinion on that. This
question of yours, as I said, I don't quite understand
it.

Q. You understand there is an excise tax imposed upon
gambling presently. There is a specific exemption for
horseracing. Are you saying that we should deny that
exemption or that we should reappeal it?

A. By all means, we would like to keep what we have.
We can't afford anything else.

Q. Then you are asking for some Federal treatment?

A. We do get it whether we want it or not.

Q. I am asking you, sir. The Commission has to make a judgment about it.

A. I will take whatever we have. We don't want any further infringement on us.

Q. I take it that you do not believe that the proliferation of racetracks, the interestate competition of racing, isn't separated by some imaginary boundary of a line, or perhaps a river, or something like that that causes any problem to the racing industry.

A. It does, but I told you -- and you will not get me, no matter how many questions you ask me -- that we don't need any Federal intervention. I think we already wasted enough money in Washington, and I don't think we need any more committees. I am sure in a very few days it will work out between the two states and you will see the answer.

Q. In the event that it doesn't work out and your track becomes bankrupt --

A. When that time happens, that might be a reason for it. If the states can't get together on this, there is something wrong. The State of New Jersey, for
example, has lost about 5-1/2 million by putting
people against us. There is no way we are going to
continue that; nor is there any way that our State is
going to continue to suffer losses. Our State does
not lose as much because we have 70 additional days.
Q. Assuming the states do not solve the problem --
A. I am not going to take your assumption. I am
going to say it is my conviction that we will work it
out. If you want to come back next year and we
haven't worked it out, I will give you an answer.
Q. Assuming --
A. I am not assuming.
Q. Just a minute, sir. Listen to my question.
Assuming that you have not worked it out within one
year, would you then feel that Federal control or
Federal review would be required? -- or two years?
Or three years? Or five years?
A. No.
Q. You would feel that Federal control would --
A. You asked me for an answer, and I have given it.
Q. Never?
A. Never.
Q. Absolutely never?
A. Never is forever as far as I am concerned.
Q. How do you view other types of Governmental
entities becoming involved in gambling, such as your State-conducted lottery? -- or a government imposing off-track betting?
A. In Pennsylvania we will take care of those things. I don't think off-track betting will arrive. As far as the lottery is concerned, that's -- there is not a darn thing I can do about that.
Q. Are you in favor of it or against it?
A. No.
Q. You are against it?
A. Sure. It is competition.
Q. Really what you are asking for is not only favored treatment taxwise, but you prefer a monopoly?
A. You can ply me with all the words you want as a lawyer, but I am not interested in any form of additional gambling in this area. As far as the lottery is concerned, it is here, we have it. I didn't have anything to say about it.
Q. You voted on it, didn't you?
A. I didn't vote on it.
Q. You were offered the opportunity to vote on it?
A. That's right.
Q. What is your position on Bingo in the churches?
A. Cardinal Kroll is a very good friend of mine. If he needs money, I am going to let him have it.
Q. Do you not think that this is a form of competition for your racing dollar?

A. We can't have an exclusive, you know --

Q. You just asked for one.

A. No, I didn't. You are putting questions there. I am taking the status quo. If Bingo comes in, I can't take bread out of -- if it is going to feed some people, or whatever --

Q. What if there are more people that are in favor of Bingo than there are in favor of racing, so they decide to legalize Bingo?

A. Then that is our problem. Then we have a loser.

Q. However, you believe that it should be resolved at the lowest form of government capable of doing it?

A. I don't think national involvement can answer all of our problems because there are jurisdictions, and there are areas that have one type of a problem. Up here we have hockey, and that's not over yet. Probably a couple more days before our City settles down. We have basketball. These things are all competing for the sports dollar. I don't think we need Federal interference.

Q. Let's assume this Commission wants to make a recommendation to the States that doesn't have anything to do --
A. To our states?

Q. Of course.

A. I wish you good luck.

Q. That's one of our functions.

A. We will fight it if it is not what we feel is good for us. This is normal. You don't think I am going to sit here and let you recommend something to my State that I am not going to try to fight if it is not for my good? I have a duty to stockholders and employees. The Governor of our State went out to California to try to employ 300 people and took a private plane, and here we employ 600 or 700 people, have millions of dollars worth of payroll, so this business is productive for the area, and we will fight anything that tries to hurt it, our Congress, our Senate, or our President.

Q. Even though that might have a bigger and, say, perhaps a more beneficial effect upon a larger group of people than your 700 or 600?

A. I am no crusader. I am in this business to try to make a go of it. I hope some day to see some money, but I don't think I will; maybe my grandchildren will see some money. We have borrowed a lot of money. I am not in it for money. I am in it because it is a challenge to me.
MR. RITCHIE: I think I understand your views, Mr. Finley. Thank you.

MR. FINLEY: I understand your questions, so that makes us even.

MR. GIMMA: No pioneer ever made money in the racetracks.

MR. FINLEY: We would have had we stayed at the old location.

DR. ALLEN: Ms. Marshall?

MS. MARSHALL: Thank you.

BY MS. MARSHALL:

Q. Prior to the imposition of overlapping racing dates between Keystone and Garden State was there any communication between the two state racing commissions involved, or was this done without any give and take between the two?

A. I think it was done without any give and take.

Q. Since that time then, could you tell us what negotiations or discussions transpired and at what stage of the proceeding you feel that you are in terms of resolving that particular problem?

A. I think I am not at length to say, but I would say I feel certain that something will be done in the near future.

Q. You feel you are almost halfway there?
Yes, I think so.

MS. MARSHALL: Thank you. That's all I have.

BY DR. ALLEN:

Q. I have one final question, Mr. Finley. You have stated that you don't feel that off-track betting is necessary because it provides some degree of competition; is that correct?

A. It has in New York, and it hurt New York considerably. I think unless it was done in some part of the state removed from taking our patrons from us, it would be detrimental to us.

Q. Do you think closing down the smaller tracks in the area, which don't attract top-flight horses and the high enough patrons, would be beneficial to the tracks like yours and Garden State?

A. Well, we don't have any real small tracks in our area that give us much competition. There is one up near Harrisburg that is slightly smaller than ours. That's really a first-class operation.

DR. ALLEN: Thank you very much, Mr. Finley.

BY MR. GIMMA:

Q. I have one more question, Mr. Finley. Recognizing that you are an expert in this field --
A. Not really.

Q. -- and also knowing that racing has lived with illegal betting all its life so, therefore, they don't know what it takes away from the track, on track, and realizing we are beginning with the O.T.B., but in view of the fact that we have some problems -- at least they tell us we have -- with crime getting its funds from illegal betting, would you be in favor of legalizing all betting on all sports nationwide?

A. I would have to say that I haven't given enough thought to it. The only thing I can say, if he is a big bettor and known gambler, why don't you wait until he is finished betting the ninth race? But I am afraid they don't. I don't have enough input into that or enough thought about that. I think legalized gambling would -- what it would do to the rest of sports, which is where it is, because we do offer them a form of legalized gambling if they want to come to the track, but with other sports I don't have enough thought to that.

MR. GIMMA: Thank you very much.

BY DR. ALLEN:

Q. What would you describe as a level of corrupt activity at Keystone, if any has existed, since its inception versus the level, say, at Garden State or any
of the neighboring tracks?

A. I think we are all about the same. We have been
more fortunate recently in not having any kind of
scandal. We have an excellent security man who the
press tells us is about as tight a security ship as
we can run. We throw out people we think are apt to
cause incidents like 10 percenters and people who might
start gambling a little and move around, and when they
have a bad reputation, they are excluded from the
track. I get those security records every day.

O You have had no trouble with the jockeys or
trainers?

A. Not to our knowledge. Keep your fingers crossed.
In the milk business we used to have all those drivers
trying to steal from us every day.

DR. ALLEN: Thank you, Mr. Finley.

(Witness excused.)

DR. ALLEN: Dr. Mark Haller is a
Professor of History at Temple University. In
1971 Mr. Haller was the co-director of the
Conference on the History of the Peoples of
Philadelphia held at the Temple University campus.
He later edited and introduced the book, "The
Peoples of Philadelphia: A History of Ethnic
Groups and Lower Class Life."
My name is John J. Finley, Jr. I am President of Eagle Downs Racing Association which conducts thoroughbred horse racing meets at the Keystone Race Track in the northeast suburban area of Philadelphia. Keystone is a new race track, completed in the fall of 1974 and owned by Eagle Downs jointly with Continental Thoroughbred Racing Association which also conducts thoroughbred racing at Keystone. Pending construction of the Keystone track, both companies conducted thoroughbred meets as a tenant at Liberty Bell Park in Philadelphia since 1969.

Keystone is in the same Philadelphia metropolitan market area as the southern New Jersey race tracks (Garden State in Cherry Hill, N. J. and Atlantic City Race Track in Atlantic City, N.J.). All three tracks draw from the same area of patronage, and essentially the same horse owners, trainers and jockeys.

By reason of the fact that the Garden State Track, subsequent to the opening of Keystone, extended its racing meets beyond its traditional spring dates into the fall and winter seasons during which Eagle Downs and Continental conducted meets since their inception, and for which cold weather meets Keystone was designed, there has been direct competition between Keystone and Garden State. Those two tracks are approximately 15 miles apart. Such competition has been damaging both to the track operators and to the states which derive substantial revenues therefrom.
Because of the particular market conditions, geographical locations and other factors peculiar to the area in which the foregoing competitive situation exists, it is my belief that the states themselves, through their respective racing commissions, are most competent to resolve the problems amicably and will do so. Those commissions are expert not only in racing, but in the factors and conditions which exist in the area with which both are concerned.

It is my belief that a national governmental body, which must of necessity apply broad general standards, cannot, as effectively as directly concerned local agencies, solve issues which are essentially local in nature and concern. If states can cooperate as to matters of transportation, bridges, utility service and other such matters which transcend state boundaries in given metropolitan areas, they can and will do so with regard to thoroughbred racing.

Thank you for the opportunity to appear before you.
Among his many books in progress is one on the history of organized crime in America from 1895 to 1965. Professor Haller has also done extensive research on the subject of organized crime in urban society and the criminal justice system.

He has exposed a unique view of the development and socio-political implications of syndicated gambling, in which he contends that the coordination of illegal enterprises, such as gambling, narcotics, and prostitution, was not the product of bootlegging groups of the 1920's, but was rather a product of the post-Civil War period. He traces the interrelationships between gambling syndicates and urban political machines in the second half of the 19th Century in the East and Midwest, finding a near identity of the political organizations in the big cities and the leaders of the gambling operations.

Welcome to the Commission on the Review of the National Policy Toward Gambling.

PROFESSOR HALLER: Thank you. After your introduction, I hardly have anything to add. I really don't know to what extent you are interested in a history lecture late in the afternoon.
For many of you, history may have been the topic you liked the least in college and high school. I am willing to answer questions or summarize briefly what I have prepared for you.

DR. ALLEN: Would you summarize it briefly then, Professor?

PROFESSOR HALLER: In this country gambling became syndicated in the decades after the Civil War. By "syndicated" I mean a single organization with numerous neighborhood outlets to accept bets. This occurred particularly in two areas.

First of all, it occurred in policy gambling, which was the forerunner of numbers. Here the syndication occurred because the small-time operator could not on a bad day cover his losses, and thus the small-time operator needed financial backers. In city after city there developed financial backers for the policy operations, so that the normal structure became a syndicate with backers and numerous neighborhood outlets.

The same thing occurred in bookmaking in the post-Civil War period. It was in this period that horseracing in this country became a national sport, that the racetracks were built around the cities, and that the cities began to have racing in
the North and West from spring to fall. It was in this period, too, that bookmaking was first introduced in the United States. Eventually, it developed off-track as well as ontrack.

The off-track bookmaking became syndicated for two reasons. One was, again, the need for backing; that is, a small-time bookmaker could well get too much money bet on a particular horse and not be able to pay off. He needed backing. The second reason was, of course, the communication network. Western Union provided, for a fee, telegraphic tickers in horse parlors and provided racetrack information to the horse parlors. A well-to-do bookmaker could rent a telegraph ticker and then set up a telephone switchboard and provide racing information to a lot of neighborhood outlets. So that there developed syndication both because the successful bookmaker backed others and because he provided racetrack information.

What I really want to emphasize is the implication of this for understanding urban neighborhoods in the late 19th Century and, indeed, urban neighborhoods today. One implication was the relationship between the gambling syndicate and politics. The syndicates were really, in many ways,
very much like what people sometimes call a political machine. They had runners out on the streets in day-to-day contact with people in the neighborhood, knowing their problems, talking to them every day. What happened, of course, was that the political organizations and the gambling syndicates in many areas were one and the same. It was not that gambling influenced politics, but that the political organization and the gambling syndicate were one and the same thing. I think sometimes perhaps there is too much emphasis placed on the notion that politicians protect gambling because money passes rather than this closer relationship.

The second relationship stemmed from the fact that in the 19th Century, prior to the introduction of the automobile, residential neighborhoods were characterized by numerous convenience shopping. People had to walk to shop, and the neighborhoods had grocery stores, and meat stores, fish stores, barber shops, cigar stores, and saloons. There was a mixture of residents and shopping. It was in this economic context that the gambling took place, that is, residents placed bets on the horses with the barber, with the saloon keeper, with the cigar store. People bet on numbers at the mom and pop
grocery stores, and so on. So in this way, too, the structure of gambling was built right into the neighborhood, in the legitimate economic interest in the neighborhood.

It seems to me that what has changed many urban neighborhoods in this country has been the introduction of the automobile, and more specifically the impact of the automobile on the way in which residential neighborhoods are structured. In all those residential neighborhoods built since 1950, the assumption is, of course, that people will drive for entertainment and will drive for shopping. There is a separation of residence from commercial activity. The commercial activity is put into the local and regional shopping centers. These shopping centers don't have the old mom and pop stores. They have big chain stores.

Thus, there is not only a separation of the commercial activity from the residents, but a separation of gambling from the commercial activity. An A & P does not take bets on the side in order to make A & P profitable. This means, then, that for these kinds of neighborhoods there is a separation of gambling from the neighborhood life. A person living in an automobile residential neighborhood
may be able to bet at work: There may be a walking
bookmaker on the factory floor, or maybe a guy who
takes bets in the cigar store in the large office
building. Also, a bettor may be able to bet by
telephone with a bookmaker who will extend credit.
But the neighborhood connections are gone.

Indeed there are today at Temple University students who come to college having grown up
and never having met a numbers runner or bookmaker,
something that would have been almost impossible a
generation ago.

Obviously, though, there are still neigh-
borhoods very much like the 19th Century neighbor-
hoods that were constructed in that period. In
these neighborhoods, to a considerable extent, the
same kinds of relationships of gambling to neigh-
borhood life continue.

It seems to me that perhaps one of the
ways in which we can understand why some ethnic
groups appear to be more involved in illegal gam-
bling than others lies precisely in asking which
groups have tended to remain or to live in these
old 19th Century neighborhoods, the neighborhoods
that were built during the 19th Century and that
still have the kind of social structure of a
pre-automobile city. Of the white ethnic groups, Italian-Americans have, on the whole, clung most tenaciously to the old neighborhoods. When whites have abandoned the old neighborhoods, their places have often been taken by blacks, who, in inheriting the oldest housing in the city, also inherit 19th Century neighborhoods. With the social structure of the 19th Century in many of these neighborhoods, there continues to be the kind of relationships of gambling to politics and to the economic life within the neighborhood.

To sum up, I have two things to say, from a historical perspective, to the Commission. One generalization would be that, on the whole, what you face is not a rising problem but a declining problem. The high point of the impact of gambling in American society was from the 1870's and 1880's until 1905. This was the period, I think, when gambling syndicates exercised the greatest impact on local politics and law enforcement, and when the highest proportion of the population gambled illegally on a regular basis.

Also, when you examine the impact of gambling on the modern city, you need to be aware of the history of the neighborhoods. In some
neighborhoods gambling has a great deal of impact, much like the 19th Century, because they still are 19th Century neighborhoods in terms of economics and social structure. In other neighborhoods there has been very little impact because there has been a separation of gambling from neighborhood life.

DR. ALLEN: Thank you very much, Professor Haller.

BY DR. ALLEN:

Q. Does it necessarily follow that the existence of gambling syndicates leads to the corruption of public officials?

A. I am not sure whether it necessarily does. Empirically it seems almost inevitably to do so.

DR. ALLEN: Commissioner Gimma?

BY MR. GIMMA:

Q. Professor Haller, do you believe that this is due to the fact that the police force or the law enforcement agencies have sort of a, shall I say, apathy towards prosecuting gamblers, and would you more or less be in favor of legalizing gambling, as you well stated in your statement here?

A. In fact, I think that would be a further part of my answer to Dr. Allen's question. Yes, an important
factor about gambling in many neighborhoods is the de-
gree to which it is accepted, accepted by customers,
accepted by storekeepers, accepted by politicians. Even
if there were no money that passed, there would be little
desire that the gambling laws be enforced. Therefore,
to a considerable extent, the money that passes insti-
tutionalizes a policy which a lot of people would have
wanted anyway. If officials had their druthers, they
wouldn't enforce gambling laws even if they didn't get
money, so money in many cases becomes institutionaliz-
ation of neighborhood norms rather than the reason why
the laws are not enforced.

Q. Do you feel that if this Commission were to recom-
mend to the Congress to legalize all forms of gambling,
where these syndicates then would be legal and have
their divisions and these branches in these various
neighborhoods as agents on a commission basis, do you
feel that that would be helpful?

A. Then the question would be helpful to who or what?

Q. Helpful to the neighborhoods, to the States, and
to the law.

A. You are assuming now that what would be recommended
is not state-run gambling to compete with illegal gam-
bling, but rather gambling laws would be done away with
so persons could without a license conduct gambling
No, they would all have to be licensed, and pay a license fee, and be regulated like stock brokers are regulated with a form of S.E.C., let's say, as to what limits they could extend on credit, and so forth, and then they could utilize that neighborhood store and facilities by agents and agencies, and take the load off the courts, load off the police department. Do you envision anything like that to be helpful?

I think so, yes. I really don't feel strongly one way or another, but the present policy is sufficiently bad so that a policy of legalization and regulation would be probably better.

Bad in the respect that it is difficult to do away with something that people want to do; is that it?

Yes.

Like asking them not to smoke? They advertise all over not to smoke, and still I see cigarette sales go up every year.

Yes.

That's all. Thank you.

Commissioner Coleman.

Thank you, Dr. Allen.

Professor Haller, what research have you done in
this area? I know you are a professor of history, and
you say nobody is interested in history, but, for the
record, I was a history major. What is the background
of this information that you have given us?
A. Well, I have a number of ways of answering that.
I started doing research in the history of crime in 1960,
so in some sense the background is 9 years of work in
this field. If the question is what particular sources
do I go to, the answer to that would be, for the 19th
Century, primarily newspapers. The discussion of gam-
bling in the newspapers outside the City of Philadelphia
is really quite frank and open. In the 19th Century the
newspaper reported who gambled, who ran the syndicates,
and the newspapers carried quite accurate stories about
syndicate gambling. The Philadelphia newspapers, unfor-
tunately, have a tradition of not knowing much about
their city. You can't do history on the Philadelphia
gambler.
Q. Was gambling illegal in the 19th Century?
A. Yes.
Q. All forms?
A. Depending upon the state, yes. Even on-track bet-
ting, you see, so the racetracks themselves were dependent
upon nonenforcement of the gambling laws at the tracks.
Q. I assume you made some study about that illegal
activity more commonly referred to as numbers. What is your opinion about who controls that today, if you have an opinion?

A. That varies from city to city. It varies from time to time.

Q. Let's start with this city. We are here in Philadelphia today. Let's start here.

A. I could dodge the question by saying I am a historian, and that would be, I suppose, the best and most honest answer. My guess is that -- I can't name names.

Q. I don't mean names. I mean is there any particular group?

A. There are, I think, both Italian and black groups that each independently control numbers. There was at least one Jewish group in the Northeast not many years ago. I don't know whether that is still true or not.

Q. Would these people in your opinion that control them, based on any study you made, have other activities other than this?

A. Oh, yes, certainly.

Q. Such as?

A. Aspects of organized crime. We get into a definitional problem of what we mean by organized crime. Like
other successful businessmen, they take money from one
place and invest it in other places.

Q. If you took it and invested in loansharking, that
would be a criminal activity, wouldn't it?

A. Yes; but if you took it and invested it in a
restaurant where loansharking took place, that might
or might not be criminal activity.

Q. In your paper here you trace the history, and you
say in New York back in the 1800's somebody put up a
million dollars, which was a lot of money in those
days and today, to back a lot of little people who were
taking policy bets. That type of organization structure
hasn't changed today. There aren't two or three candy
stores operating a bank all by themselves, are there,
in your opinion?

A. No. I wouldn't see how that would be possible with
numbers.

Q. It wouldn't be possible economically, would it?

A. No -- well, it would be possible. One would have
to have a string of luck or else not pay off.

DR. ALLEN: In which case one's luck
would run out.

Mr. Farrell?

MR. FARRELL: Thank you.
BY MR. FARRELL:

Q. You said in your opinion the amount of illegal gambling in the country may have peaked and is now in a state of decline because of the change in the neighborhoods. Don't you think that things like the invention of television, the telephone, sporting events all over the country add new factors into the equation that you really haven't considered? Now everyone can watch big football games and they can pick up the phone and call the --

A. I don't think there are as many bookmakers per person today as there were in the 19th Century.

Q. Wouldn't the invention of the telephone enable those bookmakers to do so much more business; and that the level of gambling has not declined?

A. My impression is they don't do more business, or at least don't do business with more people as compared with 19th Century bookies.

Q. On the West Coast it doesn't seem to be as high as on the East Coast. Can you explain that?

A. With reference to Los Angeles, which was almost entirely an automobile city, the city never developed the sort of 19th Century neighborhoods where you get these sorts of relationships between gambling syndicates and neighborhoods.
After the repeal of prohibition, didn't you find some big-time bootleggers going into syndicated gambling and muscling out these old neighborhood gambling operators?

Yes, there is no doubt about that. I think the bootleggers brought to organized crime a level of violence which I think had not existed before. I can find almost no violence associated with organized gambling prior to the 1920's.

MR. FARRELL: Thank you.

DR. ALLEN: Mr. Ritchie?

MR. RITCHIE: Thank you.

POINTS:

Professor Haller, looking at your theory of the neighborhood concept, as we call it, what other factors should we look to to test that theory, the one you have suggested about the automobile? What effect has urban renewal had upon the gambling concept?

I don't know. That's precisely something one would like to study. Urban renewal had the effect of taking the old neighborhoods and removing a lot of the stores, putting up high-rises, but not replacing commercial activity, so that residents often were no longer within walking distance of kinds of stores. In my theory this ought to decrease the neighborhood influence of
gambling, and it would be an interesting question whether it does or doesn't.

Q. As a matter of history, then, as I understand it, the problem is by and large on the decrease?

A. Yes.

Q. By your data should this Commission concern itself with a type of recommendation that if the problem has not disappeared, within a quarter of a century we should again re-examine it, but that it appears, assuming that your theory is correct, that it will cease to be a problem for law enforcement and for the communities if our society continues to grow and locate itself as it is presently doing?

A. No, I wouldn't think so. I would think right now for so many of us who live in the cities the problem of criminal justice, given what I think is a real rise in street crime in the 1960's and continuing into 1970, is very great. Gambling does take up the time of the courts, does take up the time of the police, does lend to corruption of the police in ways that make it difficult for police to enforce laws in neighborhoods. Given the level of the problem of street crime, given the fears that so many people have of going out at night, and even during the day, it is worth considering whether one ought to get the gambling problem out of the criminal
1 justice system.
2 Q When you looked at your neighborhood concept in
3 Los Angeles, did you also look in San Francisco?
4 A San Francisco, has had as heavy a gambling history
5 as any city. It, of course, being an island, was to a
6 considerable extent built up in the 19th Century, and
7 many of the automobile neighborhoods are not in San Fran-
8 cisco itself, but around the Bay Area, so San Francisco
9 itself has remained very much a 19th Century city with
10 very much the same sort of problems one would find in
11 other cities.
12 Q Would it provide a good model to test the concept
13 of the neighborhood environment leading to syndicated
14 gambling?
15 A I would think so, yes.
16 MR. RITCHIE: Thank you.
17 DR. ALLEN: Any further questions?
18 Thank you very much, Professor Faller.
19 The hearing of the Commission on the
20 Review of the National Policy Toward Gambling
21 stands adjourned until 9:30 Thursday morning,
22 May 29, 1975.
23 (Whereupon the hearing was adjourned at
24 4:10 p.m.)
25 Reported By Karen D'Angelo
Since 1966 I have, as a historian, been involved in a study of the history of crime in American cities during the past century. In particular, my focus has been on the history of what others have—inappropriately, I think—called "organized crime": especially gambling, prostitution, bootlegging in the 1920's, and loan sharking. I have, as a historian, no particular policy recommendations—and no specific information about legal or illegal gambling in Philadelphia at the present time. As I explained to the staff who invited me to testify, my contribution might lie chiefly in providing some historical background for understanding the place of commercialized gambling in the social structure of American cities.

To begin with, it is important to understand the ways in which gambling operations became rooted in the structure of neighborhood life in American cities in the decades after the Civil War. It was during these decades that there arose gambling syndicates: that is, single organizations coordinating numerous neighborhood outlets. The types of gambling that became syndicated were policy and off-track bookmaking.

Of these, policy was the first to become syndicated. In the 18th and early 19th centuries, policy had been operated as a sideline by the lottery companies that ran money-raising lotteries for local governments and private charitable institutions. The crucial characteristic of policy,
of course, was the customer could choose his own numbers. Another difference was that policy tickets cost less than lottery tickets, so that it already was becoming the gambling game of the poor. During this period the winning numbers in the lotteries were also the winning numbers for policy. And, although the lotteries were local when chartered for fundraising purposes, the policy games were generally forbidden by state gambling laws.

With the gradual decision by most states to ban lotteries in the two decades preceding the Civil War, policy expanded in many cities as a separate gambling game. It was the gambling game particularly for the poor, and the profits from operating policy derived from the mass processing of small bets. There were a number of reasons why policy soon became syndicated, but the major reason was that a small operator would find it impossible to pay off on a day when heavily played numbers were among those drawn. Thus they needed financial backers. As early as 1863, a syndicate in New York City put up nearly a $1,000,000 to back the small operators. This was at a time in American history when a $1,000,000 was a lot of money. Among the syndicate backers was John Morrissey, ex-heavy weight champion of the United States, a two-term member of the House of Representatives, founder of the race track at Saratoga Springs, and probably the most important gambling entrepreneur in the 19th century.

The syndicate formed in 1863 soon split because of disputes among the partners. But in New York and other cities policy continued to be coordinated by financial backers who assumed the risks in return for the profits. The policy runners or writers were on a commission basis and kept a set percentage of the money bet with them each day. By 1900 in
Chicago, the seven major policy "wheels" each had well over one hundred writers to collect the bets in the neighborhoods. When, in the 1920's and 1930's, numbers began to replace policy as a popular gambling game in most cities, the syndicate structure continued.

The second type of betting to become syndicated was off-track bookmaking. In the period before the Civil War, horse racing was already the nation's leading sport, but it was largely local and occasional. Because only two horses were entered in many races, betting was between two bettors and did not require a middle man. As the old song explained, one person bet money on a bobtailed nag, and somebody bet on the bay. But after the Civil War, railroads made it possible for the same horses to race at tracks across the country, and racing became a national (and an urban) sport. Cities in the North and West had racing from spring to fall; the South had winter racing as well. To excite the new urban mass audience, racing came to consist of short sprints with a number of horses entered in each sprint. By the 1860's and 1870's, the sport entered upon what may have been its golden age in this country.

With a mass audience and with many horses entered in each race, it was no longer possible to wager privately, and middlemen became necessary to manage the betting. The traditional system had been auction pools, and these continued into the post-Civil War period. But two new systems were also introduced. One was the betting machines already used in France and called French pools or Paris mutuels (later pari-mutuel). While the machines were tried at various American tracks in the 1870's, the fans apparently found that betting with a machine was too impersonal. The second new system was bookmaking, and this system caught on, so that by the 1880's it dominated race track betting.
Many fans, however, wanted to bet even though they could not attend the races and, because racing was now national, there was a desire to bet on races in other cities. Hence the development of off-track bookmaking. For two reasons, syndicates developed. One was that the small-time bookmaker could not pay off if he received too many bets on a single horse, and he therefore needed a backer. The second reason was rooted in the communications technology. Successful bookmakers could afford to rent a telegraph ticker from Western Union and receive race results from across the country. They could then install a telephone switchboard in their horse parlors and telephone results to numerous neighborhood outlets. Thus, successful bookmakers provided financial backing and an information service and thereby coordinated dozens of neighborhood bookmakers.

What were the implications of the syndication of gambling for urban neighborhoods? One implication was for understanding local political structure. After all, the gambling syndicates were structured much like political "machines." They had a few leaders coordinating numerous bookmakers or policy writers who lived in the neighborhoods, had daily contact with neighborhood adults, and knew the problems of persons in the locality. Thus, it was not so much that gambling syndicates influenced political machines; rather, in many neighborhoods, gambling syndicates were the political machines. Gambling entrepreneurs were ward leaders or aldermen; the policy writers or local bookmakers were precinct captains, dispensers of political favors, and election day coordinators. Because of the overlap between gambling syndicates and politics, local judicial officials and policemen were often adjuncts to the gambling operations.

To a considerable extent, in cities outside the old South, common Irish ethnicity tied together gambling, politics, and police. For, by
the 1890's, Irish-Americans were disproportionately involved as successful bookmakers and policy entrepreneurs—and also as urban politicians and policemen. I mention this chiefly to make clear that neither Italian-Americans nor bootlegging gangs of the 1920's created what is now often referred to as "organized crime" in American cities.

There was a second relationship of gambling to neighborhoods. Before the automobile, most everyday convenience shopping had to be within walking distance. Thus the urban residential neighborhoods were filled with small shops: vegetable stores, meat stores, fish stores, barber shops, cigar stores, saloons. Most were small and marginal—many were the traditional mom-and-pop stores. The gambling syndicates were rooted in this neighborhood retailing. The local barbershop, cigar store, or saloon would generally take bets on the horses. Policy was sold at an even wider variety of outlets. Profits from betting might be the difference between success or failure of the businesses. In any event, gambling was not perceived as a separate illegal enterprise but as part of the everyday economic life of the neighborhood. For youngsters growing up in the neighborhoods, the local bookmaker or policy writer was as familiar as the local grocer or cigar store owner. And it was as natural to want to grow up to be a gambler as a grocer.

In addition to the local political and economic place of gambling syndicates in late 19th century American cities, successful gambling entrepreneurs played a number of other roles: as promoters of sports, contributors to local charities, or investors in local enterprises. If there were time, I could elaborate on these important roles.

But one fact should be made clear: The period from 1870 or 1880 until about 1905 was almost certainly the high point for the influence of
illegal gambling upon American cities. With greater or lesser certainty, I would argue that three different measures lead to this conclusion.

First, the decades before 1905 were the period when gambling exercised the widest impact upon local politics and criminal justice institutions. Secondly, this may have been the period when the largest proportion of the urban population engaged in illegal betting on a regular basis. And, thirdly, this appears to have been the period when successful gambling entrepreneurs had the widest concurrent investments in a variety of legitimate business ventures.

This is, I think, an important perspective. For when your Commission is given figures concerning the billions of dollars that are bet annually by Americans and as you learn about the often corrupting influence of illegal gambling, you might get the impression that you are faced with a growing problem. The existence of your Commission is testimony to the seriousness of the problem—but you face a declining, not a growing, problem.

Some light can be shed on the nature of the current problem by examining one of the many factors that has led to the declining influence of illegal gambling on urban neighborhoods. That factor, oddly enough, is the automobile—specifically, the impact of the automobile upon residential neighborhoods of our metropolitan regions. In the neighborhoods built since World War II, the assumption has been that residents will drive in order to make purchases of food and other daily needs, and also that they will drive to places of entertainment. Hence there has been a separation of homes from commercial activity. Commercial activities have been segregated in local and regional shopping centers, and the stores are often large branches of national chains rather than marginal retail outlets. The manager of an A & P is not likely to write numbers in order to make
his store profitable. Adults who want to bet can no longer do so in the neighborhood. At work, of course, there often will be a walking bookie at the factory or a man willing to take sports bets in the cigar store on the ground floor of an office building. Bettors can also place bets by telephone to bookmakers will to extend credit. But, in either case, the old link between gambling and the neighborhood has been broken in the new automobile areas; and the structure of illegal gambling for those living in automobile neighborhoods is quite different from the structure in older neighborhoods. Today many young people grow up and go off to college without ever meet a numbers writer or a bookmaker.

In the core cities, though, the older neighborhoods remain. And the role of gambling in many of those neighborhoods often continues to resemble the role of earlier years. This, perhaps, helps to explain why some ethnic groups seem to be more involved in organized illegal gambling than others. Of the white ethnic groups, Italian-Americans have clung most tenaciously to the old neighborhoods and neighborhood institutions. And when whites have abandoned the old neighborhoods, their places have often been taken by blacks, who, in inheriting the oldest housing in the city, also inherit 19th century neighborhoods. In any event, the neighborhood role of gambling syndicates continues most strongly in those areas that continue to be walking neighborhoods, with shops, bars, and local entertainment facilities. And enforcement of gambling laws there often still involves an attack on local politics and economic structure.

Cities and neighborhoods have histories; and those histories do much to explain the local structure of gambling.
COMMISSION ON THE REVIEW OF THE NATIONAL POLICY TOWARD GAMBLING

PUBLIC HEARING

3306 William J. Green Federal Building
Philadelphia, Pennsylvania

May 29, 1975
9:30 a.m.

ETHIEL D. ALLEN, M.D.
JAMES M. COLEMAN, JR., ESQ.
THOMAS FARRELL, ESQ.
MARIllu MARSHALL, ESQ.
JAMES RITCHIE, ESQ.
Members of the Commission
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MR. COLEMAN: Good morning. This is the second day of hearings held in Philadelphia by the Commission on the Review of the National Policy Toward Gambling. My name is James Coleman. I am one of the Commissioners. Senator Scott, Charles Morin, our Chairman, we except later. Dr. Ethel Allen, a member of our Commission, is tied up with City business. She is a Councilwoman in the City of Philadelphia.

Before we start I would briefly like to remark that the witnesses who are presenting testimony in this and all other hearings, those past and those who will come, may have a particular position that they urge the Commission to adopt. Following the statement remarks of the witnesses, the members of the Commission and its staff will question. The questions that are posed by any of us do not indicate a predisposition about the subject matter. We are in a position where we must ascertain the arguments in opposition to and in favor of legalization of various forms of gambling, so while our questions may appear sometimes to be pointed, biased, prejudiced, or whatever, they are really designed to test the factual basis of the statement made by the witness. I would ask, therefore, on
behalf of the Commission, that you appreciate the purpose of the questioning and do not draw any conclusions as to any predisposition on the part of any of us.

The hearing will start today with Mr. Richard Thornburgh. Mr. Thornburgh was appointed the United States Attorney for Western Pennsylvania in 1969 and reappointed in 1973. He has been a member of the Attorney General's Advisory Committee of United States Attorneys since 1973, and is a fellow of the American Bar Foundation. In 1972 Mr. Thornburgh was named "Man of the Year in Law" by the Pittsburgh Jaycees. He has been a guest lecturer at various colleges and universities on matters relating to law and the administration of justice, and last, but certainly by no means least, and probably of much more importance, he has been very recently nominated by the President of the United States to be Assistant Attorney General in charge of the Criminal Division in the Department of Justice.

Mr. Thornburgh, we welcome you here. You have presented a statement to the Commission, and I assume you would like to read it in its entirety.

MR. THORNBURGH: I would propose to do
so. Thank you very much, Mr. Coleman.

I am Richard L. Thornburgh, United States Attorney for Western Pennsylvania. I have served since 1969 as chief Federal law enforcement officer in the twenty-five counties in the Western Judicial District of Pennsylvania, headquartered in Pittsburgh. My testimony draws on my personal experiences in that position and is not, in any way, intended to reflect an official position of the United States Department of Justice.

During the past five years Federal efforts against illegal gambling activities in Western Pennsylvania have been greatly stepped up in tempo. The passage of the Organized Crime Control Act in October, 1970, brought all major illegal gambling enterprises -- not just those with specific interstate ramifications -- within the reach of Federal prosecution. A new anti-organized crime "Strike Force" became operative in the Pittsburgh area about the same time, and provided additional manpower to increase the pressure on all syndicate activity. Special grand juries, court-authorized wiretaps and the use of witness immunity laws have all been stepped up. The result has been the conviction of those in charge of several multi-million
dollar gambling operations in the Western Pennsylvania area. These efforts, however, have also served to highlight some old questions about illegal gambling that I would like to discuss briefly with you today.

One of the questions most frequently asked of those involved in the battle against organized crime is "Why worry about gambling... Why not concentrate on something important?" I think this question deserves a response. I think the public is entitled to some straight talk about gambling, legal and illegal. I will try to provide one law enforcement official's answers to you today.

First of all, it is vital that we recognize illegal gambling for what it is -- a big business. It is so big in terms of gross revenues that authorities estimate the annual "take" to be on the order of -- $20 to $50 billion per year nationally; --$350 million per year in the Commonwealth of Pennsylvania; and -- $100 million per year in the Greater Pittsburgh area alone. Anyone active in the business community can certainly appreciate the magnitude of these figures, and the estimated one-third net profit rake-off that syndicate gamblers
realize must fairly make their mouths water!

These amounts in my District come primarily from two sources. First, in terms of the number of participants, is the numbers racket with its 600-to-1 daily payoff on a three-digit number from 000 to 999 derived from stock market and race result figures in our daily papers. The second major source is the sports-betting operation -- an intricate business involving wagers on college, professional, and even high school, football and basketball contests, major league baseball games and off-track horse betting.

Both of these operations are highly organized and systematically devised so as to insure maximum better participation at a minimum of risk to the operator. The syndicate, in short, designs the system so that it "can't lose."

Pittsburgh numbers kingpin Tony Grosso, now serving a 10-year jail sentence following a Federal conviction, has testified that his operation alone utilized as many as 4,000 to 5,000 writers within the City of Pittsburgh and Allegheny County and he estimated gross play to have approached $75,000 per day in his operation -- court-authorised wiretaps put the gross revenue of the
Grosso business at $30 million annually.

Writers are the numbers business' "unlucky" -- runners who pick up wagers from all over the community -- a surprising amount of it from within local plants and office buildings -- and pass them up the line by telephone through the bookies and into the numbers banks. Layoff operations insure that no one is "hit" too hard when a number with a big play comes up and occasionally the published number is "rigged" to frustrate a big payoff. Funds are systematically set aside as well for bail bonds and lawyers' fees to assist the unfortunate writer -- seldom the bookie or banker who is arrested.

You can see, I am sure, the management skills and organizational techniques required to run an enterprise such as this. Indeed, I have often suggested that those at the Harvard Business School or this city's Wharton School could do worse than study the hierarchy of the Grosso operation as a prototype of managerial efficiency!

Sports-betting is similarly conducted, but is even more heavily reliant on the telephone to carry out its business. Late lineup changes, injuries to key players and just plain "hunches"
will alter the "line" as put out on a given con-
test and must be transmitted instantaneously to
permit the bookmaker to maintain his "edge" on
those who bet with him. The largest sports-betting
operation in our area -- a $7 - 8 million per year
business run by Robert "Bobby I" Iannelli -- oper-
ated out of a phone-festooned palatial estate in
Pittsburgh's North Hills area until the FBI shut
it down.

Layoff operations in sports-betting are
nationwide in character and connections in recent
years have been firmly established between major
Pittsburgh sports bettors and bookmakers and their
counterparts in cities such as Atlanta, Buffalo,
Baltimore, Cleveland, Detroit, Houston, Providence,
and, of course, Las Vegas. Again, the number of
persons involved in these major operations runs
well into the hundreds.

So much then for a brief look at the
scope of these illegal operations. What are the
reasons why law enforcement officials pay heed to
these operations? Is it just pious morality that
leads us to be concerned with illegal gambling?
Is there some streak of puritanism within the law
enforcement community that causes us to want to
"crack down" on gambling operations? The answer is, of course, much more complex.

First of all, recognize that illegal gambling is the "cash register" for all organized crime operations. Nationwide, the huge amounts of profits realized from illegal gambling operations are pumped into numerous other organized criminal activities -- the purchase, importation and distribution in bulk of hard narcotics, loan sharking operations at interest rates of up to 20 percent per week, systematic hijacking, prostitution, pornography, labor racketeering activities and the infiltration of legitimate businesses to the extent that the Pennsylvania Crime Commission -- while refusing to reveal the names of those involved -- has documented over 375 legitimate businesses in this Commonwealth that are owned or controlled by racket figures.

Without illegal gambling's mammoth profits, it is likely the whole super-structure of organized crime in this country would collapse.

But there is more. These profits are "put to work" in another way to maximize the mob's position in the community -- that is, through the systematic corruption of law enforcement officials
who permit illegal gambling operations to be carried on. And it is here that the syndicates exact their highest toll.

The late FBI Director J. Edgar Hoover observed in one of his last appearances before the Congress prior to his death that "illegal gambling never flourishes unless there is local corruption."

We in Western Pennsylvania know this all too well. For the most startling revelations to come out of recent Federal investigations and prosecutions have been those detailing the systematic and widespread nature of official corruption allied with racket activities.

---The Mayor and Chief of Police in Jeannette, Westmoreland County, were convicted in 1971 of receiving protection payoffs to let numbers flourish in that community.

---The Chief of Allegheny County's "Racket Squad" was convicted in 1973 of taking over $300,000 in payoffs from the very top racket figures he was supposed to be prosecuting.

---The District Attorney of Allegheny County was indicted in 1974 on income tax fraud charges growing out of the secret deposit of nearly a quarter of a million dollars in racket payoffs.
into a phony corporate bank account.

--Last summer an Allegheny County Deputy Sheriff was convicted of collecting as much as $3,000 per month in payoffs for the Sheriff's office from the Grosso organization.

--Awaiting trial on similar charges are the Sheriff of Beaver County, one of his deputies and a District Justice of the Peace for providing protection to a major numbers business there.

And, regrettablly, other serious allegations are presently under investigation by the FBI and Treasury Agents as I speak to you today.

It is from these disclosures that we begin to discover the toll which illegal gambling exacts of a community where it aspires to a "protected" position. For the entire community enters a period of moral decline when its government is subverted by the mob. The classic case of Newark, New Jersey, is a grim reminder of what can happen when organized crime actually "takes over" a community. There urban disorders in 1967 were directly traced to the "pervasive atmosphere of corruption" in that city by a special investigating committee looking into the riots. It was certainly no coincidence that within two years thereafter a
total of 82 Federal indictments were returned in Newark -- including the Mayor, heads of city departments and leading racketeers -- on charges of illegal gambling, tax fraud, bribery, extortion and conspiracy.

Yes, the stakes are high and the "poli-tico-racket complex" plays for keeps. But the stakes are equally high for the community. And this leads me to some concluding observations.

There are only two alternatives to follow in these matters. Our laws presently make these multi-million dollar businesses -- numbers and sports-betting -- illegal. In fact, Pennsylvania along with Massachusetts -- was the very first state in the Union to make lotteries illegal. If these laws are to remain on the books, then the community had better realize that law enforcement activities against illegal gambling are important and I hope I have been able to shed some light on this for you today.

On the other hand, if the community feels that law enforcement activities against illegal gambling are not important, there is a very simple way to remove this burden from police officers and prosecutors -- de-criminalize these activities.
Let those who castigate law enforcement officials for "wasting their time" on gambling prosecutions divert their message to the various legislatures and seek what many nations throughout the world have provided for their citizens -- legalized and government-run gambling.

For those who ask law enforcement officials not to enforce a particular law -- or who even tolerate such a condition -- are playing with fire. Our young people and residents of our disadvantaged communities in particular can perceive the consequences of a system which permits the police -- whether corrupted or not -- to decide which laws they shall enforce and which they shall not. When syndicated gambling operators are able to work out an "arrangement" with law enforcement officials, who knows what might be next?

It seems to me that the time is ripe for serious debate about the wisdom of continuing the criminal status of various types of gambling.

Traditionally, we have always insisted upon a moral basis for the elevation of anti-social activity to "criminal" status, i.e., we establish that certain kinds of activity are so immoral that we make them criminal. Today, the moral
undertaking for making gambling a crime is purely and simply gone. No longer can we characterize the issue as a moral one in a state where:

--The state runs its own gambling operations in the form of an official and highly advertised state lottery.

--The state sanctions and promotes betting on horse races so long as wagering is done at the track.

--State and local law officers "look the other way" while illegal bingo and lottery operations are carried out by churches, fraternal organizations and political parties.

And if the moral basis for a law is eroded, there remains little to justify its continued presence on the books.

What then does justify the continued criminal status of gambling in Pennsylvania? We know that all crime begins in the legislature—that is, nothing is inherently criminal, as distinguished from immoral, but must be enacted into law. Thus, gambling is illegal simply because a majority of our legislature says it should be so. And that majority presumably expresses the will of the majority of Pennsylvania's citizenry.
But if that is the majority feeling -- it must be
so by a mighty slim margin. For all the other
citizens of this state are voting otherwise by
pouring nickles, dimes, quarters and dollars into
the syndicate monopolies we have created and continue
to foster through our laws making gambling illegal.

Or is it much simpler than that? Perhaps it is just a matter of wearing our morality on
our sleeve while we cheat a little here and a little
there on observance and enforcement of the very
laws we have enacted.

If that's the case then the mob must
certainly be laughing up its sleeve, because we
are contributing to the very goal they seek -- sub-
version of the rule of law.

I don't know the answer. But I think it
is important that we openly address ourselves to
the question at this time in particular when hypocrisy is focused ever so carefully in our sights.

The Historian Danial Boorstin has noted:
"Americans' desire to gamble has been equalled only
by their desire to see that gambling was legally
forbidden." Until this "moral schizophrenia" is
resolved, major numbers and sports-betting
operations will remain an illegal monopoly in
this Commonwealth and will continue to operate as the "cash register" for racket operations.

So long as they do, and so long as Federal prosecutions can be brought against syndicated operators under the Organized Crime Control Act and other laws, we shall continue to vigorously pursue these activities and attempt to dig out the mob's influence in Western Pennsylvania communities, root and branch.

We would hope to count on increasing support and interest of the community in these activities, for while these activities remain illegal, we think the investigation and prosecution of them is important.

Thank you very much for the opportunity to appear here this morning.

MR. COLEMAN: Thank you, Mr. Thornburgh.

Before we commence questioning, I think we should note the appearance of the people sitting here. On my immediate right is James Ritchie, who is the Executive Director of the Commission. On my left is Miss Marilu Marshall, the Associate Director; Tom Farrell, the Associate Counsel of the Commission.
BY MR. COLEMAN:

Q Mr. Thornburgh, I have a technical question, perhaps. In part of your presentation you talked about the lengths to which organized crime numbers activity might go, particularly as rigged numbers. How would that be accomplished, assuming they are playing on a race-track handle figure or treasury balance, or whatever? You apparently have some information of that.

A Yes. In the greater Pittsburgh area the numbers are placed in five so-called houses. Two of them relate to the stock figures. Advances declines and unchanged figures are published in the morning newspaper, and officially verified by the Wall Street Journal figures.

Two of them relate to pari-mutuel handles at tracks which are designated from time to time and, again, published in the morning newspaper and subject to official verification in The Morning Telegraph. The fifth house is a combination stock figure, the two added together, with the fourth figure to the left dropped. So you have five houses that can be bet.

We had an experience about two years ago where an employee of the morning newspaper was reached and induced to change the final figures that came out in the newspaper so that if there had been no verification made independently by an
individual with what the Wall Street Journal figures were, there could have been either payoffs on that rigged number or no payoff on the official number in the final analysis. This is one specific instance that I am speaking of; but we are informed through testimony and interviews with those who have been convicted and subsequently obliged to testify through grants of immunity that this is not an infrequent type of activity, particularly where there is a big hit. It isn't foolproof by any means, because there are various sources for these figures, but it does have the effect of reducing the losses that might be suffered by the house, where a particularly heavy play was on a number that was the official hit.

Q In the mention of Robert Iannelli, which apparently was a bookmaking operation, was there a Federal prosecution there?

A There was a Federal prosecution of Mr. Iannelli, his wife, and seven other members of their organization. It was the first use of court-authorized wiretaps in Western Pennsylvania, and resulted in the conviction of all but one of the defendants. Iannelli is now serving a 3-year jail sentence.

Q That was a sports-betting operation?

A Yes.
Q Not horse bookmaking?
A Due to the time of the season when the wiretap was on, it was largely football, pro-football betting; but we subsequently learned that they booked year-round on professional events. In fact, Mr. Zannelli is under indictment again on a subsequent operation that he carried on while out on bail pending his appeal, which bail was revoked at the time he was discovered to have been continuing in the business. That was a baseball operation, so that this was a year-round operation.
Q In the figure of $100 million which you set in the greater Pittsburgh area alone, are you able to tell us your opinion how that's split? In other words, would the larger share be sports-betting and then numbers second?
A Obviously, these guys don't publish Profit and Loss statements and balance sheets, but we have had the advantage of evidence plus rather substantial cooperation from Mr. Grosso following his conviction. He is still serving that sentence, to allay any fear that that cooperation might have been rewarded by his being sprung, but I think he did make a determination that the only way he was going to help himself was to be of assistance to the Government, and he has provided substantial insight into
the numbers gambling operations in the greater Pittsburgh area where he has been the acknowledged master practitioner of the art, if you will, for the past 25 years or so.

The figures on numbers, the $30 million a year from the Grosso operation, is almost like a P & L figure. It is substantiated not only by the wire-taps and extrapolations from the period in which they were on, but by Mr. Grosso's own testimony and the books and records of that business.

The $100 million figure, I would say, is based on just an informed guess. You could probably break that down about 55 percent - 45 percent with the heavy side on the numbers. Numbers in the Pittsburgh area is a substantial operation. The number of players, bettors, involved in sports-betting is substantially less, but the bets are of a much higher magnitude. As high as $25,000 have been handled on intercepted conversations, in the Pittsburgh area. But, again, I wouldn't want to be held to the complete accuracy of those figures.

Q You have also mentioned the Grosso conviction, and from what we have learned over several months, some of us having been also in law enforcement, there apparently is some feeling that basically throughout the United States the gambling sentences are not very severe.
This appears to be a rather substantial sentence. Was that based partly on some prior record that was brought to the attention of the Court?

A Well, our experience in Western Pennsylvania has been somewhat contrary to your observation about sentencing. We have gotten what I think I would characterize as appropriate sentences for large-scale gambling operations. I think the Grosso 10-year sentence is probably as long a sentence for a bookmaking conviction in Federal Court as has been imposed.

There were fifty-five defendants in the Grosso case. Seven of those were on the executive level, down through probably the vice-president level, if you want to make it equivalent to a business corporation. The executive vice-presidents, again, if you will, by analogy, received sentences that were rather stiff as well. Mr. Grosso's brother, Sam, received a 6-year sentence. Three women were involved with the transmission of gambling information, two of them grandmothers -- I suppose this is a blow for Women's Liberation -- they got 3-year jail sentences, so there was no discrimination in their favor.

The sentences of those who were not jailed were such that the probationary terms included a specific provision prohibiting these probationers
from going back into the gambling business. We have had four separate cases where they didn't take the judge at his word and again went back into the business and they are now in jail, so even the probationary sentences have had a salutary effect in deterring these individuals from further participation in the illegal gambling business.

So, taking into account, as one must, the fact that Federal prosecutions are supposed to be zeroing in on major violators, I can't express any dissatisfaction with the sentencing patterns that have developed in the Western District of Pennsylvania.

Q Following this conviction of a person who obviously was the, if not one of the, kingpins in this so-called business, -- when was the conviction, by the way?

A The conviction was in June of 1973, and he was immediately jailed, so he has been in jail now for upwards of two years.

Q Based upon your knowledge now, what effect has that had on this type of activity? In other words, have the numbers been abated?

A I would have to be totally candid in that respect. That effect of the Grosso incarceration and the disability of the top people in the organization disrupted that organization substantially. There is no question
about that; but the fact of the matter is that there are two sides to this equation. Law enforcement can only deal with the supply side, and even if you put every last identified numbers kingpin around in jail under some disability, there is still the demand side to deal with, over which law enforcement has no hold. That is to say, people are going to play numbers. They are going to bet on sporting events, and they are going to find somebody who is going to book those bets. That's the experience in Pittsburgh. There has been, to be sure, some fall off in the volume, I am sure, simply because of the inconvenience of having to find a new numbers writer or a new bookie; but it certainly has not been a deterrent in terms of the players themselves. First of all, as we know, they commit no crime and have no criminal sanctions imposed on them for placing bets; but it has disrupted the organization and the flow of funds, the orderly flow of funds, into the treasury of the syndicate in the Pittsburgh area.

Q One more question, and then I will pass along here. We have heard testimony, Mr. Thornburgh, from local officials and from State and Federal officials, a great many feeling, particularly in this field of activity, illegal-legal numbers, that the arrest, continual arrest
of so-called street people runners really has little or no effect, but based on what you told me and what may not be so, isn't it a fact that locking up the higher people may temporarily disrupt or destroy, but the street people are still there, aren't they?

A Yes, they are.

Q The sellers.

A No question about it, and I think a study done by the Pennsylvania Crime Commission, to which I hope you either have access or will get access, of sentencing patterns by judges in the Court of Common Pleas in Allegheny County indicates that these repeaters come back time after time after time with no real sanction imposed on them. Unfortunately, there is no real effort on the part of local prosecutors to run out the string to go up the ladder rung by rung, to determine where the locus of power is within a particular organization. Lest that sound critical in gross of local prosecution activities, I think the problem is they simply don't have available to them, with all the demands that are made with respect to the problem of street crime the resources in terms of skilled investigators and prosecutors who can devote the time to knocking down one domino after another until you reach the Grossos, and the Grossos are the proper focus for the type of
Federal activity that we have undertaken, if indeed there is to be that kind of effort put on illegal gambling.

Q The Grossos couldn't work without the people in the street?

A They couldn't really work without the people in the street. My own personal feeling, I must say, has been that our desire has been not so much to put the people in jail for gambling but to get them the hell out of the business. That's been accomplished in some respect by a monitoring process on probation. What happens at the State level, if I may for a moment -- to my observation -- is that street writers will be put on probation, and even in many cases adjured to get out of the business, and they go right back in the business, and they are arrested a week later, and there is never any attempt to revoke their probation. I think a judicious revocation of probation and the reinstatement of a suspended sentence would have some kind of deterrent effect. Although I don't know that it is really in society's best interest to fill up the jails with street writers, I think some expectation that they might actually go to jail if they persist and continue in their operations would be worth a try in terms of increasing the deterrent effect of the laws that are on the books, if they are to remain there.
MR. COLEMAN: Thank you Mr. Thornburgh, Mr. Ritchie?

MR. RITCHIE: Thank you.

BY MR. RITCHIE:

Q Mr. Thornburgh, just for a moment, to engage in sort of strategies of law enforcement within your experience, would you agree that the basic responsibility for enforcing the gambling laws or anti-gambling laws are those of the States as opposed to Federal Government's?

A Yes, I think so. I think the Federal Government's role in this area relates to its concern with organized crime and its interstate and international ramifications.

At the other end of the operation, at the street level, there is not much sense in involving the Federal Government's vast apparatus of experts, investigators, and prosecutors in that day-to-day operation, but the two have to be interconnected and intertwined in some way. They can't go about their business separately.

We have had in our area a great deal of cooperation and a good deal of joint undertaking with some state and local agencies -- not, of course, the ones I have mentioned that were found to be on the take, which is a substantial problem. As you know, Mr. Ritchie, you have
to carefully assess with whom you are going to share
intelligence information and with whom you are going to
undertake joint operations. I think that, in the best of
all worlds, a cooperative effort of pressure from one
end by local authorities on the street operations and
pressure from the other end on the business suite opera-
tions by the Federal Government should end up meeting
somewhere in the middle and exert a maximum amount of
pressure on illegal gambling operations.
Q Well, in line with that particular policy judgment,
which is essentially what that is, we have been told by
officials of local law enforcement that they believe,
not all, but some, gambling laws are totally unenforce-
able and have led to serious corruptive influences within
their own organizations, which they are incapable of
dealing with under the present judicial system or the
present criminal system. If that were a conclusion
after the research was completed that this Commission
would make, that local law enforcement, meaning state
and city levels, were incapable of coping with this
problem with their present resources, would you support
a recommendation that the Federal efforts be increased
substantially; to wit: the Federal Government become
more involved in this type of enforcement? I am not
asking you to commit yourself to the future.
There are a lot of "iffy" propositions there. I think at bottom my answer would have to be "no." I don't look with particular favor upon the Federal Government encroaching into so-called local law enforcement areas in any respect. I think there is a special role that the Federal law enforcement apparatus can play and can play effectively; but the idea of some national police force running down bookmakers or numbers writers in every major metropolitan area of this country does not sit well with me.

I recognize, as you do, I am sure, that the present major Federal weapon in dealing with illegal gambling Section 1955 of Title 18, rests on a premise that that gambling is illegal under State law. One of the triggering modes for Federal involvement is that the gambling operation is illegal under State law. It seems to me that, if indeed there is a conclusion of some weight that these laws are unenforceable, the logical and only proper response is not to not enforce them but repeal them, because to me there is nothing more degenerative of the process of respect for our system of law than laws that are on the books that are not being enforced. I think if the determination that you outlined is ultimately arrived at, then, a very careful examination would have to be made of the laws, of the propriety
of the laws, in the first place. I think one has to accept the judgment that is made by those operating at the street level. I can't quarrel with the testimony. I don't have the expertise myself to evaluate that; but I am certainly in no position to quarrel with that fact.

Q: Many of these same officials have proposed that gambling be legalized, the legalization being utilized as a tool against organized crime, believing that legalization per se, assuming it were competitive with the illegal market, would ultimately derive or deprive revenue that presently goes to organized crime from organized crime. Now, countering that, we have the exact opposite argument offered by other law enforcement officials that you must prohibit gambling, because that is the most effective tool against organized crime.

Could you share with us any thoughts you might have as to paths of inquiry that this Commission might follow to appropriately resolve which of those two viewpoints, if either one, might be more correct?

A: Well, I would have two observations in that respect. First of all, I think the key insertion in your posing the question is the assumption that legal gambling can compete and override mob-dominated monopolies in numbers and sports-betting. That's an assumption that has to be tested somewhere along the line. It's quite clear that
one basic element of the noncompetitive nature of State-
run gambling at the present time is that the tax is
punitive. It's no secret that people who win in the
numbers and illegal sports gambling operations many times
do not report that on their Form 1040, while the State
operations are open to the tax-gatherer's view. That
seems to me to be one very crucial area that has to be
looked into. Is it feasible, as I understand it, is done
in some other countries, to provide some form of tax
credit or some form of nonrecognition of income on gam-
bling winnings? And what effect does that have on the
moral tone of this nation when you say to a taxpayer,
"You can go out and work by the sweat of your brow and
bring home a paycheck, and we are going to grab this much
of it by way of income tax," and then you say, "But if
you go out and gamble and happen to hit it lucky, we are
not going to tax you."? It seems to me there is a little
topsy-turvy feature to that.

The second observation or suggestion
that I might make, and I obviously am not in any way in-
formed in this, but my understanding is that in most of
the western world, the United States excepted, there are
State-run gambling enterprises of various kinds and
forms, and there is very little syndicated illegal gam-
bling in those countries. If that is the case, it
suggests to me an answer to the first line of inquiry,
indeed that
one can devise a means of running the mob out of business through some kind of legal operation.

Those are hypotheses that would have to be tested by the facilities that you have available to you. I think it would be a worthy line of inquiry.

A point that I think is important and that I and any of the law enforcement people that appear before you have to be very careful about is that it is not a proper determination for us to make. We are sworn to enforce the laws that the legislative bodies enact as the will of the people, and my own personal feelings about gambling's worth or lack of worth to the community are relevant only in determining priorities of the use of resources at my command. I don't think that law enforcement officers have any monopoly on valued views about whether gambling is a good or bad thing, and I would caution not only all of us but all of you to keep that in mind when making your ultimate recommendations.

The matter of gambling's status in our society is a very involved question, a social question, a cultural question, a philosophic question, a religious question, as the material that your Commission has prepared as background material indicates, and there is no monopoly on the right view from the point of view of law
enforcement officials. I think we can give you facts, but I am not quite sure our views with respect to whether or not it's a good idea to have gambling made legal or illegal from an abstract point of view have all that worth.

Q Two questions, Mr. Thornburgh, regarding your position presently as the chief law enforcement officer in your Federal Judicial District and your respected position as the chief law enforcement official of the Criminal Division of the Department of Justice. Do you believe it would be appropriate for you to voice an opinion about whether or not the laws that certain policymakers have enacted to be carried out by your office should be questioned at all?

A I don't think it would be proper for me to express that kind of view in the abstract, as I indicated. My views would be relevant in terms of what kind of responses could be forthcoming as dictated by a change in policy by the legislative policymakers. That is to say, I can respond with views on what effect it might have on Federal law enforcement in other substantive areas if we did not have to enforce the gambling laws. I can respond to what effect it would have if, as you suggested as a possibility, an increased Federal involvement were to be undertaken.
in the gambling area; but as to the propriety of the
legislative bodies or this Commission or any policy-
making body changing the law substantively, I think the
only input that we as law enforcement officials in
either position could have is the type of input I have
tried to give you this morning to indicate that it is
not simply a matter of gambling; that because gambling
is illegal and because it is a monopoly of the organized
crime syndicates and because it is a source of front
money for a number of very serious, by common definition,
"criminal activities," it is a proper concern at the pres-
et time for us to be undertaking.

My own views on gambling are really
kind of irrelevant. I don't gamble, but it's not be-
cause of some moral commitment. I am just too cheap to
gamble. I don't like the odds. It's like the old car-
toon during the 20's of the guy going into brokerage
house and asking the broker "Where are the customers'
yachts?" It's the bookmakers and those involved in the
operation who are the guys wearing the $300 suits and
driving the Cadillacs and owning the palatial estates.
It's only once in a while that somebody hits big on the
numbers.

Q You don't believe the casinos in Las Vegas were
built by charitable institutions?
A  No, I am afraid not.
Q Do you agree the issue of Federal taxation of gambling winnings as an income is such a basic determination that unless that particular policy were changed, any form of legalization that might be enacted by the states would doom our Federal Government to be noncompetitive and fall and thus should be discouraged?

A I would be telling you more than I know if I were to give you a "yes" or "no" answer to that. I think it's clear it is a major consideration that has to be worked out. Again, I think the experience of other countries in this regard might be useful but it is clear, I think logic tells us, if a man can play two identical lotteries and he is going to be taxed on the winnings of one and not taxed on the winnings of another, then it's fairly obvious which one he is going to participate in, irrespective of what minor edge in terms of maybe a 700 or 800 to 1 payoff or other types of conveniences, such as not having his bookmaker run out of business by a police raid, might provide as an incentive to playing the legal lottery. I think that is a major consideration that would have to be worked out. Whether it's total factor or not, I don't really know.

Q If I might then go back to your observation about, in particular, legal gambling operations, yesterday we had officials from Philadelphia, not from Pittsburgh, of
local law enforcement who testified that 90 percent of the arrests that were made locally were for illegal lottery or numbers, and that in none of those cases was there a connection to organized crime, and in the judgment of the prosecutor it was sufficient to be brought to the attention of the Courts. Thus there was a conclusion that these cases were not "significant" by one person's definition to the Court system. Is that a view you would share or believe is shared in the Pittsburgh area by local law enforcement?

A As I indicated, I don't think in our area anybody is in a position to make that determination We have in Allegheny County, which is the greater Pittsburgh area, 116 separate police forces, the vast majority of which have 10 or less officers. They are hard pressed to provide the patrol and service functions that are the basic police work required, let alone engage in any kind of concerted activity against numbers writers. There is no coordination among those units. As indicated by my testimony, there has been an effective and successful attempt to systematically corrupt all of the county-wide enforcement agencies, county detectives, the sheriff's office, all except the county police, which, up until a couple of years ago, was told not to pay any attention to numbers operations but to guard the parks and the tunnels and
airports. There is no effective anti-organized crime, anti-gambling activity, in the greater Pittsburgh area worthy of the name, although the City of Pittsburgh police force in recent years has established a fairly effective organized crime division which has done some work. I mentioned that as a preface only to indicate that I don't think people who are engaged in that type of enforcement activity are well served by a district attorney's office which is only part time. Other than some L.E.A.A. specially-funded operations, there are no full-time prosecutors in our Pittsburgh area. As a consequence, the continuum of illegal gambling is never examined. You have a series of numbers writers, street writers, housewives or elderly people who appear seriatim, and no attempt is ever made to establish what position, if any, they do occupy within the hierarchy of a Groso organization, but we know damn well from Tony Grosso's own mouth that he had from 3,000 to 5,000 operators in a float around the greater Pittsburgh area. I warrant that when any of those 3,000 to 5,000 people were processed through the local courts, they were characterized in much the same manner you indicated the characterization was made of these Philadelphia people.

Q Well, utilizing the term that I used yesterday just to be consistent, without looking for Joe Bananas and
his operation, there was testimony that fines were paid
by someone other than the defendant; that the odds in
Philadelphia were 400 to 1 as opposed to the 600 to 1,
which would appear that all of Pittsburgh should come
to Philadelphia, or vice versa; but this did not, in the
witness' judgment, constitute an indication of organiza-
tion.

In your experience, would you tell us
whether or not you agree or disagree with that?

A. Well, I don't think there is such a thing to my
knowledge, but I certainly can't speak with respect to
Philadelphia or Chicago, or wherever. I am talking about
Western Pennsylvania. There is no such thing as an in-
dependent book. That is a justification that is some-
times thrown out by people who lack the resolve or the
resources to take this on in their community. The so-
called independent book relies on the syndicate for a
layoff, if for nothing else, to reinsure those bets where
he may be exposed. Now, if that is the only contact they
have with the organization, it is a very significant con-
tact, because without that access to the layoff, the so-
called independent book would have to fold up.

In my experience, in the population cen-
ters of Western Pennsylvania these operations are a true
monopoly of the organized crime syndicates, which I
recognize is a term that has some flair to it; but it's a business operation. It's a monopoly business, and these guys are businessmen, and they control their business operation. They franchise the operators. They do provide lawyers and bondsmen, pay the fines, take care of the lame, the halt and the blind, aid the wounded in battle, and exert the ultimate policy-making power over what kind of an operation is carried on in numbers, sports-betting, or any other kind of an operation. I have absolutely no doubt about that, based on my involvement over the last six years in major prosecutions of large-scale illegal gambling operations. There is simply no such thing as a "mom and pop" operation which stands alone and survives as a bastion of free enterprise; albeit illegal. They are all tied in with the larger operations.

I think the point that must be realized is that there is a vast public relations effort on the part of the syndicates to make it appear that these people at the lower level are indeed individual practitioners and have no tie to the bad guys, the guys in the dark hats, but it just "ain't" so.

Q Mr. Thornburgh, again, going now from your observations about the existence of the criminal syndicates and looking at the manners or the strategies which have been employed by your office specifically of selecting out
the leaders and going after those persons, I am reminded, as I am sure you are aware of, the views of Mr. Richardson when he was the Attorney General. He posed the question of the efficiency of selective prosecution, compared it to the Board of AT & T and said, "If you remove all of these people, put them in jail, the question is what have you done to the organization? Have you made it more efficient or less efficient?", and the bottom line question is: comparing it to the telephone company, have you disrupted the service?

In your judgment, utilizing the criminal statutes which Congress has presently given the Federal Government, is that an effective method of eliminating these organizations as criminal syndicates or must other strategies be investigated? By that I mean utilizing perhaps a civil sanction as opposed to criminal sanctions.

Well, as you know, there are substantial civil sanctions already being utilized in the form of the income tax laws. When we complete a criminal prosecution, for example, based on a Court-authorized wiretap, we secure an order from the Court authorizing the transmittal of that data to the Internal Revenue Service, which uses it as a basis for a tax assessment and the collection of income tax from that operation. That's a
kind of civil sanction that can be imposed. Any other kind of civil sanction, I think, based on my not-too-complete thinking, is really kind of a licensing provision. You are collecting something to permit people to stay in business.

I don't know. I haven't really thought that much about it. I do think that, in terms of the overall structure of organized crime, not just gambling but the entire gambit of their operations, successful and aggressive prosecution of major gambling figures, the Chairman of the Board and his coterie, and the imposition of appropriate sentences does have the effect of disrupting the operations, does have the effect of upping the ante, if you will, for participation in these types of those activities, and I would hope has a ripple effect on the other kinds of operations that organized crime is engaged in.

Again, there is no way to demonstrably prove this beyond a reasonable doubt, because we do not have access, except in rare cases, such as Grosso, to what the real books of the syndicate show. I think it's important that that question be asked in your travels about the country of other Federal prosecutors, and I for one would be interested in what your final determination is, based on candid responses that you get, because
if it is having no effect, then we ought to do some real
thinking in terms of priorities that are, I think, a
proper concern to the Department of Justice. However,
I am not prepared to say that at this time.

Q. Your experience as a judiciary in imposing the types
of sentences that you brought to the attention of the
Commission would appear to be somewhat unusual. There
are some districts that, because of the hypocrisy of
certain legal exemptions, Courts, really cannot disting-
uish between a numbers seller and a licensed lottery
agent and a legal off-track New York bookmaker and an
illegal off-track New York bookmaker. Consequently,
jail sentences are not being imposed. There is a type
of exercise which has been brought to the attention of
the Commission of tremendous resources being utilized
to investigate, prosecute, and ultimately convict Court-
imposed fines which are almost predestined, according to
the defendants which are interviewed, and a licensing
fee, which is past along to their customers, and really
no deterrent sentencing. Now, I am not saying this is
a fact. I am saying this has been brought to the atten-
tion of the Commission. Would you favor the Commission
considering recommending to Congress some type of manda-
tory minimum sentencing for recidivists in the gambling
area or do you believe that might be a further millstone
around the necks of the Courts in prosecuting?
A. Well, the area of minimum mandatory sentences is a tough one. It's a mixed bag. There are, on the one hand, strong arguments to be made that because of the types of phenomenon that you have noted, not only in gambling but in other areas, there may be a complete failure of the deterrent value of the criminal justice system because of so-called light sentences, lenient sentences, and that area of discretion on the part of the Courts should be cut down.

On the other hand, there is the school of thought that says that juries and judges are going to be less likely to convict if they know a minimum mandatory sentence is in the offing, simply because there is no opportunity to ameliorate a particular situation, and I have some reason to believe there is some validity to this.

We must, I think, also recognize that we are sentencing offenders and not offenses. There may be some situations, particularly in the area of violent crimes and repeat offenders, which while not the subject of your inquiry, afford much greater opportunities for minimum mandatory sentencing, than there is in this area. I don't know how to account for the sentencing practices in Western Pennsylvania.
Let me just touch on that for a second.

Q Certainly.

A Maybe it's because we are the land of the coal mines and steel mills, and we play hard ball in every respect in Western Pennsylvania. You may be interested to know that it has been the invariable practice of my office to make no recommendation with respect to sentencing in any case whatsoever. We simply will not take a position, because I think that's the problem of the Court. We have good judges, and I trust their discretion. We are content to abide by our role as investigators and prosecutors and leave the sentencing to the Court. Ironically, that has produced what I would deem satisfactory and appropriate sentencing in organized crime cases. At the time of sentencing we will bend every effort to indicate to the Court, not only through the probation office pre-sentence reports but on the record at the time of sentencing, those special facts which relate to the individual involved and his status, based on our investigation, within the hierarchy of organized crime, which we feel are appropriate. Those are factual matters which we are making available to the Court for its use or nonuse as they see fit, but we simply will not go in and ask for a jail sentence, or whatever, in any case.

In a situation where you can manage your
I would recommend that to every prosecutor in the United States. I am cognizant of the fact that, because of the tremendous caseload that exists in major metropolitan areas, and certainly we are aware of Philadelphia's quandary in that respect, plea bargaining and recommendations to the Court are things that have to be done. It's a regrettable thing, because in my experience, in the luxury of being able to handle our caseload in such a way that we carry out our function and let the Court carry out their function, I think it heightens the respect of the public for the process of the criminal justice system. It has been very satisfactory to us and, parenthetically, has produced sentences in organized crime cases that I think have been highly appropriate.

MR. RITCHIE. Mr. Coleman, if I may just indulge, it's only my respect for Mr. Thornburgh's views that leads me to take so much time. I have one last inquiry.

Q The new statute created by the 1970 act of the intrastate gambling, the IGB or the 1955 statute, has been criticized in some quarters because it was utilized in the judgment of the Courts against low level operatives who were targets of first opportunity. It seems consistent that when there is a connection to a criminal
syndicate that appropriate sentences are always given.
2 Judges respond to that but feel they are being taken
advantage of by certain prosecutive forces that deal
with a lower level. Would you favor some type of spe-
cial offender provision that would insure that that
particular statute was utilized against organized crime?
By that I mean some type of a causal connection between
the organization alleged in the indictment and a crim-
inal syndicate as a method to alleviate this particular
problem from at least isolated instances or perhaps
general instances of prosecution views?
A How do you define "organized crime"? I have never
seen a satisfactory legal definition of organized crime.
I know within the last three or four months, I believe,
the Court of Appeals of New York declared a state stat-
ute unconstitutional because it attempted to use "organ-
ized crime" as a term of art, stating that the term in
and of itself was vague, and a statute that related
criminal offenses to that term was found unconstitutional
because of vagueness. I think you have to rely in those
areas, in the use of the IGB 1955 statute, on the integ-
rity and the good sense of the investigators and pros-
secutors. You have to rely, as I hope we can, that they
are not engaged in some numbers game of their own; a
statistical race to the swift of compiling statistics
for public and congressional consumption really has no relationship to the real impact of what the prosecutive activities are, and I am bound to say my experience with United States Attorneys and Strike Forces indicates in the vast majority of cases there is an eye on the major syndicate figures. Sometimes it is necessary to deal with prosecutions that involve very low level people in order to get on the ladder at some rung. You can't always get on the ladder at the next rung to the top. The familiar process of conviction and utilization of testimony of those convicted to go one step higher must occasionally begin at a very low level.

Again, I think it's probably a lack of appreciation for the continuum of the operation that leads judges, commentators, defense counsel, and others to be critical of particular prosecutions for involving minor figures when, in fact, it may be the first step on a major investigation into a large-scale syndicate operation. There are mistakes of judgment, to be sure. We are all human. I have made my share of them, I am sure; but I would like to think and I would certainly hold to a standard that those types of prosecutions should be undertaken not to compile statistics but to keep a consistent route of investigation and prosecution going toward the real kingpins of those operations.
Q Assuming there is an efficiency in judicial awareness, would you favor some type of presentencing program that would educate them, even though this is the bottom rung, only for sentencing purposes?

A Yes. In fact, as I indicated, that's the type of effort that we undertake in cases like that, to educate the judiciary. I have told my assistants on more than one occasion when a sentencing of this type of case comes up, they ought to prepare for that sentencing just as carefully as they prepared for trial, because they have an opportunity to acquaint the judge at the sentencing time with factors that are relevant for sentencing purposes which would not have been relevant at the trial.

As you know, at the trial, anything that relates to other involvements or other offenses or positions within organized crime are totally irrelevant and never appear before a judge or jury lest there be a mistrial; but at sentencing time, when the judge needs to know all of the factors that bear on this offender's place in society as a whole, it's entirely appropriate and indeed necessary that that type of presentence investigation and that type of presentation at sentencing be made.

MR. RITCHIE: Mr. Coleman, I just want to again congratulate Mr. Thornburgh on his selection
by the President.

MR. COLEMAN: I have one other question.

BY MR. COLEMAN:

Q We have heard all sorts of things about organized crime and its connection with gambling or its nonconnection. What about Mr. Grosso, if you can tell us? What business was he in besides running the numbers game, and where did he put his profit? Did he put it in loan sharking? Did he throw it into pornography, prostitution, hijacking, and so forth?

A This is a terrible way to end up, but I really can't discuss that with you this morning, because it is the subject of continuing investigation by both the FBI, the IRS, and the grand jury, with Mr. Grosso's cooperation, to be sure. It just would not be proper for me to spread that on the record.

Q The only reason for the question is because we have had, particularly as of yesterday, out and out statements that there was no connection, for instance, between numbers and organized crime. Obviously, it's some sort of organization, as you very ably told us and the others have told us; but somewhere along the line I suppose someone will come and say yes, they are, or no, they are not, in some criminal activities, but we will leave it at that.
A I think part of the problem is the nature of our criminal justice system in dealing with criminal offenses on a case-by-case basis. There is, as I indicated, sometimes an excusable lack of perception of the forest for the need to concentrate on individual trees. I would be delighted to take the time to spell out some of the things we know. They relate to pending investigations and prosecutions of other individuals, however, and, as a prosecutor, my job is to present evidence in Court and observations to commissions, so I hope I have restricted myself to observations and not transcended into the evidence, which I will have to deal with another day.

MR. COLEMAN: I think you have done so very well. On behalf of the entire Commission, we thank you very much and wish you the best.

MR. THORNBURGH: Thank you. I want to wish you well in a very important task, and I will await with much interest the conclusions that you render next year.

Thank you.

(Witness excused.)

MR. COLEMAN: The next witness is Joel Friedman, the Chief Attorney in charge of the United States Department of Justice. Mr. Friedman has been
STATEMENT OF

RICHARD L. THORNBURGH
UNITED STATES ATTORNEY FOR
WESTERN PENNSYLVANIA

BEFORE

THE COMMISSION ON THE REVIEW OF THE
NATIONAL POLICY TOWARD GAMBLING

THURSDAY, MAY 29, 1975
9:30 A.M.

ROOM 3305
WILLIAM J. GREEN, JR. FEDERAL BUILDING
PHILADELPHIA, PENNSYLVANIA
I am Richard L. Thornburgh, United States Attorney for Western Pennsylvania. I have served since 1969 as chief Federal law enforcement officer in the twenty-five counties in the Western Judicial District of Pennsylvania, headquartered in Pittsburgh. My testimony draws on my personal experiences in that position and is not, in any way, intended to reflect an official position of the United States Department of Justice.

During the past five years Federal efforts against illegal gambling activities in Western Pennsylvania have been greatly stepped up in tempo. The passage of the Organized Crime Control Act in October, 1970, brought all major illegal gambling enterprises -- not just those with specific interstate ramifications -- within the reach of Federal prosecution. A new anti-organized crime "Strike Force" became operative in the Pittsburgh area about the same time and provided additional manpower to increase the pressure on all syndicate activity. Special grand juries, court-authorized wiretaps and the use of witness immunity laws have all been stepped up. The result has been the conviction of those in charge of several multi-million dollar gambling operations in the Western Pennsylvania area. These efforts, however, have also served to highlight some old questions about illegal gambling that I would like to discuss briefly with you today.
One of the questions most frequently asked of those involved in the battle against organized crime is

"Why worry about gambling . . . Why not concentrate on something important?"

I think this question deserves a response. I think the public is entitled to some straight talk about gambling, legal and illegal. I will try to provide one law enforcement official's answers to you today.

First of all, it is vital that we recognize illegal gambling for what it is -- a big business. It is so big in terms of gross revenues that authorities estimate the annual "take" to be on the order of

--$20 to $50 billion per year nationally;

--$350 million per year in the Commonwealth of Pennsylvania; and

--$100 million per year in the Greater Pittsburgh area alone.

Anyone active in the business community can certainly appreciate the magnitude of these figures, and the estimated one-third net profit rake-off that syndicate gamblers realize must fairly make their mouths water!

These amounts in my District come primarily from two sources. First in terms of the number of participants is the numbers racket with its 600-to-1 daily payoff on a three-digit
number from 000 to 999 derived from stock market and race result figures in our daily papers. The second major source is the sports-betting operation -- an intricate business involving wagers on college, professional, and even high school, football and basketball contests, major league baseball games and off-track horse betting.

Both of these operations are highly organized and systematically devised so as to insure maximum bettor participation at a minimum of risk to the operator. The syndicate, in short, designs the system so that it "can't lose."

Pittsburgh numbers kingpin Tony Grosso, now serving a 10-year jail sentence following a Federal conviction, has testified that his operation alone utilized as many as 4,000 to 5,000 writers within the City of Pittsburgh and Allegheny County and he estimated gross play to have approached $75,000 per day in his operation -- court-authorized wiretaps put the gross revenue of the Grosso business at $30 million annually.

Writers are the numbers business' "salesmen" -- runners who pick up wagers from all over the community -- a surprising amount of it from within local plants and office buildings -- and pass them up the line by telephone through the bookies and
into the numbers banks. Layoff operations insure that no one is "hit" too hard when a number with a big play comes up and occasionally the published number is "rigged" to frustrate a big payoff. Funds are systematically set aside as well for bail bonds and lawyers' fees to assist the unfortunate writer -- seldom the bookie or banker -- who is arrested.

You can see, I am sure, the management skills and organizational techniques required to run an enterprise such as this. Indeed, I have often suggested that those at the Harvard Business School or this city's Wharton School could do worse than study the hierarchy of the Grosso operation as a prototype of managerial efficiency!

Sports-betting is similarly conducted, but is even more heavily reliant on the telephone to carry out its business. Late lineup changes, injuries to key players and just plain "hunches" will alter the "line" as put out on a given contest and must be transmitted instantaneously to permit the bookmaker to maintain his "edge" on those who bet with him. The largest sports-betting operation in our area -- a $7 - 8 million per year business run by Robert "Bobby I" Iannelli -- operated out of a phone-festooned palatial estate in Pittsburgh's North Hills area until the FBI shut it down.

Layoff operations in sports-betting are nationwide in character and connections in recent years have been firmly
established between major Pittsburgh sports bettors and bookmakers and their counterparts in cities such as Atlanta, Buffalo, Baltimore, Cleveland, Detroit, Houston, Providence, and, of course, Las Vegas. Again, the number of persons involved in these major operations runs well into the hundreds.

So much then for a brief look at the scope of these illegal operations. What are the reasons why law enforcement officials pay heed to these operations? Is it just pious morality that leads us to be concerned with illegal gambling? Is there some streak of puritanism within the law enforcement community that causes us to want to "crack down" on gambling operations? The answer is, of course, much more complex.

First of all, recognize that illegal gambling is the "cash register" for all organized crime operations. Nationwide, the huge amounts of profits realized from illegal gambling operations are pumped into numerous other organized criminal activities -- the purchase, importation and distribution in bulk of hard narcotics, loan sharking operations at interest rates of up to 20% per week, systematic hi-jacking, prostitution, pornography, labor racketeering activities and the infiltration of legitimate businesses to the extent that the Pennsylvania Crime Commission -- while refusing to reveal the names of those
involved — has documented over 275 legitimate businesses in this Commonwealth that are owned or controlled by racket figures.

Without illegal gambling's mammoth profits, it is likely the whole super-structure of organized crime in this country would collapse.

But there is more. These profits are "put to work" in another way to maximize the mob's position in the community — that is, through the systematic corruption of law enforcement officials who permit illegal gambling operations to be carried on. And it is here that the syndicates exact their highest toll.

The late FBI Director J. Edgar Hoover observed in one of his last appearances before the Congress prior to his death that "illegal gambling never flourishes unless there is local corruption."

We in Western Pennsylvania know this too well. For the most startling revelations to come out of recent Federal investigations and prosecutions have been those detailing the systematic and widespread nature of official corruption allied with racket activities.

--The Mayor and Chief of Police in Jeannette, Westmoreland County, were convicted in 1971 of receiving protection payoffs to let numbers flourish in that community.
---The Chief of Allegheny County's "Racket Squad" was convicted in 1973 of taking over $300,000 in payoffs from the very top racket figures he was supposed to be prosecuting.

---The District Attorney of Allegheny County was indicted in 1974 on income tax fraud charges growing out of the secret deposit of nearly a quarter of a million dollars in racket payoffs into a phony corporate bank account.

---Last summer an Allegheny County Deputy Sheriff was convicted of collecting as much as $3,000 per month in payoffs for the Sheriff's office from the Grosso organization.

---Awaiting trial on similar charges are the Sheriff of Beaver County, one of his deputies and a District Justice of the Peace for providing protection to a major numbers business there.

And, regrettably, other serious allegations are presently under investigation by the FBI and Treasury Agents as I speak to you today.
It is from these disclosures that we begin to discover the toll which illegal gambling exacts of a community where it aspires to a "protected" position. For the entire community enters a period of moral decline when its government is subverted by the mob. The classic case of Newark, New Jersey, is a grim reminder of what can happen when organized crime actually "takes over" a community. There urban disorders in 1967 were directly traced to the "pervasive atmosphere of corruption" in that city by a special investigating committee looking into the riots. It was certainly no coincidence that within two years thereafter a total of 82 Federal indictments were returned in Newark -- including the Mayor, heads of city departments and leading racketeers -- on charges of illegal gambling, tax fraud, bribery, extortion and conspiracy.

Yes, the stakes are high and the "politico-racket complex" plays for keeps. But the stakes are equally high for the community. And this leads me to some concluding observations.

There are only two alternatives to follow in these matters. Our laws presently make these multi-million dollar businesses -- numbers and sports-betting -- illegal. In fact, Pennsylvania -- along with Massachusetts -- was the very first state in the Union to make lotteries illegal. If these laws are to remain on the books, then the community had better realize that in
enforcement activities against illegal gambling are important -- and I hope I have been able to shed some light on this for you today.

On the other hand, if the community feels that law enforcement activities against illegal gambling are not important, there is a very simple way to remove this burden from police officers and prosecutors -- de-criminalize these activities. Let those who castigate law enforcement officials for "wasting their time" on gambling prosecutions divert their message to the various legislatures and seek what many nations throughout the world have provided for their citizens -- legalized and government-run gambling.

For those who ask law enforcement officials not to enforce a particular law -- or who even tolerate such a condition -- are playing with fire. Our young people and residents of our disadvantaged communities in particular can perceive the consequences of a system which permits the police -- whether corrupted or not -- to decide which laws they shall enforce and which they shall not. When syndicated gambling operators are able to work out an "arrangement" with law enforcement officials, who knows what might be next?

It seems to me that the time is ripe for serious debate about the virtues of continuing the criminal status of various
types of gambling.

Traditionally, we have always insisted upon a moral basis for the elevation of anti-social activity to "criminal" status, i.e., we establish that certain kinds of activity are so immoral that we make them criminal. Today, the moral underpinning for making gambling a crime is -- purely and simply -- gone. No longer can we characterize the issue as a moral one in a state where

--The state runs its own gambling operations in the form of an official and highly advertised state lottery.

--The state sanctions and promotes betting on horse races so long as wagering is done at the track.

--State and local law officers "look the other way" while illegal bingo and lottery operations are carried out by churches, fraternal organizations and political parties.

And if the moral basis for a law is eroded, there remains little to justify its continued presence on the books.

What then does justify the continued criminal status of gambling in Pennsylvania? We know that all crime begins in the legislature -- that is, nothing is inherently criminal, as distinguished from immoral, but must be enacted into law. Thus,
gambling is illegal simply because a majority of our legislature says it should be so. And that majority presumably expresses the will of the majority of Pennsylvania's citizenry.

But if that is the majority feeling -- it must be so by a mighty slim margin. For all the other citizens of this state are voting otherwise by pouring nickels, dimes, quarters and dollars into the syndicate monopoly we have created and continue to foster through our laws making gambling illegal.

Or is it much simpler than that? Perhaps it is just a matter of wearing our morality on our sleeve while we cheat a little here and a little there on observance and enforcement of the very laws we have enacted.

If that's the case then the mob must be laughing up its sleeve. For we are contributing to the very goal they seek -- subversion of the rule of law.

I don't know the answer. But I think it is important that we openly address ourselves to the question at this time in particular when hypocrisy is focused ever so carefully in our sights.

The historian Daniel Boorstin has noted:

"Americans' desire to gamble has been equalled only by their desire to see that gambling was legally forbidden."

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Until this "moral schizophrenia" is resolved, major numbers and sports-betting operations will remain an illegal monopoly in this Commonwealth and will continue to operate as the "cash register" for racket operations.

So long as Federal prosecutions can be brought against syndicated operators under the Organized Crime Control Act, we shall continue to vigorously pursue these activities and attempt to dig out the mob's influence in Western Pennsylvania communities, root and branch.

I hope we can count on increasing support and interest of the community in these activities. We think they are important.

Thank you.
head of the Philadelphia Strike Force since
November 1974. Prior to this position he was deputy chief of New England's Strike Force and former United States attorney, special attorney for the Manhattan Strike Force in New York.

We welcome you, Mr. Friedman. We appreciate your coming.

You have presented us with a statement here. Of course, it will become part of the record.

If I may make a suggestion, having gone over this statement, a large part of your statement deals with your activities in Boston. If you don't know, the Commission has already held hearings in Boston. We are actually concerned with Philadelphia now, and we hope that doesn't cut you. You may feel cut to the quick on that, but you can make some summary. We have it, in any event.

MR. FRIEDMAN: Thank you, sir. I will try to summarize some of the statements relating to Boston. It was my impression that the Pellicci case was not gone into in Boston, basically because there were some criminal matters pending there, and it was felt that it might in some way cause prejudicial publicity, whereas if it were handled where if I made a statement regarding it here, the chance
of prejudicial publicity would be minimized completely, and that's why I basically covered it.

The items that I referred to, of course, in my prepared statement relating to the Pellicci case are based upon evidence that is in the public record at the present time. Therefore, I will just basically summarize it or at least try in some way to quicken my presentation.

Mr. Coleman, my name is Joel M. Friedman. I am the Chief Attorney of the Justice Department's Organized Crime Strike Force covering the Eastern District of Pennsylvania, Middle District of Pennsylvania, Delaware, and Maryland. I arrived in Philadelphia in November 1974, and supervised the investigation and prosecution of all organized crime cases falling within the geographical area covered by the Strike Force.

I want to thank the Commission for asking me to come here today to testify about the Federal Prosecutor's role in the enforcement of the nation's law against syndicated gambling. It is my belief that organized crime attacks the intestines of society and erodes our entire system from the guts outward. I believe the legislation passed by Congress directed at illegal gambling gives the
Strike Force one of its more important weapons with which to prosecute the leadership and financial underpinnings of organized crime. If this weapon was removed, it would be much more difficult to defend society against the cancer of organized crime.

The Strike Force headquartered in Philadelphia was set up in 1968 and is composed of career Justice Department Prosecutors stationed in Philadelphia, Pennsylvania. Conducting the Strike Force's field investigations into organized crime are agents from the FBI, the Internal Revenue Service, the DEA, the Postal Inspection Service, the Treasury Department's Bureau of Alcohol, Tobacco, and Firearms, the Secret Service, Securities and Exchange Commission, the Department of Labor, the Bureau of Customs, the Immigration Naturalization Service, and representatives of the Philadelphia Police Department Organized Crime squad.

One of the prime purposes of the Strike Force is to coordinate all Federal law enforcement into a unified and programmatic attack on the problem of organized crime. Using the investigative talent of the participating Strike Force Agencies, the Strike Force has sought to prosecute the
organized hoodlum and racketeer whenever we could establish that the regular business activity of the underworld had violated a Federal law. The Strike Force investigates and prosecutes such racketeer-infilt rated activities as loansharking, fencing, securities frauds, income tax evasions, narcotics violations, extortion, and labor racketeering.

We have also prosecuted non-organized crime political corruption cases. Maurice Osser was prosecuted and convicted by the Strike Force. The Shoup Voting Machine Case was also successfully prosecuted by us.

The most pervasive illegal activity dominated by organized crime is gambling. Gambling provides the financial means for narcotics violators, corruptors, and loan sharks. I strongly oppose any weakening of the present laws against illegal gambling.

Judge Mansfield, of the U.S. Court of Appeals for the Second Circuit, addressing himself to the constitutionality of Title 18, United States Code, Section 1955, in the case of United States v. Becker, 461 F.2d 230, 233 (2d Cir. 1972), reversed on other grounds, 417 U.S. 903 (1974), quoted Justice Douglas as follows: "Loan sharking in its
national setting is one way organized interstate crime holds its guns to the heads of the poor and rich alike and syphons funds from numerous localities to finance its national operations." 402 U.S. at 157, 91 S.Ct. at 1362.

Judge Mansfield then went on to point out that: "The statement applies with equal force to illegal gambling of the class prohibited by Section 1955. Indeed the President's Commission on Law Enforcement and Administration of Justice has concluded that 'gambling is the greatest source of revenue for organized crime.' Operating through a system of 'layoff' bets 'accomplished through a network of local, regional, and national layoff men throughout the nation, the profit flowing into criminal coffers from gambling activities, the Commission concluded, may approximate $6 to $7 billion each year.'

As Judge Mansfield pointed out, gambling, as loansharking in its national setting, is one way organized interstate crime holds its gun to the heads of the poor and the rich alike and syphons funds from the numerous localities to finance its national operations.

Three prior cases that I have had
personal contact with best illustrate the inter-
relationship of gambling income with narcotics,
loansharking, and corruption.

The first case is the conviction in January 1975, by the Philadelphia Strike Force of
eight high echelon narcotics figures who had named
the organization they headed the "Black Mafia."
The investigation conducted by DEA with the help of
the Strike Force, included the use of Court-authorized
wiretaps. The eight Defendants received the
following sentences for violations of the narcotics
laws: JAMES FOX, 30 years' imprisonment; EUGENE
BAYNES, 27 years' imprisonment; RUSSELL BARNES, 21
years' imprisonment; EUGENE HEARN, 15 years' im-
prisonment; GREGORY TRICE, 15 years' imprisonment;
WILLIAM JEFFERSON, 15 years' imprisonment; FERRIS
FOSTER, 5 years' imprisonment; and BARTHANIEL
THORNTON, 4 years' imprisonment. All were self-
proclaimed leaders of the Black Mafia.

While awaiting trial on the above nar-
cotics charges, JAMES FOX was arrested for gambling
violations by the Philadelphia Police Department.

Reliable information available to the
Strike Force indicates that the Black Mafia con-
trolled the majority of numbers businesses in West
Philadelphia. It is my opinion that the Black
Mafia funded their narcotics business in large part from gambling revenues they received.

Another Strike Force case, concluded on April 22, 1975, was the conviction of Alexander Hartzell. Mr. Hartzell was part of an organized criminal loan shark operation. He received a sentence of five years' imprisonment and a $10,000 fine and is presently incarcerated. His Co-Defendant, Frank Sindone, however, was acquitted. Trial evidence revealed that Mr. Hartzell worked for a much larger organization. According to him, the leadership of that organization included Angie, Frank, and Phil. Mr. James, a witness at the trial, identified these individuals as Angelo Bruno, Philip Testa, and Frank Sindone. In 1969, Congress in the McClellan Committee Report published a list that identified Mr. Bruno as Head of the La Cosa Nostra in the Philadelphia area, and Mr. Testa as a capodecina of La Cosa Nostra in the Philadelphia area. During the course of the investigation, Hartzell told William James, the loan shark victim, that he needed a $10,000 principal repayment because Frank Sindone has promised "Wolfie," a local gambling figure, the $10,000. According to Hartzell, Sindone has promised the $10,000 to "Wolfie" because
the gambler had received a hit in excess of $40,000, the term "hit" meaning that the gambling business lost $40,000 to a particular customer. Thus, it appeared that Sindone intended to finance the gambling business through collection of a loan shark debt. The interrelationship of the loan shark business with Wolfie's gambling business was obvious from Hartzell's statements.

Experience has also taught us that gambling victims often become loan shark victims. When gambling customers have lost so much that they can no longer pay their accounts, they are turned over to the leg breakers or loan shark. Then, the friendly bookie tells the customer the account is out of his hands. It's been taken over by downtown.

Is there any doubt that organized crime really controls gambling? That fact is self-evident.

Frequently, low-level members of gambling organizations are immunized to testify against higher-ups. Some testify, but a significant number of others submit to 18-month terms of incarceration, rather than testify against their organized crime superiors. Thus they accept the 18 months in jail, despite the fact that the violation about
which they are being questioned usually results in
probation or short terms of imprisonment. In fact,
District Court files reflect that in a pending
gambling investigation, of which Frank Narducci is
a subject, the Government has filed a petition for
Civil Contempt against an immunized Grand Jury wit-
ness who has refused to testify. Frank Narducci
has been identified by the Pennsylvania Crime Com-
mission as a soldier in the Angelo Bruno Cost Nostra
Family and as having been convicted of a gangland-
style slaying. Pp. 33 and 61, Report on Organized

One of the best examples of the inter-
relationship of gambling with organized crime and
its obviously disastrous effects upon society is a
case that I handled as Deputy Chief Attorney of
the New England Strike Force. This case was that of
United States v. Michael Pellicci.

At this point I will adapt what I said
regarding the Pellicci case and will just basically
summarize it to the effect that in that case a
police lieutenant, who was the head of the vice
squad for the Watertown Police Department, was ap-
proached by a fellow by the name of Michael Pellicci,
and the police lieutenant was an honest officer and
reported that immediately. He then went through a period of time for approximately one year of undercover investigation. We obtained Court-authorized wiretaps during that process of it. During the course of the investigation Pellicci stated that he had been assigned control of three towns by Gennaro Angiulo. Mr. Angiulo had been listed in the McClellan Committee Reports as being an underboss of the Patriarca family during the course of the investigation. Mr. Pellicci was followed into Mr. Angiulo's office, and Mr. Pellicci was convicted for a violation of 18USC 1955. He received a sentence of five years imprisonment and a $20,000 fine. He is presently incarcerated.

He was also indicted more recently for violation of the loan shark laws and the income tax laws, and the other indictment is presently pending against both himself and his wife. Five other individuals also have been indicted for violation of loan shark laws as a result of this, but it seems to me the Pellicci case illustrates very graphically the inter-relationship of the loan shark business and the gambling business, and it shows Pellicci's overall control of three towns, of which the control was assigned to him by Angiulo. It shows his
control of at least two towns and shows his role with respect to organized crime, in controlling gambling matters. Additionally, the Pellicci case also shows the involvement of organized crime in police corruption, and it also shows, as Pellicci told Lieutenant Edward Vaughn, that he had been doing matters like this since he was a child. He also said that he had bribed the captain of police in New York City.

I think the Pellicci case has a lesson nationwide, basically, to the extent it does show the interrelationship and control by organized crime of gambling activities and how the gambling activities support other activities such as loan sharking and the other organized crime matters that the criminal forces are involved in.

The Philadelphia Strike Force, with the skilled agents of the FBI and the grand jury, is investigating many gambling cases. Some of these cases contain evidence of police corruption. The Organized Crime Squad of the Philadelphia Police Department under the leadership of Lt. Daniel McFadden is cooperating with us with respect to the police corruption investigations. If we obtain sufficient evidence, indictments will be sought
against the policemen.

Court-authorized wiretaps, consentual recording devices, and the use of immunity are essential to successful prosecution of high echelon organized crime figures and corrupt individuals associated with gambling cases. Prosecutors can apprehend and prosecute low-level violators of the criminal law without much effort. We do not need sophisticated devices to catch low-level criminals. But, in order to effectively prosecute sophisticated criminal activity and get at the foundations of the organized criminal establishment, we need effective tools. Those effective tools include the use of immunity, the use of wiretaps, and the use of the gambling statutes. Prosecutors have a major responsibility to use these tools wisely and properly. However, without them, no expenditure of manpower and resources will be sufficient to do the job.

Society is entitled to some protection against organized crime. The wiretap statutes, the immunity statutes, and the gambling statutes are essential tools in protecting society against organized crime, and we must keep them.

The average sentence in gambling cases in the Eastern District of Pennsylvania is probation.
Sentences of probation do not have a major impact upon organized crime. The prosecutor must impress upon the judiciary the significance of gambling cases and why lengthy jail sentences are necessary. Individuals who generate gambling revenues and thus support organized crime's more cancerous activities must be made to realize that they do not have a license to prey upon society.

Some of the vigorous efforts by the FBI and Strike Force have recently led to more lengthy sentences. Recently, a defendant who had been convicted for conducting an illegal gambling business and given probation was intercepted again over a Court-authorized wiretap, participating in an illegal gambling business. The Strike Force petitioned the Court to revoke his probation. Judge Ditter, United States District Court, Eastern District of Pennsylvania, revoked that probation and sentenced the defendant to four years' imprisonment. This is the kind of alert law enforcement that we must continue to have an effect upon organized crime.

If a felon feels he can violate the gambling laws at will, without receiving a prison sentence, he will flaunt the law. He will never
testify against higher-ups in the gambling operation; against loan sharks related to that gambling operation; against narcotics violators related to that gambling operation, or against corrupt policemen. We must work for higher sentences.

The reason the mob has so decisively moved into control of gambling is because it is the biggest money maker of any form of illegal activity. The gross handle is estimated to range in the billions of dollars; the net profit to major organized crime figures is enormous. The Internal Revenue Service works with the Strike Force by enforcing Income Tax Laws of the United States against mobsters who compound their crimes by evading taxes due on the profits of their rackets.

As long as it is a fact that the mob controls gambling or significant portions thereof, then the best way to prosecute the leadership of the mob is through enforcement of the Federal gambling laws. One of the issues before this Commission is whether or not further legalization of gambling in some form will reduce the evils now attendant upon the crime of professional gambling. It is my opinion that legalization of gambling in any of the commonly-suggested forms will not significantly reduce
organized crime's control over the industry.

In New York, control of gambling by organized crime has not significantly decreased as the result of the legalization of horse race betting. If gambling is legalized on a nationwide or regionwide basis, who will conduct it, if not the same racketeers who enforce the monopoly in an industry. Professional criminals will not reform merely because one aspect of their industry is legalized. During the period of time immediately preceding the referendum in New Jersey relating to legalization of the gambling laws, intelligence reports available to Strike Force personnel indicated that a significant number of organized criminals were moving from New York and the Philadelphia area into the New Jersey area. These organized criminals appeared to be purchasing property in areas where the legalized gambling industry was anticipated to be the busiest. This was true especially in Atlantic City. One can only conclude that members of organized crime were eagerly awaiting participation in the legalized gambling field. Far from fearing competition from legalized gambling, members of organized crime seemed to anxiously welcome its coming. Based upon the facts available
to me, I seriously doubt that legalization of gambling would deter racketeers from use of violence in the collection of gambling debts, and I doubt that it would deter organized crime figures from taking certain sums off the top of legalized casinos. Legalized gambling will not significantly decrease the number of people betting with bookies, but, instead, will draw most of its revenues from those who now bet infrequently. It will probably also tend to increase the number of loan shark victims.

Any realistic form of state regulations would put legitimate gambling automatically at a disadvantage with the professional gambler. The professional gambler is able to give easy credit, telephone service, and tax-free payoffs. The professional gambler can give his bettors better odds and credit. The only system that would make legalized gambling competitive would be to make numbers, sports, or horse betting a tax-free unregulated activity producing no revenue for the State.

The moral authority of the State should not be put behind what is now generally treated as criminal behavior because it will only change our society for the worst. The bettor always loses to a well-run gambling organization. The criminal
community is full of people who are degenerate
gamblers who've lost so much that they keep gam­
bling not to make a buck, but just to pay their
prior gambling and loanshark debts. Gambling
should not be legalized.

Gambling, by virtue of its contribution
to the bankrolls of organized crime, has a cancerous
effect upon society. Organized crime is a corrupter
and a peril to us all. We must not cripple the
prosecutor. It is the prosecutor's responsibility
to protect society against sophisticated criminals.
If we remove his most effective tools, we leave the
criminals free to extort from legitimate business­
men; to control industries; to give narcotics to
our youth; to kill and to mame. If we let organized
crime run rampant, it will strangle us to death.
I urge that this Commission find that one of the
more valuable tools of the prosecutor, the gambling
statutes, not be removed from our arsenal of weapons.

BY MR. COLEMAN:

Q Mr. Friedman, in your statement you were talking
about one of the matters you prosecuted here in Phila­
delphia, and you say, "It is my opinion the Mafia funded
their narcotics business in large part from gambling
revenues they received." Now, we heard considerable
testimony over a number of months from various officials at different levels definitely tying organized crime into illegal gambling, saying the revenue from illegal gambling funded various criminal activities, running from loansharking, narcotics, hijacking, prostitution, and pornography. Now, you have mentioned narcotics, prefacing it by "in your opinion." Let me ask you your opinion on this. Other than loansharking, why would some organized group have to finance from gambling any of these other activities? The turnover in narcotics money is a revolving situation only to get outside money. The profits are huge.

I am not that conversant with the facts relating to prostitution. I wouldn't think you need any capital to run that. With respect to hijacking, you have to have a victim. Do you have any evidence other than what you tell us about the case here in Philadelphia while waiting sentencing for narcotics or waiting trial that he was picked up on a gambling violation and that the money was taken from gambling and put into other criminal activities other than loansharking?

A Well, firstly, I believe the case we are referring to was of an organization that had named themselves the Black Mafia. It was not a one-time situation but a very wide spread criminal organization that had significant
control over criminal activity in a major portion of this city. I am not basing my conclusion on the fact that they purchased narcotics and that they used the gambling funds to support their narcotics business. I am not relying exclusively nor in large part upon the fact that James Fox was arrested while awaiting trial. I rely upon other information that I have available to me: intelligence reports, and so forth, to the effect that they did, in fact, fund a large part of their narcotics business with the funds from the gambling business, and I do believe that those intelligence reports are accurate. Having available to one a very large source of funds, of course it allows one to expand one's business as in any other kind of business. A ready source of capital in order to make huge narcotic purchases is certainly valuable and allows one to expand further and make even more money and allows one to just have a total fluid cash situation.

I think that that is the kind of revenue that gambling does allow, just as it allows that kind of funds for the purpose of conducting loanshark businesses.

Q Let me just interrupt you. You have, of course, been in other parts of the east and in other places where you served. Have you arrested large narcotic dealers connected with organized gambling? Do you have
information about them? I am not aware of any activity
that goes that way. Has it been your experience? Cer-
tainly people smuggling heroin from foreign countries
are not bookmakers or connected in any way.
A I don’t think necessarily people smuggling in heroin from other countries are on the same level as the
bookmaker. I do think in New York City, where I was
with the Strike Force, there is a definite interrela-
tionship between gambling and narcotics. Some of the
organized figures in the Manhattan area do use funds
from gambling in order to support narcotics purchases,
in order to fund narcotics purchases.
Q Mr. Friedman, in your work here in Philadelphia
you talked about gambling investigations as a result,
apparently, of some information received, investigation
with the cooperation of some members of the Philadelphia
Police Department and possible corruption in the depart-
ment. Is that correct?
A Yes.
Q These relate, first of all, to members of the police
department in your Strike Force, as such?
A Yes, they do.
Q We have heard yesterday that there is also a special
prosecutor here in the City of Philadelphia, apparently,
to look into police corruption.
Q. You are aware of that?
A. Yes, sir.

Q. Is that in this same area of police corruption relating to gambling? Are you people cooperating in their efforts, so to speak, assuming that there is some legal justification? I heard on the radio this morning he was affirmed yesterday in some area, but I mean is he part of your effort in this, at least for exchange of information in the same area of gambling and corruption of the police officers?
A. We do exchange some information. At the present time we are not actively pursuing a joint investigation.

Q. In your conclusion, prior to your conduction of the legalization of gambling, particularly where you say the only system that would make legalized gambling competitive would be to make all sorts of numbers, sports, whatever, a tax-free, ongoing activity producing no revenue for the State. Would you have an opinion if the State were to regulate it in some form, either run it themselves or let other people run it? They certainly would get some revenue back by license fees or percentage of the take, or whatever, wouldn't they?
A. Yes. If we are talking about legalization, in order for legalized gambling to be competitive with
organised criminal gambling, I think basically you have
to put the legalized gambling in a posture where they
have all the identical advantages that organised crim-
inal gambling does have. That would include basically
not giving the legalized gambling organisation the ex-
penses of having to pay revenues to the State, and if
they had to pay revenues to the State and incur the ex-
penses, then I think that would make them less competi-
tive with the organised criminal enterprise.

Q In other words, what you are saying is that as well
as eliminating the tax on the bettor's winnings, the man
running it, the bookmaker, does not pay any taxes?

That's what you are talking about?

A Yes, sir.

MR. COLEMAN: Mr. Ritchie?

BY MR. RITCHIE:

Q Mr. Friedman, the Strike Force has been here in
Philadelphia for seven years. I recognize you have only
been here for approximately seven months. Could you tell
us whether or not in your judgment you are winning the
war? I don't mean you personally, but is the Strike
Force winning the war against organized crime?

A I definitely think we are having a significant im-
pact on it. On an overall basis, I would say we are
winning, but it is very difficult, and it takes a long
1. Can you give us a prognosis as to how long the Strike Force will be in Philadelphia?
2. I think there is a definite need for the Strike Force to remain in Philadelphia for an extended period of time.
3. Would you say it's a requirement that is here permanently?
4. I think it depends on the success of ventures in the future and on the impact that we make on organized crime. Certainly if we rid Philadelphia of organized crime, which would be our goal, then, of course, the Strike Force would not be necessary; but I think we are far from the point where we have rid Philadelphia of organized crime.
5. You follow a system of identifying individuals and then selectively investigating and prosecuting those individuals whom you have identified as members of organized crime, do you not?
6. Yes, sir.
7. Assuming that you were able to incarcerate all of those people or that they died from natural causes, what would happen to the level of criminal activity in Philadelphia? Would it continue? Would it completely disappear?
A It would be significantly lessened.
Q But it would not disappear?
A The level of crime in Philadelphia? Would it disappear? You are talking about organized crime?
Q I am talking about all crime.
A No, it wouldn't disappear. I mean there are other criminals other than just organized criminals.
Q In terms of the national effort, is it not so that you essentially have said we are going after organized crime, and we are going to utilize from your testimony gambling statutes to go after organized crime?
A Yes, sir.
Q That's viewed as a vehicle toward organized crime?
A Yes, sir.
Q We heard yesterday some very discouraging statistics on the results of local prosecutions, both from the judiciary as well as the prosecutive forces, that nobody goes to jail for gambling. It's led to a program which is aimed at reducing the number of gambling cases that ultimately come to Court. Do you have the same problem in the Federal Court as the State Courts have demonstrated by their statistics?
A We do have the same problem in the Federal District Court for the Eastern District of Pennsylvania. However, there are some exceptions. As I pointed to the recent
probation revocation situation, I think it's incumbent
upon the prosecutors to impress upon the judiciary the
interrelationship with organized crime and gambling.
I think it's important for us to fight for larger sen-
tences. I also think the gambling statutes should be
used selectively, only to get at those people who are
organized criminals, and I also believe in the idea of
immunizing the lower members of the gambling organiza-
tion in order to get at the higher members. I think
by doing that, by being selective, we can impress upon
the judiciary that those people who we are bringing in
are actually the leaders of this organization and are
in fact organized criminals themselves, and are support-
ing the more violent and more socially-damaging activ-
ities of organized crime, and I hope through that to
be able to get more significant sentences.
Q Again, contrary to what seems to be the tenor of
your remarks, your prepared remarks, that the Commission
is considering to take with it these arrows from your
arsenal; that is, the gambling statutes. The Commission
is very concerned as to whether or not you have enough.
Are you presently using the statute, Title 10 of the
Organized Crime Act, in gambling cases?
A We intend to use it. We have not used it.
Q What about the civil sanctions of 1962? Do you
have cases in process where you are investigating that technique of moving against gambling?
A Yes. We are looking into using that technique.
Q Have either of them ever been utilized by the Philadelphia Strike Force?
A No, they have not.
Q The statistics offered by the Department in Washington, which I believe have been made available to you, determining the best efforts of an intensified program reached only two percent of the volume, and the judgment was made by the representatives of the department that that was the worst two percent, and that was about as far as the Federal Government should try to go, and the rest of it was really the responsibility of the State. I am not asking you to disagree with your superiors, but does that, do you believe, sufficiently describe what the Federal efforts have been nationally as you view it, both from New York, Boston, and Philadelphia? I may have left out one of your Strike Forces; but in those areas.
A Well, I really don't want to engage in statistical battles on the subject or even discussions, because that is certainly not my forte. I attempt to concentrate on selective prosecution of the upper echelons and more sophisticated organized criminal figures. I think the
statistics can basically be meaningless. I think the important thing is to figure what kind of real impact you have had on the organization and on organized criminals, and to engage in a percentage discussion, I think, has really little significance.

Q But you do understand that the Department of Justice testified they had no impact on the level of illegal gambling and that, in fact, they probably could prognosticate that illegal gambling was increasing, despite all their efforts against organized crime. In aiding law enforcement, we certainly don't say we want the revenue to go to organized crime, but how best take the revenue away and how best to engage in some type of an awareness program that would decrease the level of illegal gambling, whether it is through a strategy of legalization or further prohibition. We don't know. That's essentially what we are seeking. We are seeking knowledge.

A I think legalization, as I said, would not decrease revenues going to organized crime. I think legalized gambling could not be competitive. In fact, by making gambling more available to the public at large, I think it would probably create and induce more of the public to participate in gambling activity. As a result of that, if people lost huge sums, they might in fact go to loan sharks in order to make up for these sums in
order to live. Therefore, you might be increasing the
loansharking business of organized crime.

In addition to that, if you created some
sort of bureaucracy to handle legalized gambling, you
might be in the posture and probably would be in the
posture to have significant corruption connection with
that, and probably organized crime being involved in the
bureaucracy, you would probably get into the posture
where organized crime would be taking off a certain per-
centage off the top.

Lastly, with regard to the judiciary, I
think if you legalized it as a policy and then prosecuted
individuals who were conducting gambling operations not
in the manner specified by the law, I think the judici-
ary would be even more hesitant to give sentences to
gambling figures who would be participating outside the
system gambling than they are now, because I think they
would feel if the State is in the business of gambling
on this nationwide scale, how in any way can we give
sentences to individuals who are doing the same thing?

MR. RITCHIE: Thank you, Mr. Friedman.

BY MISS MARSHALL:

Q Mr. Friedman, what policy or standard, if you will,
have you set regarding the type or the size of gambling
operations that your office will prosecute? I guess
what I am asking you is: Is it dependent on the size or
the gross volume or the persons involved, or just what?
A It's a system of balancing the various factors in-
volved. It is not a rigid policy. I think it involves
questions as to whether or not corruption is likely to
be uncovered in an investigation of the particular gam-ling operation. That depends upon many factors, of
course including what witness one is likely to get to
testify, whether there is a particular location where if
you put a wiretap on or bugging device in that is Court
authorized, you would be likely to intercept conversa-
tions with corrupt individuals. It also depends on the
volume of the operation in terms of money. It depends
upon whether at the particular time you have actual
physical surveillances of high echelon organized crime
figures being involved in the operation to the extent
that you have a likelihood of being able to apprehend
them. It's a multi-faceted approach and does not have
any rigid guidelines.
Q Could you estimate for us what amount or what per-
centage of those cases brought to you for prosecution
you proceed on in which you would turn over either to
the United States Attorney's office or to the local law
enforcement?
A I really couldn't estimate a percentage on that.
Q Would you say it was in the majority or the minority?
A If we are talking about cases including cases declined? Is that what you are asking?
Q Yes.
A The cases turned over to local officials or turned over to the United States Attorney's office would be in a minority. Of course, it must be kept in mind that certain matters probably are never even brought to us, because they don't meet the statutory minimum, and the FBI or the agency investigating it would automatically, without even bringing it to the Strike Force, refer that to local officials or refer it to the United States Attorney.
Q What percentage of the caseload in your office would you estimate to be attributed to gambling cases?
A About 20, 25 percent.
Q And you have how many attorneys on your staff?
A Nine attorneys.
Q Do you have any of those attorneys working exclusively on gambling cases or do you parcel them out amongst the nine?
A I parcel them out.
Q Could you then estimate for us the amount of time spent working on the 20 to 25 percent of gambling...
cases? The reason I ask that question is, for example, when I was with the Miami Strike Force, about 50 per cent of our caseload was gambling; but because of the fact that those cases generally force Court-authorized wiretaps, they therefore take more time to prepare for grand jury presentation and for trial. Consequently, we would be spending 50 percent of our time on essentially 50 percent of our cases. Do you have this situation in your office?

A. No, I don't. I think it's about the same percentage of time spent.

Q. Can you tell us, sir, what number of organized crime figures, high echelon crime figures, have been convicted of gambling offenses in Philadelphia since the inception of the Strike Force?

A. No, I can't. I can't go back. I know there have been several, but I can't go back.

Q. Can you estimate for us the impact that the Strike Force in this area has had on the incidents of illegal gambling?

A. Mr. Baker from the FBI will be testifying later. I think he is in a better posture to actually make an estimate as to something like that.

MISS MARSHALL: Thank you. That's all I have.
STATEMENT
OF
JOEL M. FRIEDMAN
CHIEF ATTORNEY
PHILADELPHIA STRIKE FORCE
UNITED STATES DEPARTMENT OF JUSTICE
BEFORE
THE
COMMISSION ON THE REVIEW OF THE
NATIONAL POLICY TOWARDS GAMBLING
CONCERNING
GAMBLING, LAW ENFORCEMENT, ORGANIZED CRIME

ROOM 3306
WILLIAM J. GREEN JR.
FEDERAL BUILDING
PHILADELPHIA, PENNSYLVANIA
MAY 29, 1975
Mr. Chairman, my name is Joel M. Friedman. I am the Chief Attorney of the Justice Department's Organized Crime Strike Force covering the Eastern District of Pennsylvania, Middle District of Pennsylvania, Delaware, and Maryland. I arrived in Philadelphia in November 1974, and supervise the investigation and prosecution of all Organized Crime cases falling within the geographical area covered by the Strike Force.

I want to thank the Commission for asking me to come here today to testify about the Federal Prosecutor's role in the enforcement of the nation's law against syndicated gambling. It is my belief that Organized Crime attacks the intestines of society and erodes our entire system from the guts outward. I believe the legislation passed by Congress directed at illegal gambling gives the Strike Force one of its more important weapons with which to prosecute the leadership and financial underpinnings
of Organized Crime. If this weapon was removed, it would be much more difficult to defend society against the cancer of Organized Crime.

The Strike Force headquartered in Philadelphia was set up in 1968 and is composed of career Justice Department Prosecutors stationed in Philadelphia, Pennsylvania. Conducting the Strike Force's field investigations into Organized Crime are Agents from the FBI, the Internal Revenue Service, the DEA, the Postal Inspection Service, the Treasury Department's Bureau of Alcohol, Tobacco, and Firearms, the Secret Service, Securities and Exchange Commission, the Department of Labor, the Bureau of Customs, INS, and representatives of the Philadelphia Police Department Organized Crime Squad.
One of the prime purposes of the Strike Force is to coordinate all Federal law enforcement into a unified and programmatic attack on the problem of Organized Crime. Using the investigative talent of the participating Strike Force Agencies, the Strike Force has sought to prosecute the organized hoodlum and racketeer whenever we could establish that the regular business activity of the underworld had violated a Federal law. The Strike Force investigates and prosecutes such racketeer-infiltrated activities as loansharking, fencing, securities frauds, income tax evasions, narcotics violations, extortion, and labor racketeering.

We have also prosecuted non-Organized Crime political corruption cases. Maurice Osser was prosecuted and convicted by the Strike Force. The Shoup Voting Machine Case was also successfully prosecuted by us.
The most pervasive illegal activity dominated by Organized Crime is gambling. Gambling provides the financial means for narcotics violators, corruptors, and loansharks. I strongly oppose any weakening of the present laws against illegal gambling.

Judge Mansfield, of the U.S. Court of Appeals for the Second Circuit, addressing himself to the constitutionality of Title 18, United States Code, Section 1955, in the case of United States v. Becker, 461 F.2d 230, 233 (2d Cir. 1972), reversed on other grounds, 417 U.S. 903 (1974), quoted Justice Douglas as follows:

"loan sharking in its national setting

is one way organized interstate crime

holds its guns to the heads of the poor"
"and the rich alike and syphons funis
from numerous localities to finance its
national operations." 402 U.S. at 157,
91 S.Ct. at 1363.

Judge Mansfield then went on to point out that:

"The statement applies with equal force
to illegal gambling of the class
prohibited by Section 1955. Indeed the
President's Commission on Law Enforce-
ment and Administration of Justice has
concluded that 'gambling is the greatest
source of revenue for organized crime.'

Operating through a system of 'layoff'
lays accomplished through a network of
local, regional, and national layoff
men' throughout the nation, the profit
"flowing into criminal coffers from gambling activities, the Commission concluded, may approximate $6 to $7 billion each year."

As Judge Mansfield pointed out, gambling as loan-sharking in its national setting is a one-way-organized interstate crime holds its gun to the heads of the poor and the rich alike and syphons funds from the numerous localities to finance its national operations.

Three prior cases that I have had personal contact with best illustrate the interrelationship of gambling income with narcotics, loan-sharking, and corruption.

The first case is the conviction in January 1975, by the Philadelphia Strike Force of eight high echelon narcotics figures who had named the organization they
headed the "Black Mafia." The investigation conducted by DEA with the help of the Strike Force, included the use of Court-authorized wiretaps. The eight Defendants received the following sentences for violations of the narcotics laws: JAMES FOX, 30 years' imprisonment; EUGENE BAYNES, 27 years' imprisonment; RUSSELL BARNES, 21 years' imprisonment; EUGENE HEARN, 15 years' imprisonment; WILLIAM JEFFERSON, 15 years' imprisonment; GREGORY TRICE, 15 years' imprisonment; FERRIS FOSTER, 5 years' imprisonment; and BARTHANIEL THORNTON, 4 years' imprisonment. All were self-proclaimed leaders of the Black Mafia.

While awaiting trial on the above narcotics charges, JAMES FOX was arrested for gambling violations by the Philadelphia Police Department.
Reliable information available to the Strike Force indicates that the Black Mafia controlled the majority of numbers businesses in West Philadelphia.

It is my opinion that the Black Mafia funded their narcotics business in large part from gambling revenues they received.

Another Strike Force case, concluded on April 29, 1975, was the conviction of Alexander Hartzell. Mr. Hartzell was part of an organized criminal loanshark operation. He received a sentence of five years' imprisonment and a $10,000 fine and is presently incarcerated. His Co-Defendant, Frank Sindone, however, was acquitted. Trial evidence revealed that Mr. Hartzell worked for a much larger organization. According to him, the leadership of
that organization included Angie, Frank, and Phil.

Mr. James, a witness at the trial, identified these individuals as Angelo Bruno, Philip Testa, and Frank Sindone. In 1969, Congress in the McClellan Committee Report published a list that identified Mr. Bruno as Head of the La Cosa Nostra in the Philadelphia area, and Mr. Testa as a capodecina of La Cosa Nostra in the Philadelphia area. During the course of the investigation, Hartzell told William James, the loanshark victim, that he needed a $10,000 principal repayment because Frank Sindone had promised "Wolfie," a local gambling figure, the $10,000. According to Hartzell, Sindone had promised the $10,000 to "Wolfie" because the gambler had received a hit in excess of $40,000, the term "hit" meaning that the gambling business lost $40,000 to a particular customer. Thus, it appeared that Sindone intended to finance the gambling
business through collection of a loanshark debt.

The interrelationship of the loanshark business with Wolfie's gambling business was obvious from Hartzell's statements.

Experience has also taught us that gambling victims often become loanshark victims. When gambling customers have lost so much that they can no longer pay their accounts, they are turned over to the leg breakers or loanshark. Then, the friendly bookie tells the customer the account is out of his hands. It's been taken over by downtown.

Is there any doubt that Organized Crime really controls gambling? That fact is self-evident.

Frequently, low-level members of gambling organizations are immunized to testify against higher-ups. Some testify, but a significant number of others
submit to 18-month terms of incarceration, rather than testify against their Organized Crime superiors. Thus they accept the 18 months in jail, despite the fact that the violation about which they are being questioned usually results in probation or short terms of imprisonment. In fact, District Court files reflect that in a pending gambling investigation, of which Frank Narducci is a subject, the Government has filed a petition for Civil Contempt against an immunized Grand Jury witness who has refused to testify. Frank Narducci has been identified by the Pennsylvania Crime Commission as a soldier in the Angelo Bruno Cosa Nostra Family and as having been convicted of a gangland-style slaying. Pp. 33 and 61, Report on Organized Crime, Pennsylvania Crime Commission (1970).
One of the best examples of the interrelationship of gambling with Organized Crime and its obviously disastrous effects upon society is a case that I handled as Deputy Chief Attorney of the New England Strike Force. This case was that of United States v. Michael Pellicci. Lt. Edward Vaughn, Head of the Vice Squad in Watertown, Mass., was approached with a bribe offer by Michael Pellicci in the beginning of 1973. He reported the approach immediately to his superiors and then to the FBI. For over a year, he wore a body jerser and risked his life investigating Pellicci and his superiors. On November 27, 1973, and December 17, 1973, U.S. District Judge Murray, of the District of Massachusetts, authorized wiretaps on the phones of Michael Pellicci at his home and office and a bug of Michael Pellicci's office.
During the course of the investigation, Michael Pellicci told Edward Vaughn that Gennaro Angiulo had placed him in charge of all gambling and loan-shark activity in a three-town area surrounding Boston. Pellicci was intercepted on December 28, 1973, telling a companion, "I'll be very honest with you; I make a move; they know it." Gennaro Angiulo, in the hearings before the Committee on Criminal Law and Procedure of the Committee of the Judiciary --

United States Senate -- March 18, 19, 25, 26, and June 3, 4, 1969, was named on charts published by that Committee as the Underboss of the La Cosa Nostra in the New England area. Items available in the public record indicate that Michael Pellicci was a major loan-shark; that he threatened physical violence to
individuals; that he paid $500 per month to Lt. Edward Vaughn for protection of a gambling operation; that he and gave him automobiles; that he gave him liquor (all these items were turned over to the FBI). Pellicci, an adult in his 50's, indicated to Vaughn that he had been heavily involved in criminal activity since he was a youngster and had bribed a Captain of Police in the City of New York. Pellicci told Vaughn he had already filled one safety deposit box and was working on a second larger one, and that if Vaughn played ball with Pellicci, he could get himself into a similar financial situation. In fact, on the day Pellicci was arrested, $30,000 cash was seized from his house. On one occasion, the FBI raided a distant branch of the gambling operation Pellicci was in charge of. At the
direction of the FBI, Vaughn called Pellicci and told him the raid had taken place. Shortly thereafter, Pellicci was heard over the Court-authorized wiretap calling several of the bookies and telling them to be careful because Savas had been raided. The day after Savas was raided by the FBI, he talked to Pellicci about a new spot to continue his business. Pellicci suggested to Savas that he move into Pellicci's building in Watertown. Pellicci confidently indicated that Vaughn wouldn't want anything to happen to his "Uncle Mike."

There can be no doubt that, as the Pellicci investigation illustrates, Organized Crime is in large part supported by gambling revenues.

Michael Pellicci and Charles Savas were prosecuted by me for a violation of Title 18, United States
Code, Section 1955. Both were convicted in May of 1974. Pellicci received a sentence of five years' imprisonment and a $20,000 fine. Savas received a three-year sentence. Pellicci was again indicted in November 1974, for Income Tax and loanshark violations. That case is pending.

The Philadelphia Strike Force with the skilled Agents of the FBI and the Grand Jury is investigating many gambling cases. Some of these cases contain evidence of Police Corruption. The Organized Crime Squad of the Philadelphia Police Department under the leadership of Lt. Daniel Mc Fadden is cooperating with us with respect to the Police Corruption investigations. If we obtain sufficient evidence, Indictments will be sought against the policemen.
METHODS OF INVESTIGATING GAMBLING CASES

Court-authorized wiretaps, consensual recording devices, and the use of immunity are essential to successful prosecution of high echelon Organized Crime figures and corrupt individuals associated with gambling cases. Prosecutors can apprehend and prosecute low-level violators of the criminal law without much effort. We do not need sophisticated devices to catch low-level criminals. But, in order to effectively prosecute sophisticated criminal activity and get at the foundations of the organized criminal establishment, we need effective tools. Those effective tools include the use of immunity, the use of wiretaps, and the use of the Gambling Statutes. Prosecutors have a major responsibility to use these tools wisely and properly. However, without them, no expenditure of manpower and resources
will be sufficient to do the job. Society is entitled to some protection against Organized Crime. The Wiretap Statutes, the Immunity Statutes, and the Gambling Statutes are essential tools in protecting society against Organized Crime, and we must keep them.

SENTENCES

The average sentence in gambling cases in the Eastern District of Pennsylvania is probation. Sentences of probation do not have a major impact upon Organized Crime. The prosecutor must impress upon the Judiciary the significance of gambling cases and why lengthy jail Sentences are necessary. Individuals who generate gambling revenues and thus support Organized Crime's more cancerous activities must be made to realize that they do not have a license to prey upon society.
Some of the vigorous efforts by the FBI and Strike Force have recently led to more lengthy sentences. Recently, a defendant who had been convicted for conducting an illegal gambling business and given probation was intercepted again over a Court-authorized wiretap, participating in an illegal gambling business. The Strike Force petitioned the Court to revoke his probation. Judge Ditter, United States District Court, Eastern District of Pennsylvania, revoked that probation and sentenced the defendant to four years' imprisonment. This is the kind of alert law enforcement that we must continue to have an effect upon Organized Crime.

If a felon feels he can violate the gambling laws at will, without receiving a prison sentence, he will flaunt the law. He will never testify against
higher-ups in the gambling operation; against loan-
sharks related to that gambling operation; against
narcotics violators related to that gambling opera-
tion, or against corrupt policemen. We must work for
higher sentences.

SHOULD GAMBLING BE LEGALIZED?

The reason the Mob has so decisively moved
into control of gambling is because it is the biggest
money maker of any form of illegal activity. The gross
handle is estimated to range in the billions of dollars;
the net profit to major Organized Crime figures is
enormous. The Internal Revenue Service works with the
Strike Force by enforcing Income Tax Laws of the United
States against mobsters who compound their crimes by
evading taxes due on the profits of their rackets.
As long as it is a fact that the Mob controls gambling or significant portion thereof; then the best way to prosecute the leadership of the Mob is through enforcement of the Federal Gambling Laws. One of the issues before this Commission is whether or not further legalization of gambling in some form will reduce the evils now attendant upon the crime of professional gambling. It is my opinion that legalization of gambling in any of the commonly-suggested forms will not significantly reduce Organized Crime's control over the industry.

In New York, control of gambling by Organized Crime has not significantly decreased as the result of the legalization of horse race betting. If gambling is legalized on a nationwide or regionwide basis, who
will conduct it, if not the same racketeers who enforce the monopoly in an industry. Professional criminals will not reform merely because one aspect of their industry is legalized? During the period of time immediately preceding the Referendum in New Jersey relating to legalization of the gambling laws, intelligence reports available to Strike Force personnel indicated that a significant number of organized criminals were moving from New York and the Philadelphia area into the New Jersey area. These organized criminals appeared to be purchasing property in areas where the legalized gambling industry was anticipated to be the busiest. This was true especially in Atlantic City. One can only conclude that members of Organized Crime were eagerly awaiting participation in the legalized gambling field.
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of their industry is legalized? During the period of
time immediately preceding the Referendum in New Jersey
relating to legalization of the gambling laws, intelligence reports available to Strike Force personnel indicated that a significant number of organized criminals were moving from New York and the Philadelphia area into the New Jersey area. These organized criminals appeared to be purchasing property in areas where the legalized gambling industry was anticipated to be the busiest.
This was true especially in Atlantic City. One can only conclude that members of Organized Crime were eagerly awaiting participation in the legalized gambling field.
Far from fearing competition from legalized gambling, member of Organized Crime seemed to anxiously welcome its coming. Based upon the facts available to me, I seriously doubt that legalization of gambling would deter racketeers from use of violence in the collection of gambling debts, and I doubt that it would deter Organized Crime figures from raking certain sums off the top of legalized casinos. Legalized gambling will not significantly decrease the number of people betting with bookies. But, instead, will draw most of its revenues from those who now bet infrequently. It will probably also tend to increase the number of loanshark victims.

Any realistic form of state regulations would put legitimate gambling automatically at a disadvantage.
with the professional gambler. The professional gambler is able to give easy credit, telephone service, and tax-free payoffs. The professional gambler can give his bettors better odds and credit. The only system that would make legalized gambling competitive would be to make numbers, sports, or horse betting a tax-free unregulated activity producing no revenue for the State.

The moral authority of the State should not be put behind what is now generally treated as criminal behavior because it will only change our society for the worst. The bettor always loses to a well-run gambling organization. The criminal community is full of people who are degenerate gamblers who've lost so much that they keep gambling not to make a buck, but just to pay their prior gambling and loanshark debts. Gambling should not be legalized.
CONCLUSION

Gambling, by virtue of its contribution to the bankrolls of Organized Crime, has a cancerous effect upon society. Organized Crime is a corruptor and a peril to us all. We must not cripple the prosecutor. It is the prosecutor's responsibility to protect society against sophisticated criminals. If we remove his most effective tools, we leave the criminals free to extort from legitimate businessmen; to control industries; to give narcotics to our youth; to kill and to maim. If we let Organized Crime run rampant, it will strangle us to death. I urge that this Commission find that one of the more valuable tools of the prosecutor, the Gambling Statutes, not be removed from our arsenal of weapons.
MR. COLEMAN: Mr. Friedman, on behalf of the Commission, I want to thank you very much. I know you brought some of your associates here today. As I say, you have been very helpful. We wish you the best here in Philadelphia. In answer to Mr. Ritchie's question, you said you don't know how long you will be here, but you have our best wishes.

MR. FRIEDMAN: Thank you.

(Witness excused.)

MR. COLEMAN: The next witness, Mr. Richard J. Baker, has been the special agent in charge of the Philadelphia office of the Federal Bureau of Investigation since 1973. Prior to this position he was assistant director in charge of the Office of Planning Evaluation, FBI Headquarters in Washington, D.C. Mr. Baker has been a member of the FBI since 1947. He has served as special agent in charge of the New Haven, Connecticut; Dallas, Texas; and Miami, Florida, offices. He has also served as special agent in charge of the Organized Crime Division in New York City.

Mr. Baker, we welcome you.

MR. BAKER: Thank you very much, Mr.
MR. COLEMAN: I might state that you have one of your colleagues with you. Would you identify him?

MR. BAKER: Yes. I would like to introduce, if I can, Jack Howell, who is the coordinator of our organized crime program in the Philadelphia division.

MR. HOWELL: Good morning.

MR. BAKER: By way of jurisdiction, the Philadelphia office is responsible for the same geographical territories that are covered by the Eastern and Middle Judicial Districts in Pennsylvania. In effect, our office covers the eastern and middle sections of Pennsylvania as far west as State College. Our Pittsburgh office covers the remainder of the State.

Before I begin my testimony, I would like to take this opportunity to thank you for the privilege of appearing before the Commission today.

As the Commission is well aware, primary responsibility for investigation of illegal gambling lies with State and local authorities. I would, therefore, like to clarify the reason for the FBI's participation in this field. Such a
clarification obviously requires factual data regarding the evils and problems inherent in illegal gambling as it presently exists and operates in the territory covered by the Philadelphia office of the FBI.

The FBI is opposed to illegal gambling inasmuch as, one, it has been legislated illegal and, two, it is for the most part under the control of organized crime. As indicated in various Congressional reports, following exhaustive inquiry and study, the major source of income for organized crime, both nationally and locally, is illegal gambling.

Organized crime has been defined as "The unlawful activities of the members of a highly organized, disciplined organization engaged in supplying illegal goods and services, including but not limited to gambling, prostitution, loan-sharking, narcotics, labor racketeering, and other unlawful activities of members of such organizations." It is with the gambling aspect that I wish to deal today.

I should point out at this juncture that I cannot be as specific as I would like because of the public nature of these hearings and that certain
matters which I will mention are currently under
active investigation or in the prosecutive stage.

In our area of responsibility there are
basically four groups falling within the definition
of organized crime. One of these groups is
commonly known to law enforcement officials as the
Philadelphia "mob" or "syndicate," the second group,
the "upstate mob" or "upstate syndicate"; the third
group I will refer to as a major independent group;
the fourth group I will deal with will be referred
to as a second major independent group.

The first two groups, which I described
above, cooperate closely and have mutual respect for
each other's territorial and jurisdictional areas.

The Philadelphia "mob" and the "upstate mob"
have been the dominant groups in this area since the
1920's and, as recited in Congressional hearings,
parts of a national syndicate.

The first major independent group I re-
ferred to has been prominent since the late 1930's,
principally in Philadelphia, but has dwindled some-
what in size during the past four or five years.
This group, over the years, has avoided direct con-
flicts with the two "mobs," primarily the Philadelphia
"mob," and any problems which arose were usually
arbitrated, and violence for the most part was avoided.

The second major independent group I referred to is a relatively new group which came into being in the late 1960's and early 1970's. This group grew in strength and saw its power peaking during 1973 and 1974. This group engages primarily in gambling, loansharking, extortion, and narcotics with its income deriving primarily from their illegal gambling and narcotics activities. This group centers its activities almost exclusively in the ghetto areas of West and North Philadelphia. This group unhesitatingly uses force and violence to obtain its objectives. As I said before, the victims are usually the deprived members of Philadelphia's ghettos. Several confrontations, relating to the efforts of this group to expand its geographical area of operation, resulted in arbitration, with the Philadelphia "mob" retaining its geographical sphere of influence and this relatively new group being chiefly restrained to its original confines. During the past year, mainly as a result of Federal prosecutions, the majority of the hierarchy of this group is now either in jail or awaiting sentencing. It appears that, at least
temporarily, a key blow has been dealt this group
and their participation in illegal activities has
been hurt, including their illegal gambling opera-
tions.

The four main groups I have referred to
obtain the majority of their income from the sub-
ject we are discussing today, namely gambling.

Illegal gambling in our geographical area
is divided into three-digit numbers lottery, off-
track wagering on horse races, wagering on national
sports events, dice games, and card games.

The largest dollar volume is conducted in
the three-digit numbers lottery and wagering on na-
tional sports events.

Wagering exists throughout the area over
which we have jurisdiction, being more concentrated
in the urban areas only because of the greater popu-
lation.

It is hard to state with a great degree
of accuracy the magnitude of gambling, but suffice it
to say it is widespread, well entrenched, and exists
generally in every area. Our investigations and
Title III interceptions have documented dealings by
bookmakers in this area with bookmakers all over
the country, from Rhode Island to Florida, from
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New York and Pennsylvania to California. It is because these gambling operations cross town, city, and state lines, and are national in operation, that the presence of the Federal Government is indeed necessary in the enforcement of gambling laws.

It is virtually impossible to state accurately the percentage of the general population in our area participating in the various forms of gambling. I know of no statistics or surveys indicating the extent of such participation.

The best manner by which I can give you an idea of the volume is to explain that our Title III electronic surveillances have touched only a very small percentage of bookmakers operating in the Eastern and Middle sections of Pennsylvania. The projected tabulation of the annual total or "handle" for those operations monitored amounts to approximately $200,000,000. These Title III electronic surveillances, installed between October 1969 and December 1974, involved 30 different gambling operations. You can see if such volume ($200,000,000) involved only a small percentage of bookmakers, that the total amount of wagering taking place is potentially staggering.

At this point, if I may, I would like to
point out to you the progress we in the Philadelphia office of the FBI have made in our investigations into gambling since the passage of Federal legislation allowed us to get involved in this field. As a result of the passage of the first Federal gambling legislation in 1961, interstate or foreign travel or transportation in aid of a racketeering enterprise became a Federal crime. This statute specifically mentioned gambling as an unlawful activity, along with narcotics, untaxed liquor, prostitution offenses, extortion, bribery, and arson. The FBI was given investigative jurisdiction over all violations except narcotics and liquor.

The Philadelphia office was the first FBI office in the United States to produce positive results under the then new legislation. Large scale dice or "crap" games have for many years been prominent forms of revenue for organized crime in Pennsylvania. The most instructive example of syndicate organization of a professional crap game is offered by the "Reading crap game." The "Reading crap game," commonly known at that time as the largest game on the East Coast, was operated in Reading, Pennsylvania, beginning about 1956. In 1961 our investigation determined that this game was located
at 235 Cherry Street, Reading, Pennsylvania.

The profits from this game were tremendous. As an example, the president of a business corporation allegedly lost $75,000 during one night's gambling.

The profits from this highly-organized gambling enterprise were split four ways, with 25 percent going to the operators, 25 percent to an organized criminal element in New York City, 25 percent to an organized criminal element in Camden, New Jersey, and 25 percent going to a Reading, Pennsylvania, racketeers figure.

On January 20, 1962, over 100 FBI agents conducted a raid on the "Reading crap game." There were 150 operators and patrons present. There were over 35 employees on the payroll, including stickmen, luggers, tellers, loan sharks, dice detectives, and security personnel, with a weekly payroll of over $7,800. Our investigation determined that most of the employees were from the Atlantic City, New Jersey area. Over $50,000 in cash was seized at the time of the raid, approximately $30,000 from the "house," and $20,000 from the players.

The above game involved three crap tables with six employees per table. Approximately 20
lugers were bringing players from various locations in Pennsylvania and New Jersey, including Philadelphia. The game operated every night with "matinees" on Saturday and Sunday. Bets were covered by the "house," and players were not allowed to bet among themselves.

As a result of FBI investigation and the raid of the "Reading crap game," 14 individuals were indicted and charged with traveling interstate with the intent to facilitate the carrying on of a business enterprise involving gambling in violation of the laws of Pennsylvania and also conspiracy to violate such laws. Four racket figures and six employees in the game were convicted in Federal Court. The effects were far-reaching and led eventually to the subsequent indictments of the chief of police and other public officials in Reading, Pennsylvania. IRS filed levies amounting to $333,792 against individuals involved in this case.

In September 1965 investigation by the Philadelphia office of the FBI developed facts concerning a syndicate controlled casino-type operation headquartered in South Philadelphia. The direction of this casino involved regular travel by the
operators between Atlantic City, New Jersey, and Philadelphia, Pennsylvania.
On September 5, 1965, FBI agents conducted a raid at 1237 South 7th Street, Philadelphia, Pennsylvania, a vacant store being used for the operation of this extremely large scale casino. Results of the raid indicated that approximately $35,000 a day was being wagered in this operation.

Among those arrested were four ranking Philadelphia "mob" members. All received 12-month sentences, which were suspended, and each was placed on 12 months' probation and fined $1,200.

As disruptive as the prosecution was to the underworld, it nevertheless highlights the need I shall discuss later for more stringent sentencing if we hope to deter criminals from engaging in this type of violation.

Since armed with Federal legislation, the Philadelphia office of the FBI has been making substantial inroads in the investigation of illegal gambling operations in our area.

Our results can perhaps best be viewed in the following figures which reflect the number of gambling and organized crime figures who have been convicted under Federal gambling statutes as a result of investigations by our agents. Starting in 1964, two convictions;
1965, 21; '66, 8; '67, 7; '68, 2, and then we start a steady increase. In 1969, 15; 1970, 24; 1971, 17 people. In 1972, 36; 1973, 49; 1974, 57.

As of today, May 29, 1975, 63 convictions have been obtained from gambling violations in this fiscal year, and it is anticipated that by the end of the fiscal year, June 30, this figure will be expanded to approximately 65, based on several cases now in the late stages of prosecution.

At the present time 19 individuals are under indictment and 3 individuals are awaiting sentencing in the Eastern and Middle Judicial Districts for violations of Federal gambling statutes. It is anticipated that an additional 55 persons will be indicted on similar charges in the near future.

A review of the above figures clearly reflects a definite trend of increased convictions since the passage of the "Omnibus Crime Control and Safe Streets Act of 1968," and this allowed under Title III Court-authorized electronic surveillances. Enactment of this law eliminated the absolute necessity for live witnesses in order to obtain a successful prosecution. By obtaining sufficient probable cause, a Title III interception could be had, and
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the evidence necessary for a successful prosecution could be obtained. It is an invaluable aid in the investigation and prosecution of these cases, inasmuch as organized crime has a long-standing reputation for intimidating and on occasion killing live witnesses.

Other advantages flow from electronic surveillance. It is essential that bookmakers utilize telephones in their operations. Telephones are a must in order to obtain line data and for the layoff of wagers. An interception provides the means by which all members of the operation can be identified. It provides detailed evidence on the scope of the operation. It provides the possibility for intercepting the principals who make policy decisions and give directions to the office workers.

A second vital law was passed subsequent to the "Omnibus Crime Control and Safe Streets Act of 1968" which has greatly assisted our investigations. In late 1970, the "Organized Crime Control Act of 1970" was enacted by Congress, and this legislation provided the FBI with additional methods of dealing with violators of the Federal gambling statutes as it made a gambling operation involving five or more persons who either grossed $2,000 daily
or remained in continuous operation for a period in
excess of 30 days in violation of this Federal statute and no interstate aspect was necessary. I feel that these two statutes have been of tremendous help in our work and our steadily increasing number of convictions are directly attributable to the passage of these two statutes.

The immunity provisions of the Organized Crime Control act of 1970 have been utilized on several occasions in our cases. These situations involved primarily individuals working for the prime operator who had knowledge of the operation but who were involved daily on a lower level within the operation. These individuals, on whom search warrants were served, were subsequently subpoenaed before a Federal Grand Jury for inquiry as to identities of the principals behind the operation. These persons pled the fifth amendment, were granted immunity, and continued to refuse to testify after being granted immunity. Five individuals are currently awaiting sentencing on contempt charges.

Another example of the use of immunity is the instance of Philip Charles Testa, who has been described as the number two man in the Philadelphia mob, and who, following the granting of immunity in September 1970, was found in civil contempt of
Court for refusing to testify before a Federal
Grand Jury. He was remanded to the custody of the
U.S. Attorney General and was incarcerated until
January 1975.

Another material aid to a successful
prosecution is the Witness Protection Act. Under
this Act individuals who are willing to testify
against "mob" figures can, at Government expense,
be relocated with their families, to various sec­
tions of the country. They are furnished new
identities, complete with new school records, birth
certificates, and driver's licenses. Assistance
will also be given in an effort to obtain new em­
ployment. The relocation procedures are under the
direction of the U.S. Marshall's Service. As a
result of utilization of this Act, many key "mob"
figures have been successfully prosecuted.

Our investigations have definitely
shown that gamblers who incur debts are commonly
referred to loan sharks. The average bookmaker has
a ready list of such individuals available to him.
We have found that it is very common during our
gambling investigations to find a direct tie in
between the persons we are investigating and loan
sharks, because of the nature of the business in
which they are involved. It is not unusual for
loan sharks to sell the indebtedness of an individ-
ual to another loan shark. Individuals tied in
with organized crime in many cases earn their living
by collecting debts through strong-arm tactics.
The loan shark usually resorts to threats when he
wants his money, is not interested in how the debtor
obtains these funds, cares less whether he steals,
robs, or whatever, and very clearly impresses on
the debtor that if the monies are not forthcoming,
he, the debtor, will be subject to violence of one
sort or another. In most cases
such threats cause the debtor to fear for his well-being or perhaps even his life or that of his family, and, as a result, the debtor often will commit other crimes to obtain money to appease the loan shark.

Threats are usually explicit, and the intentions of the loan sharks to the point. An example of this would be statements intercepted during Title III coverage of the number three ranking member of Philadelphia’s mob, who while speaking to an associate in November 1970 regarding a loan owed him by a Philadelphia area woman stated, "I'm going to rip her face apart, girl or no girl."

The associate responded by stating that, "I'm gonna hit her over the head with a sledge hammer, I'm gonna hit her cause she got no business doing this. She make $500 a week...." During the course of the execution of a search warrant on the mobster's automobile at the conclusion of the aforementioned Title III coverage, a baseball bat was located under the front seat of his automobile.

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In connection with another loan shark case handled by our office concluded in March of this year, during a monitored conversation between Alexander Hartzell, a close associate of the
Philadelphia "mob," who was a partner in this particular loan shark
venture with a ranking "mob" member and the victim, a New Jersey businessman, Hartzell told the victim during a conversation in which Hartzell had demanded prompt payment of money due, "If I have to get this, 'they' will tell me to do something. I am going to tell you, I, don't. It might not be today, a month, ah, two months from now. I am going to give you, on my children. I've, I've got five of them... I hope they get cancer of their eyes, their throat, I will do what I have to do. When you mess with my family... that's the end of it. I am just going to tell you the way I feel. I am going to do what I have to do, whatever 'they' tell me to do."

During a subsequent conversation between Hartzell and the victim following a telephone call from the victim's wife to Hartzell, Hartzell told the victim, "She has to go. She has to go. There ain't nothing, there ain't no way. Hey, they're going to let the woman come in and testify against them and put him away for 10, 20 years?... she has to go. Now I'm not saying your wife, I'm just not. But I'm telling you the truth, what you're doing to me, if they give me the word, go, I'll tell you. And that's the way I feel toward life. 'Cause I
ain't going to get taken a hole in the head for you... I could bust you up right now. But what good would it do?... but, if they say to me, Al, 'put him away', I am going to put you away... this is the pressure I get. You're not, you're not just the one customer... you, you are just a pawn."

During the ensuing trial the victim, after testifying to the aforementioned threats, was asked if any other threats were made to him. He responded from the stand by stating that he was told by Hartzell that "they" knew the bus driver and the bus route which his children took on their way to and from school. The victim stated from the stand that it was clear to him that had he not furnished the money to Hartzell which he owed, his children were targets for retribution by the loan-sharks.

Various Congressional hearings involving gambling in organized crime reflect that in addition to gambling being a prime source of revenue for organized crime, this activity has also resulted in the corruption of political and police officials. According to information available, there continue to be corruption on the part of some political and police figures. Deterrents to corruption, I
believe, consist of several factors; The Federal Government's intensified effort in gambling investigations under Title 18, Sections 1955 and 1511; local police are definitely aware of the Federal Government's presence; the fact investigative efforts and grand jury inquiries are being made to uncover corruption. I think that the existence of such legislation has definitely served as a deterrent, both because the police officer is aware of the Federal Government's intention to pursue corruption and because the bookmaker understands that protection to local police is by no means any guarantee of not being raided, arrested, or convicted. A large scale participation in illegal gambling extends far beyond corruption. It is my opinion that there is general apathy on the part of some members of the judiciary as well as some government officials who do not think it is a crime to allow the public to gamble, the "victimless crime" type of thinking. There appears to be frustration on the part of some police officers who have their investigative efforts rewarded by the bookmaker being fined $25 or $50. The average police officer, unless he is working a gambling or vice unit, does not have the opportunity to arrest the principals
controlling the illegal gambling operation; the principals have the money
to corrupt senior officers who may on occasion
discipline the officer arresting the low-level
bookmaker.

Our investigations to date have not de-
veloped any evidence which warrants prosecution for
corruption under Section 1511 or 1955. I believe
that it is possible that the type of evidence
needed to prove such violations is obtainable
through Title III electronic interceptions but more
probably by the successful prosecutions of key
principals in the various gambling operations.
Their cooperation, after conviction and sentencing,
could provide the necessary evidence as it has in
other areas. Generally, the principal in an opera-
tion will provide for any protection being purchased.

Since our entry into the investigation
of violations of Federal gambling statutes, we have,
as mentioned before, obtained the convictions of
300 individuals. Of these individuals, the vast
majority have been placed on probation for periods
ranging from three months to five years; fines
assessed ranged from $100 to $10,000; jail sen-
tencings have ranged from six weekends to one year
and a day. I strongly feel when an individual
faces a substantial period of incarceration, a
deterrent factor is encountered.

Bookmakers and numbers operators have been accustomed to fines and short periods of probation. Neither of these penalties substantially hurt or serve as a deterrent. Jail sentences and the use of the immunity statute, where key employees have actually been confined for periods of 18 months, I believe, are the type of deterrents required to create a real impact on the bookmaking community.

I would like the Commission to be aware that in connection with our gambling investigations, it has been our practice to make records seized in gambling raids available to the Internal Revenue Service. That agency's seizures, assessments, and prosecutions also have had an impact. Internal Revenue Service assessments have been in the millions. In addition to furnishing information to the Internal Revenue Service in connection with our investigations when information is developed during the course of gambling raids and such items as narcotics or weapons are seized, the drug enforcement agency and the Bureau of Alcohol, Tobacco and Firearms are also promptly advised, and the nature of evidence seized made available to them. When pertinent, evidence and data of interest to other
agencies are promptly furnished to those respective agencies.

In addition to our dealings with the aforementioned Federal agencies, we work closely with local police departments in the enforcement of gambling legislation and almost daily disseminate information pertaining to bookmakers which often results in raids and arrests by the local departments. We have engaged in many cooperative ventures with local law enforcement, and, when appropriate, include local police in our raiding teams. Cooperation with local police departments, including the Philadelphia Police Department, has been excellent.

I feel the Commission should know that our investigations and our intelligence information indicates that the legalized lottery in Pennsylvania has had little or no effect on illegal gambling. It would appear that local lotteries are not geared to compete with illegal gambling. I believe that the general public is apathetic toward enforcement of gambling laws. All too many people look at illegal gambling as a "victimless crime." Unfortunately, what they do not realize is the brutality that is exercised by organized crime in promoting gambling and other illegal activities. I
honestly do not feel that they have any understanding of the fact that gambling remains the single major source of income for organized crime. These same people seldom, if ever, see the suffering incurred by victims of loan sharks who feed off the profits of gambling.

It does not seem possible to completely eliminate all forms of illegal gambling. I think that we in law enforcement have found that gambling laws do not stop gambling from taking place. It would appear that a more realistic goal would be to attempt to control illegal gambling. If the principals and employees involved in illegal gambling ventures were given jail terms, long periods of probation, and sizeable penalties, assessments and fines by the Internal Revenue Service, the profit picture would not be so appetizing. There would then be the serious question on the part of employees within the bookmaking empire as to whether the chance was worth what they were being paid. Organized crime needs the employees to effectively operate a bookmaking operation. Major operations can be put out of business as they have in the past. The smaller groups will lack the power, political affiliations, and ruthlessness of the groups now in
control. There will be individuals willing to take
the calculated risk to move into the voids created,
but through continued pressure these new principals
will have difficulty in recruiting employees to
build their venture into a major gambling operation.
Gamblers fear incarceration and stiff prison sen-
tences.

I believe that Congress has given the
FBI the equipment to do the job. Given the time we
shall do the job.

Regarding the question whether legalized
gambling would have an impact on illegal gambling,
it is our experience that in those areas where
legalized gambling exists it is no deterrent to the
illicit operations of the underworld. We have also
found that there is little or no impact on such re-
lated areas as graft and corruption or the associ-
ated crimes of burglary and robbery. Because con-
venient collection services are available with
their ready credit situations, the wide variety of
wagers and tax advantages offered by the criminal
groups, legalized competitors are not able to lure
away those individuals dealing with illegal gam-
bling.

Let me again thank you for the invitation
to appear here, and I hope my testimony has been of some worth to the Commission.

MR. COLEMAN: Mr. Baker, we appreciate it very much.

Miss. Marshall, would you commence the questioning, please?

MISS. MARSHALL: Thank you.

BY MISS. MARSHALL:

Q Mr. Baker, I would like to ask you approximately how many of your agents you have assigned to the gambling investigation.

A We do not assign agents exclusively to gambling. We look at gambling, of course, as an organized crime related violation, so the agents who handle gambling also handle other organized crime violations. There are approximately 20 such agents who are engaged in gambling, and the major part of their work is gambling.

Q Out of a total of how many agents in your office?

A We have somewhere between 200 and 250 agents in the Philadelphia division.

Q Do you feel the existing manpower that you have in the existing resources are adequate in the gambling area or would you like to see the FBI extend its resources in that direction?

A I don't want to sound like a bureaucrat, but any
administrator never feels he has all the personnel he would like. Considering the total resources of the FBI, I think we are sensibly staffed. We could do more work in this area, of course, if we had additional personnel.

Q Would it be a fair statement, Mr. Baker, to say the wiretapping provisions enable you to, in essence, get a better handle on gambling?

A I think the wiretap aspect of the Federal statute is probably the single most important part of the legislation as far as gambling investigations are concerned. I also recognize the fact that when you talk about wiretapping, it conjures up in the minds of many people, especially lay people, all sorts of Big Brother approaches on the part of the Federal Government. I think perhaps we haven't done a proper selling job in telling the average person the safeguards that are involved in getting a wiretap, so they can rest assured at night that their Aunt Mary isn't having her telephone conversations overheard.

The gamblers who operate must use telephone facilities. It is a tool of their trade. Much of their business is done by telephone. If we are to make inroads on their operations and obtain successful prosecutions, it just seems very elementary to me that we have to know the context of those telephone conversations to
obtain the necessary evidence under the statutes. Many of our cases in the gambling field are primarily on the basis of information obtained from wiretaps. Without them, we would not sustain those convictions.

Q We were told yesterday by various state and local officials about the Pennsylvania anti-wiretapping statute, which, given your position, would obviously be a great impediment to local law enforcement in the area of gambling. If this were to be remedied, if Pennsylvania were to be able to achieve Court-authorized wiretaps, would the FBI withdraw somewhat in the area of gambling enforcement and leave it more in the hands of the local officials?

A I think it would require a period of experiment, let us say, to see what the State authorities were able to do. We still feel that gambling is primarily a local problem. If the local authorities do not have the tools to do the job and the Federal Government does, then we feel the Federal presence should be heavier. I trust that answers your question in that degree.

Q Not having read their statute, I am not quite certain on this point, but I would assume it would preclude you as the Federal Government from, in essence, giving them information obtained off of wiretap. I would assume they would be precluded from using information off of
wiretaps; is that correct?

A It would, of course, depend on the language of the legislation once it is passed. I have been in other sections of the country, including New York State, as an example, where there was local as well as Federal wiretap legislation, and we could exchange information. We could furnish it to the local authorities, and they could use it in their trial, and the converse was also true.

If the safeguard that the local authorities used in obtaining their wiretap met Federal standards, we could use it in Federal Court. I would hope that such legislation passed in Pennsylvania would permit the same versatility.

Q Can you tell us, sir, to the best of your knowledge, what approximate percentage of illegal wagering in the Philadelphia area has been in essence deleted due to your efforts? Do you agree with the Department of Justice's overall estimate that their best efforts have achieved only a two percent influence on the illegal market?

A I think it's a very difficult thing, and I am not trying to beg the issue. I think it's a very difficult thing for the Department of Justice to come up with a meaningful figure of that sort. Nobody really knows on
what basis you can rely upon for the total involvement. I mentioned in my prepared testimony here we have just slightly penetrated the surface, really, in our Title III interceptions, and we came up with a volume of $200 million over the period of time that I mentioned. We really don't know what the total scope is, so how do we know what figure we are dealing with?

I would like to think, and I do think, that our investigations in this area have had some impact on the gambling operation. We know for a fact that a number of long-time gamblers have gone into retirement. I recall from previous assignments that I have had, and some of it came shortly after the passage of the 1970 Act, because they realized it would be a lot easier for the FBI to get into gambling since the interstate aspect was removed, and many of them decided it was time to move to Florida, so that certainly is an impact -- that is, Florida to retire, not to practice. To ascribe a percentage to it, I would just think it would be reaching out into the void and trying to pull out a figure that would mean nothing to you or to me.

Q This morning, sir, we heard from Mr. Thornburgh some very impressive sentences that had been meted out in the Western District of Pennsylvania, and this, of course, is not the case from what we have heard from two
other witnesses. To what do you attribute this?

A. I believe the judiciary will also reflect the mores of the communities they serve. While I haven't been a resident of the Pittsburgh area and, of course, just a relatively short time a resident of the Philadelphia area, I feel on the basis of what I know that the moralistic approach to gambling in Philadelphia is somewhat more liberal than it is in the Pittsburgh area. This perhaps could account for judges meting out stiffer sentences in the Western District than they do in the Eastern District. It seems we see stiffer sentences in the Middle District than we do in the Eastern District, and I think as you come from west to east across the State you see a change in the moral climate as regards the viewpoint on gambling.

Q. Since you do not feel that existing sentencing practices here serve as any deterrent, would you favor, for example, a mandatory minimum sentence for a recidivist?

A. It would be my opinion that to obtain some uniformity on a country-wide basis, that some very serious consideration should be given to incorporating this type of language into any additional legislation.

MISS. MARSHALL: Thank you, Mr. Baker.

That's all I have.
BY MR. FARRELL:

Q. I think the policy of Federal Government is to encourage cooperation among State and local prosecutors with the law enforcement personnel of the FBI. We were told yesterday by the District Attorney in this City that he has seen no evidence that leads him to conclude there is a significant connection between illegal gambling and organized crime in this City. Does that kind of attitude make it difficult for you to cooperate and to go about prosecuting gamblers in this City?

A. I would certainly disagree with his viewpoint on that, but I don't see that it would have any particular impact on the cooperative aspects of the relationship between the Federal Bureau of Investigation and the local district attorney, because we have had no problems in that regard. Of course, if we investigate a gambling operation, we try to establish that it is a Federal violation. We have certain standards, the five people or the $2,000 per day or the 30-day operation. If we can establish that it falls within the Federal violation, we of course are going to handle it and would have no recourse to the local authorities.

On the other hand, if it's information that we pick up through informants or sources, or whatever means by which we get it, it would not constitute a
Federal violation. We turn it over to the local law enforcement authorities, not the prosecutor, and it's their job from that point on to try and develop a local violation which they will carry through to local prosecution.

Q This leads to another question. You mentioned in your statement that your cooperation with the police department in Philadelphia has been excellent. We have read the Pennsylvania Crime Commission study to the effect that the police department in Philadelphia is rife with gambling corruption and the special prosecutors of the State of Pennsylvania told us the same thing yesterday. How do you put these two things together? Isn't there a national hesitation to cooperate with the police departments, which apparently is a serious gambling corruption problem in gambling cases?

A As I mentioned in my testimony, there is corruption in police departments in the area that we serve, and we recognize this. As far as the Philadelphia Police Department that you are talking about, yes, there is corruption in the Philadelphia Police Department, and I am sure they are going to be quick to acknowledge that such is the case. We have affected working arrangements with the Philadelphia Police Department that permit us to deal with individuals in this particular field, in the
gambling and also in the organized crime fields, that we have total confidence in as to their integrity. Over a period of years this integrity with the people we have been dealing with in the Philadelphia Police Department has been established beyond any doubt in our minds, because we certainly would be quick to sever any such relationship if we found the contrary to be true. I think the strength of the Philadelphia Police Department is 8,000, or so. Unfortunately, dealing with human beings as we do, I am sure there are going to be some people that don't measure up to the standards of the police department. On the top level of the police department we have total confidence, and if we have matters that relate to corruption in the police department that do not constitute a Federal offense, it's furnished usually on a personal basis between myself and the Commissioner. On the basis of the way he is handling everything since I have been here and before with my predecessors in the past, I have a 100 percent confidence in his integrity.

MR. FARRELL: Thank you very much.

MR. COLEMAN: Mr. Ritchie?

BY MR. RITCHIE:

Q Mr. Baker, does gambling and the strategies against the types of gambling which are cleared to be legal differ from place to place in your experience? That is,
in New Haven, Dallas, Miami, and Philadelphia, are there differences or is it all alike?

A There is a different emphasis, Mr. Ritchie, on the types of gambling you get in different areas. In the larger suburban centers there is a heavy concentration on the numbers type of gambling, and in the more suburban areas you find more of the sports betting. Betting on horse races, it's been my experience, is slowly declining, I think, and perhaps primarily because there are a lot more tracks around the country today, so the people who are followers of ponies, instead of having to deal with bookies, can actually go to the tracks and not only bet but see the action as well. I think it is more of a regional thing. I don't believe I can ascribe it to any geography. I think it's more or less the concentration of population which changes. If you have a large black population in an urban area, you are going to find a heavy concentration of numbers betting.

Q Is that true in Dallas? I don't know when you were there, but when you were there, was that true?

A Actually, I was in Dallas so long ago that the Bureau wasn't involved. It was prior to the 1961 laws, so the FBI wasn't in gambling at all then. Just from my knowledge back then, which of course would be quite outdated, there was a normal amount of gambling in Dallas,
not an exceptional amount.

Q The reason for those questions is the Commission's job of trying to formulate a national policy and looking at our responsibility of making recommendations to the President and Congress on the Federal laws. Would you advise the Commission to consider perhaps several types of policies based upon regional appearances as opposed to one law that was to be uniformly applied to both the high and low levels of activities that might exist in different parts of the country?

A I don't see how on the Federal level you can have geographic legislation that is done on a geographical basis. I don't want to get into the Constitutional question, because it's not my prerogative to do so, but I think it would make application extremely difficult.

Q We do that in other Federal agencies, such as the Federal Trade Commission, et cetera. It might be a regulatory as opposed to a statutory prohibition.

A That, of course, is the Federal Trade Commission dealing with a legalized commercial enterprise, and here we are dealing with something that we still are talking about that is an illegal function, so I question as to whether you can differentiate geographically.

MR. RITCHEIE: Thank you.
BY MR. COLEMAN:

Q Mr. Baker, when you make one of these prosecutions, which is a big operation, after that have you noticed any decrease in the particular activity, gambling activity, or is it just switched to another group?

A What happens often is this. If we have an investigation which involves a Title III interception, a telephone wiretap, when it first comes to public notice that a wiretap was in operation, we will see a very definite slowdown in the use of the telephone if we had a Title III installation and operation. They will be particularly gun-shy for a period of time, and then I guess as is true in all human nature, that apprehension starts to wear off again. As a result of a prosecution, you usually do not see a particular slowdown in the gambling activity at that time. If you are going to see any slowdown, it's usually after the apprehension, because that's the thing that usually stops the operation for a period of time. You have broken up that operation when you apprehend them. When you serve your search warrants or apprehend or both, that operation is brought to the ground until the people make bail, which, of course, is usually no more than 24 hours. Then they have to reassemble, reorganize, get new space, and sometimes get new employees, because some of their employees get
scared off, and they have to reassemble, so you see the slowdown at the time.

Q Mr. Baker, at the outset you said the primary responsibility for investigation of illegal gambling lies with State and local officials. Later on in your statement you indicated it must be very disheartening or probably would be, to the police officer or police officers who had expended some considerable time and effort and saw the case walk away from the Courts with a $25 or $50 fine. Assuming there might be some corruption which would eliminate some sort of enforcement, do you think that fact that you brought to us about disheartening features might again be some reason why local people or State people might not be so willing to prosecute? In other words, a wasted effort, so to speak.

A On the part of the prosecutor feeling a wasted effort?

Q Yes. Well, the police people, the prosecutors over them, or the chiefs of police, and so forth.

A Taking the different levels, with the police officer first, if he figures all of his hard work is going to result in a $25 fine, he is not going to feel like working quite as hard, because he thinks his efforts should merit a little more penalty than a $25 fine. I think the same would be true of the prosecutor. If he feels
he spent a lot of time in preparing the case and trying it in Court and all that will result is a $25 fine, he feels his time and effort is worth something more down at the end of the road.

I do definitely feel that's a factor. I don't think we can go at it from that direction. I think we have to go at it from the penalty direction to make the penalty sufficiently severe so that the people who are participating in the judicial process that leads up to that point will feel that their efforts are being properly rewarded. I shouldn't say rewarded, because a police officer is objective if he is a proper police officer. Still, he wants to feel if the law says the person is supposed to get a 1-year jail sentence, then he sure as the devil would not like to see a $25 fine. He may not want to see the full year imposed, but he would like to see that a portion of that penalty, at least, is imposed and enforced and served.

MR. COLEMAN: Are there any other questions?

MR. RITCHIE: If I may.

BY MR. RITCHIE:

Q The judicial answer to that is if you impose a mandatory sentence, it causes Courts to dismiss cases, because they don't want to be placed in the position of
having to enforce that, or, in the alternative, causes
an even bigger problem in terms of caseload, because
everyone asks for a jury trial. We are looking forward
to Judge Lord's testimony this afternoon to see if he
can make suggestions to us.

Do you really believe that if a sentence
was increased, a potential sentence, a minimum of one
year and a maximum of 10, for a gambling violation,
that that would be a real deterrent or a real incentive
for law enforcement?

A From the first standpoint, yes, I believe it would
be if the sentences were imposed. If, on the other hand,
it's subverted by cases being thrown out of Court or
dismissed, as you point out, that of course would negate
any beneficial effect.

I recognize the Commission here can't
solve all the problems of the entire judicial system and
that many people would have to address themselves to
that problem, because it is a complex thing. One of the
factors would be if you had a mandatory sentence, would
it overcrowd the Court dockets, and what would be done
to dispel that heavy load? That's another question that
would have to be addressed.

Q We have no model, if you will, other than other
countries. We have no model in this country with the
possible exception of some type of enforcement in the State of Nevada. What success do you think the strategy of creating a legal industry that you hope is competitive and earmarking a portion of the total amount involved in the legal operation to law enforcement to pay for law enforcement rather than have taxpayers pay for it? Do you think that bounty system, if you will, will be successful on a local level?

A In combating illegal gambling?
Q In combating illegal gambling.
A I would have serious reservations it would have any material effect.
Q You don't believe financial reward would have any material effect?
A You are talking about pouring the money back into the coffers of the law enforcement agencies for law enforcement purposes?
Q Right.
A No, not a reward, per se.
Q Well, that's a matter of semantics. Assuming it were poured back into their efforts to enforce the laws against the illegal operations, do you think that strategy has any merit to it?
A I don't think the money is the problem. I think the problem is the lack of deterrent. One thing I want
to reemphasize, if I can, is that neither I nor the FBI for which I speak, takes a moral position on gambling itself as to whether it is right to gamble or it is wrong to gamble. The main reason that we are interested in this field is that gambling in this country is the principal source of income for organized crime. We are heavily committed to try and do what we can to break up organized crime in this country, so we are using the gambling statutes solely to get to the criminal element of organized crime in this country. We want all the tools we can get that will help reach those people who are the "kingpins" of organized crime.

MR. RITCHIE: Thank you.

BY MR. COLEMAN:

Q Mr. Baker, you have a great many years experience and have certainly investigated a great many gambling situations, I am sure, and have probably talked with people who gamble illegally. It has been suggested by some witnesses here, and at other places, that the only way you can really stop the illegal gambling and really put a dent into it is if you made it a criminal act for the player, the bettor. Do you have any opinion about if that would have any effect, if there was the same penalty as for the taker of the action?

A It's similar to the situation where you have a
person who is taking a bribe, and the receiver as well as the offerer are equally guilty. In some local jurisdictions they have done the same thing in the prostitution field, where the prostitute is not only guilty, but the John is as well. I really haven't given it a whole lot of thought, but I would suspect it would act as a deterrent. I think it would be very difficult to enforce, and I would suspect it would be very unpopular to take a case into Court from a very practical standpoint and take it before a judge, who would probably be very sympathetic to the bettor, because he is figuring he is not profiting from it. He is just doing it on his own. He is doing it as a pastime. He is doing it for fun.

Q From a club standpoint, so to speak, it might be the way to compel testimony against people the same way as you indicated on a bribery case, where the payor of the bribe comes in and testifies against the political figures.

A Yes. Of course, we are interested in getting the testimony of the bettor to establish a case on the bet takers. We are interested in getting higher up the line, and usually we are going to apply the immunity statute against the bet receiver to turn him against his principal. We are trying to get up one or more echelons in the hierarchy of the betting combine.
MR. COLEMAN: Mr. Baker, on behalf of the Commission, we appreciate very much your coming, you and your associate, Mr. Howell. We are very appreciative.

MR. BAKER: Thank you.

MR. COLEMAN: We will adjourn for lunch. We were scheduled to come back at 1:30, and it's now 10 minutes to 1:00. We will still attempt to get back as close to that as possible to reconvene the hearings.

(Witness excused.)
MR. CHAIRMAN: I AM RICHARD J. BAKER, SPECIAL AGENT
IN CHARGE OF THE PHILADELPHIA OFFICE OF THE FEDERAL BUREAU
OF INVESTIGATION. THE PHILADELPHIA OFFICE IS RESPONSIBLE
FOR THE SAME GEOGRAPHICAL TERRITORIES THAT ARE COVERED BY THE
EASTERN AND MIDDLE JUDICIAL DISTRICTS IN PENNSYLVANIA. IN
EFFECT, OUR OFFICE COVERS THE EASTERN AND MIDDLE SECTIONS OF
PENNSYLVANIA AS FAR WEST AS STATE COLLEGE. OUR PITTSBURGH
OFFICE COVERS THE REMAINDER OF THE STATE.

BEFORE I BEGIN MY TESTIMONY, I WOULD LIKE TO TAKE
THIS OPPORTUNITY TO THANK YOU FOR THE PRIVILEGE OF APPEARING
BEFORE THE COMMISSION TODAY.

AS THE COMMISSION IS WELL AWARE, PRIMARY RESPONSIBILITY
FOR INVESTIGATION OF ILLEGAL GAMBLING LIES WITH STATE AND
LOCAL AUTHORITIES. I WOULD THEREFORE LIKE TO CLARIFY THE
REASON FOR THE FBI'S PARTICIPATION IN THIS FIELD. SUCH A
CLARIFICATION OBVIOUSLY REQUIRES FACTUAL DATA REGARDING THE
EVILS AND PROBLEMS INCIDENT IN ILLEGAL GAMBLING AS IT PRESENTLY
EXISTS AND OPERATES IN THE TERRITORY COVERED BY THE PHILADELPHIA
OFFICE OF THE FBI.
THE FBI IS OPPOSED TO ILLEGAL GAMBLING INASMUCH AS (1) IT HAS BEEN LEGISLATED ILLEGAL AND (2) IT IS FOR THE MOST PART UNDER THE CONTROL OF ORGANIZED CRIME. AS INDICATED IN VARIOUS CONGRESSIONAL REPORTS, FOLLOWING EXHAUSTIVE INQUIRY AND STUDY, THE MAJOR SOURCE OF INCOME FOR ORGANIZED CRIME, BOTH NATIONALLY AND LOCALLY, IS ILLEGAL GAMBLING.

ORGANIZED CRIME HAS BEEN DEFINED AS "THE UNLAWFUL ACTIVITIES OF THE MEMBERS OF A HIGHLY ORGANIZED-DISCIPLINED ORGANIZATION ENGAGED IN SUPPLYING ILLEGAL GOODS AND SERVICES, INCLUDING BUT NOT LIMITED TO GAMBLING, PROSTITUTION, LOAN-SHARKING, NARCOTICS, LABOR RACKETEERING, AND OTHER UNLAWFUL ACTIVITIES OF MEMBERS OF SUCH ORGANIZATIONS." IT IS WITH THE GAMBLING ASPECT THAT I WISH TO DEAL TODAY.

I SHOULD POINT OUT AT THIS JUNCTURE THAT I CANNOT BE AS SPECIFIC AS I WOULD LIKE BECAUSE OF THE PUBLIC NATURE OF THESE HEARINGS AND THAT CERTAIN MATTERS WHICH I WILL MENTION ARE CURRENTLY UNDER ACTIVE INVESTIGATION OR IN THE PROSECUTION STAGE.

IN OUR AREA OF RESPONSIBILITY THERE ARE BASICALLY
FOUR GROUPS FALLING WITHIN THE DEFINITION OF ORGANIZED CRIME.
ONE OF THESE GROUPS IS COMMONLY KNOWN TO LAW ENFORCEMENT
OFFICIALS AS THE PHILADELPHIA "MOB", OR "SYNDICATE"; THE
SECOND GROUP, THE "UP STATE MOB" OR "UP STATE SYNDICATE"; THE
THIRD GROUP I WILL REFER TO AS A MAJOR INDEPENDENT GROUP; THE
FOURTH GROUP I WILL DEAL WITH WILL BE REFERRED TO AS A SECOND
MAJOR INDEPENDENT GROUP.

THE FIRST TWO GROUPS, WHICH I DESCRIBED ABOVE,
COOPERATE CLOSELY AND HAVE MUTUAL RESPECT FOR EACH OTHER'S TERRI-
TORY AND JURISDICTIONAL AREAS.

THE PHILADELPHIA "MOB" AND THE "UP STATE MOB"
HAVE BEEN THE DOMINANT GROUPS IN THIS AREA SINCE THE 1920'S
AND AS RECORDED IN CONGRESSIONAL HEARINGS PARTS OF A NATIONAL
SYNDICATE.

THE FIRST MAJOR INDEPENDENT GROUP I REFERRED TO
HAS BEEN PROMINENT SINCE THE LATE 1930'S, PRINCIPALLY IN
PHILADELPHIA, BUT HAS DWANDED SOMewhat IN SIZE DURING THE
PAST FOUR OR FIVE YEARS. THIS GROUP, OVER THE YEARS, HAS
AVOIED DIRECT CONFLICTS WITH THE TWO "MOBS"; PRIMARILY
THE PHILADELPHIA "MOB", AND ANY PROBLEMS WHICH AROSE WERE
USUALLY ARBITRATED AND VIOLENCE FOR THE MOST PART WAS
AVOIED.

THE SECOND MAJOR INDEPENDENT GROUP I REFERRED TO IS
A RELATIVELY NEW GROUP WHICH CAME INTO BEING IN THE LATE
1960'S AND EARLY 1970'S. THIS GROUP GREW IN STRENGTH AND SAW
ITS POWER PEAKING DURING 1973 AND 1974. THIS GROUP ENGAGED
PRIMARY IN GAMBLING, LOANSHARKING, EXTORTION, AND NARCOTICS
WITH ITS INCOME DERIVING PRIMARILY FROM THEIR ILLEGAL GAMBLING
AND NARCOTICS ACTIVITIES. THIS GROUP CENTERED ITS ACTIVITIES
ALMOST EXCLUSIVELY IN THE Ghetto AREAS OF WEST AND NORTH PHILA-
DELPHIA. THIS GROUP UNHESITATINGLY USED FORCE AND VIOLENCE TO
OBTAIN ITS OBJECTIVES. AS I SAID BEFORE, THE VICTIMS WERE
USUALLY THE DEPRIVED MEMBERS OF PHILADELPHIA'S GHETTOS.
SEVERAL CONFRONTATIONS, RELATING TO THE EFFORTS OF THIS GROUP
TO EXPAND ITS GEOGRAPHICAL AREA OF OPERATION, RESULTED IN
ARBITRATION, WITH THE PHILADELPHIA "MOB" RETAINING ITS
GEOGRAPHICAL SPHERE OF INFLUENCE AND THIS RELATIVELY NEW
GROUP BEING CHIEFLY RESTRAINED TO ITS ORIGINAL CONTINIES.
DURING THE PAST YEAR, MAINLY AS A RESULT OF FEDERAL PROSECUTIONS, THE MAJORITY OF THE HIERARCHY OF THIS GROUP IS NOW EITHER IN JAIL OR AWAITING SENTENCING. IT APPEARS THAT, AT LEAST TEMPORARILY, A KEY BLOW HAS BEEN DEALT THIS GROUP AND THEIR PARTICIPATION IN ILLEGAL ACTIVITIES HAS BEEN HURT, INCLUDING THEIR ILLEGAL GAMBLING OPERATIONS.

THE FOUR MAIN GROUPS I HAVE REFERRED TO OBTAIN THE MAJORITY OF THEIR INCOME FROM THE SUBJECT WE ARE DISCUSSING TODAY, NAMELY GAMBLING.

ILLEGAL GAMBLING IN OUR GEOGRAPHICAL AREA IS DIVIDED INTO (1) THREE-DIGIT NUMBERS LOTTERY, (2) OFF-TRACK WAGERING ON HORSE RACES, (3) WAGERING ON NATIONAL SPORTS EVENTS, (4) DICE-GAMES, AND (5) CARD GAMES.

THE LARGEST DOLLAR VOLUME IS CONDUCTED IN THE THREE-DIGIT NUMBERS LOTTERY AND WAGERING ON NATIONAL SPORTS EVENTS.

WAGERING EXISTS THROUGHOUT THE AREA OVER WHICH WE HAVE JURISDICTION, BEING MORE CONCENTRATED IN THE URBAN AREAS ONLY BECAUSE OF THE GREATER POPULATION.

IT IS HARD TO STATE WITH A GREAT DEGREE OF ACCURACY
THE MAGNITUDE OF GAMBLING BUT SUFFICE TO SAY IT IS WIDESPREAD, WELL ESTABLISHED, AND EXISTS GENERALLY IN EVERY AREA. OUR INVESTIGATIONS AND TITLE III INTERCEPTIONS HAVE DOCUMENTED DEALINGS BY BOOKMAKERS IN THIS AREA WITH BOOKMAKERS ALL OVER THE COUNTRY, FROM RHODE ISLAND TO FLORIDA, FROM NEW YORK AND PENNSYLVANIA TO CALIFORNIA. IT IS BECAUSE THESE GAMBLING OPERATIONS CROSS TOWN, CITY, AND STATE LINES, AND ARE NATIONAL IN OPERATION, THAT THE PRESENCE OF THE FEDERAL GOVERNMENT IS INDEED NECESSARY IN THE ENFORCEMENT OF GAMBLING LAWS.

IT IS VIRTUALLY IMPOSSIBLE TO STATE ACCURATELY THE PERCENTAGE OF THE GENERAL POPULATION IN OUR AREA PARTICIPATING IN THE VARIOUS FORMS OF GAMBLING. I KNOW OF NO STATISTICS OR SURVEYS INDICATING THE EXTENT OF SUCH PARTICIPATION.

THE BEST MANNER IN WHICH I CAN GIVE YOU AN IDEA OF THE VOLUME IS TO EXPLAIN THAT OUR TITLE III ELECTRONIC SURVEILLANCES HAVE TOUCHED ONLY A VERY SMALL PERCENTAGE OF BOOKMAKERS OPERATING IN THE EASTERN AND MIDDLE SECTIONS OF PENNSYLVANIA. THE PROJECTED TABULATION OF THE ANNUAL TOTAL OR "HANDLE" FOR THOSE OPERATIONS MONITORED AMOUNTS TO APPROXIMATELY

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TWO HUNDRED MILLION DOLLARS. THESE TITLE III ELECTRONIC
SURVEILLANCES, INSTALLED BETWEEN OCTOBER 1969 AND DECEMBER
1974, INVOLVED 60 DIFFERENT GAMBLING OPERATIONS. YOU CAN SEE
IF SUCH VOLUME ($200,000,000) INVOLVED ONLY A SMALL PERCENTAGE
OF BOCKMakers, THAT THE TOTAL AMOUNT OF WAGERING TAKING
PLACE IS POTENTIALLY STAGGERING.

AT THIS POINT, IF I MAY, I WOULD LIKE TO POINT
OUT TO YOU THE PROGRESS WE IN THE PHILADELPHIA OFFICE OF THE
FBI HAVE MADE IN OUR INVESTIGATIONS INTO GAMBLING SINCE THE
PASSAGE OF FEDERAL LEGISLATION ALLOWED US TO GET INVOLVED
IN THIS FIELD. AS A RESULT OF THE PASSAGE OF THE FIRST
FEDERAL GAMBLING LEGISLATION IN 1961 INTERSTATE OR FOREIGN
TRAVEL OR TRANSPORTATION IN AID OF A RACKETEERING ENTERPRISE
BECAME A FEDERAL CRIME. THIS STATUTE SPECIFICALLY MENTIONED
GAMBLING AS AN UNLAWFUL ACTIVITY ALONG WITH NARCOTICS, UNTAXED
LIQUOR, PROSTITUTION OFFENSES, EXTORTION, BRIBERY, AND ARSON.
THE FBI WAS GIVEN INVESTIGATIVE JURISDICTION OVER ALL VIOLATIONS
EXCEPT NARCOTICS AND LIQUOR.

THE PHILADELPHIA OFFICE WAS THE FIRST FBI OFFICE
IN THE UNITED STATES TO PRODUCE POSITIVE RESULTS UNDER THE THEN NEW LEGISLATION. LARGE SCALE DICE OR "CRAP" GAMES HAVE FOR MANY YEARS BEEN PROMINENT FORMS OF REVENUE FOR ORGANIZED CRIME IN PENNSYLVANIA. THE MOST INSTRUCTIVE EXAMPLE OF SYNDICATE ORGANIZATION OF A PROFESSIONAL CRAP GAME IS OFFERED IN THE "READING CRAP GAME". THE "READING CRAP GAME", COMMONLY KNOWN AT THAT TIME AS THE LARGEST GAME ON THE EAST COAST, WAS OPERATED IN READING, PA., BEGINNING ABOUT 1956. IN 1961, OUR INVESTIGATION DETERMINED THAT THIS GAME WAS LOCATED AT 235 CHERRY STREET, READING, PA.

THE PROFITS FROM THIS GAME WERE TREMENDOUS. AS AN EXAMPLE, THE PRESIDENT OF A BUSINESS CORPORATION ALLEGEDLY LOST $75,000 DURING ONE NIGHT'S GAMBLING.

THE PROFITS FROM THIS HIGHLY ORGANIZED GAMBLING ENTERPRISE WERE SPLIT FOUR WAYS, WITH 25 PERCENT GOING TO THE OPERATORS, 25 PERCENT TO AN ORGANIZED CRIMINAL RINGLEADER IN NEW YORK CITY, 25 PERCENT TO AN ORGANIZED CRIMINAL ELEMENT IN CAMDEN, N.J., AND 25 PERCENT GOING TO A READING, PA., RACKETEERS FIGURE.
ON JANUARY 20, 1962, OVER 100 FBI AGENTS CONDUCTED A RAID ON THE "READING CRAP GAME". THERE WERE 150 OPERATORS AND PATRONS PRESENT. THERE WERE OVER 35 EMPLOYEES ON THE PAYROLL, INCLUDING SHICHERS, LUGGERS, TELLERS, LOANSHARKS, DICE DETECTIVES, AND SECURITY PERSONNEL, WITH A WEEKLY PAYROLL OF OVER $7,800. OUR INVESTIGATION DEMONSTRATED THAT MOST OF THE EMPLOYEES WERE FROM THE ATLANTIC CITY, N.J., AREA. OVER $50,000 IN CASH WAS SEIZED AT THE TIME OF THE RAID, APPROXIMATELY $30,000 FROM THE "HOUSE" AND $20,000 FROM THE PLAYERS.

THE ABOVE GAME INVOLVED THREE CRAP TABLES WITH SIX EMPLOYEES PER TABLE. APPROXIMATELY 20 LUGGERS WERE BRINGING PLAYERS FROM VARIOUS LOCATIONS IN PENNSYLVANIA AND NEW JERSEY, INCLUDING PHILADELPHIA. THE GAME OPERATED EVERY NIGHT WITH "MATING" ON SATURDAY AND SUNDAY. BETS WERE COVERED FROM A MINIMUM OF $2.00 TO A MAXIMUM OF $200.00. ALL BETS WERE COVERED BY THE "HOUSE" AND PLAYERS WERE NOT ALLOWED TO BET AMONG THEMSELVES.

AS A RESULT OF FBI INVESTIGATION AND THE RAID OF THE "READING CRAP GAME", 10 INDIVIDUALS WERE INDICTED AND
CHARGED WITH TRAVELLING INTERSTATE WITH THE INTENT TO
FACILITATE THE CARRYING ON OF A BUSINESS ENTERPRISE INVOLVING
GAMBLING IN VIOLATION OF THE LAWS OF PENNSYLVANIA AND ALSO
CONSPIRACY TO VIOLATE SUCH LAWS. FIVE RACKET FIGURES AND
EIGHT EMPLOYEES IN THE GAME WERE CONVICTED IN FEDERAL COURT.
THE EFFECTS WERE FAR REACHING AND LED EVENTUALLY TO THE INDICTMENT
OF THE CHIEF OF POLICE AND OTHER PUBLIC OFFICIALS IN READING,
PA.

IN SEPTEMBER 1965, INVESTIGATION BY THE PHILADELPHIA
OFFICE OF THE FBI DEVELOPED FACTS CONCERNING A SYNDICATE CONTROLLED
CASINO TYPE OPERATION HEADQUARTERED IN SOUTH PHILADELPHIA. THE
DIRECTION OF THIS CASINO INVOLVED REGULAR TRAVEL BY THE OPERATORS
BETWEEN ATLANTIC CITY, N.J., AND PHILADELPHIA, PA.

ON SEPTEMBER 5, 1965, FBI AGENTS CONDUCTED A RAID
AT 1237 SOUTH 7TH STREET, PHILADELPHIA, PA., A VACANT STORE
BEING USED FOR THE OPERATION OF THIS EXTREMELY LARGE SCALE
CASINO. RESULTS OF THE RAID INDICATED THAT APPROXIMATELY
$35,000 A DAY WAS BEING WAGERED IN THIS OPERATION.
AMONG THOSE ARRESTED WERE FOUR RANKING PHILADELPHIA
"MOB" MEMBERS. ALL RECEIVED TWELVE MONTH SENTENCES, WHICH
WERE SUSPENDED, AND EACH WAS PLACED ON TWELVE MONTHS PROBATION
AND FINED $1,200. AS DISRUPTIVE AS THE PROSECUTION WAS TO THE
UNDERWORLD, IT NEVERTHELESS HIGHLIGHTS THE NEED I SHALL DISCUSS
LATER FOR MORE STRINGENT SENTENCING IF WE HOPE TO DEBAR
CRIMINALS FROM ENGAGING IN THIS TYPE OF VIOLATION.

SINCE ARMED WITH FEDERAL LEGISLATION, THE PHILADELPHIA
OFFICE OF THE FBI HAS BEEN MAKING SUBSTANTIAL INROADS IN THE
INVESTIGATION OF ILLEGAL GAMBLING OPERATIONS IN OUR AREA.

OUR RESULTS CAN PERHAPS BEST BE VIEWED IN THE
FOLLOWING FIGURES WHICH REFLECT THE NUMBER OF GAMBLING AND ORGANIZED
CRIME FIGURES WHO HAVE BEEN CONVICTED UNDER FEDERAL GAMBLING
STATUTES AS A RESULT OF INVESTIGATIONS BY OUR AGENTS,

1964-2
1965-21
1966-8
1967-7
1968-2
1969 - 15
1970 - 24
1971 - 17
1972 - 36
1973 - 49
1974 - 57

AS OF APRIL 15, 1975, 49 CONVICTIONS HAVE BEEN
OBTAINED FOR GAMBLING VIOLATIONS SINCE JULY 1, 1974, AND
IT IS ANTICIPATED BY JUNE 30, 1975, THIS FIGURE WILL BE EXPANDED TO APPROXIMATELY 60 BASED ON SEVERAL CASES NOW IN THE LATER STAGES OF PROSECUTION.

AT THE PRESENT TIME 14 INDIVIDUALS ARE UNDER INDICTMENT
AND 11 INDIVIDUALS ARE AWAITING SENTENCING IN THE EASTERN AND MIDDLE JUDICIAL DISTRICTS FOR VIOLATIONS OF FEDERAL GAMBLING STATUTES. IT IS ANTICIPATED THAT AN ADDITIONAL 55 PERSONS WILL BE INDICTED ON SIMILAR CHARGES IN THE YEAR FUTURE.

A REVIEW OF THE ABOVE FIGURES CLEARLY REFLECTS A DEFINITE TREND OF INCREASED CONVICTIONS SINCE THE PASSAGE OF THE "GENIUS CRIME CONTROL AND SAFE SITES ACTS OF 1968".
WHICH ALLOWED, UNDER TITLE III, COURT AUTHORIZED ELECTRONIC SURVEILLANCES. ENACTMENT OF THIS LAW ELIMINATED THE ABSOLUTE NECESSITY FOR LIVE WITNESSES IN ORDER TO OBTAIN A SUCCESSFUL PROSECUTION. BY OBTAINING SUFFICIENT PROBABLE CAUSE, A TITLE III INTERCEPTION COULD BE HAD AND THE EVIDENCE NECESSARY FOR A SUCCESSFUL PROSECUTION COULD BE OBTAINED. IT IS AN INVALUABLE AID IN THE INVESTIGATION AND PROSECUTION OF THESE CASES, INASMUCH AS ORGANIZED CRIME HAS A LONG-STANDING REPUTATION FOR INTIMIDATING AND ON OCCASION KILLING LIVE WITNESSES.

OTHER ADVANTAGES FLOW FROM ELECTRONIC SURVEILLANCE. IT IS ESSENTIAL THAT BOOKMAKERS UTILIZE TELEPHONES IN THEIR OPERATIONS. TELEPHONES ARE A MUST IN ORDER TO OBTAIN LINE DATA AND FOR THE LAYOFF OF WAGERS. AN INTERCEPTION PROVIDES THE MEANS BY WHICH ALL MEMBERS OF THE OPERATION CAN BE IDENTIFIED. IT PROVIDES DETAILED EVIDENCE OF THE SCOPE OF THE OPERATION. IT PROVIDES THE POSSIBILITY FOR INTERCEPTING THE PRINCIPALS WHO MAKE POLICY DECISIONS AND GIVE DIRECT TO THE OFFICE WORKERS.
A second vital law was passed subsequent to the Omnibus Crime Control and Safe Streets Act of 1968 which has greatly assisted our investigations. In late 1970, the "Organized Crime Control Act of 1970" was enacted by Congress and this legislation provided the FBI with additional methods of dealing with violators of the federal gambling statutes as it made a gambling operation involving five or more persons who either grossed $2,000 daily or remained in continuous operation for a period in excess of 30 days in violation of this federal statute and no interstate aspect was necessary.

I feel that these two statutes have been of tremendous help in our work and our steadily increasing number of convictions are directly attributable to the passage of these two statutes. The criminal provisions of the organized crime control act of 1970 have been utilized on several occasions in our cases. These statutes involved primarily individuals working for the prime operator who had knowledge of the operation, but who were involved daily on a lower level within the operation. These individuals, on which search
Warrants were served, were subsequently subpoenaed before a federal grand jury for inquiry as to identities of the principals behind the operation. These persons pled the Fifth Amendment, were granted immunity, and continued to refuse to testify, after being granted immunity. As a result they were imprisoned for contempt.

Another example of the use of immunity is the instance of Philip Charles Testa, who has been described as the number two man in the Philadelphia "mob" and who, following the granting of immunity in September 1973, was found in civil contempt of court for refusing to testify before a federal grand jury. He was returned to the custody of the U.S. Attorney General and was incarcerated until January 1975.

Another material aid to a successful prosecution is the witness protection act. Our investigations have definitely shown that gamblers who incur debts are commonly referred to loan sharks. The average bookmaker has a readily available list of such individuals available to him. We have found that it is very common during our gambling investigations to find...
CONTINUED

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A direct tie-in between the persons we are investigating and loansharks because of the nature of the business in which they are involved. It is not unusual for loansharks to sell the indebtedness of an individual to another loanshark. Individuals tied-in with organized crime in many cases earn their living by collecting debts through strongarm tactics. The loanshark usually resorts to threats when he wants his money, is not interested in how the debtor obtains these funds, cares less whether he steals, robs, or whatever, and very clearly impresses on the debtor that if the money are not forthcoming, he, the debtor, will be subject to violence of one sort or another. In most cases such threats cause the debtor to fear for his well-being or perhaps even his life, and as a result the debtor often will commit other crimes to obtain money to appease the loanshark.

Threats are usually explicit and the intentions of the loansharks to the point. An example of this would be statements intercepted during Title III coverage of the number three ranking member of Philadelphia's "mob", who while
SPEAKING TO AN ASSOCIATE IN NOVEMBER 1970, REGARDING A LOAN OCHED HIM BY A PHILADELPHIA AREA WOMAN, STATED "I'M GOING TO RIP HER FACE APART, GIRL OR NO GIRL". THE ASSOCIATE RESPONDED BY STATING THAT "I'M GONNA HIT HER OVER THE HEAD WITH A SLEDGE HAMMER, I'M GONNA HIT HER CAUSE SHE GOT NO BUSINESS DOING THIS. SHE MAKE $500 A WEEK...." DURING THE COURSE OF THE EXECUTION OF A SEARCH WARRANT ON THE MOBSLIER'S AUTOMOBILE AT THE CONCLUSION OF THE AFOREMENTIONED TITLE III COVERAGE, A BASEBALL BAT WAS LOCATED UNDER THE FRONT SEAT OF HIS AUTOMOBILE.

IN CONNECTION WITH ANOTHER LOANSHARK CASE HANDLED BY OUR OFFICE, CONCLUDED IN MARCH OF THIS YEAR, DURING A MONIOTRED CONVERSATION BETWEEN ALEXANDER HARRIZELL, A CLOSE ASSOCIATE OF THE PHILADELPHIA "MOB" WHO WAS A PARTNER IN THIS PARTICULAR LOANSHARK VENTURE WITH A RANKING "MOB" MEMBER AND THE VICTIM, A NEW JERSEY BUSINESSMAN, HARRIZELL TOLD THE VICTIM DURING A CONVERSATION IN WHICH HARRIZELL HAD DEMANDED PROMPT PAYMENT OF MONEY DUE "IF I HAVE TO GET THIS, THEY'LL TELL ME TO DO SOMETHING. I AM GOING TO TELL YOU, I, DON'T IT

17
MIGHT NOT BE TODAY, A MONTH, AH, TWO MONTHS FROM NOW. I
AM, I AM GOING TO GIVE YOU, OH MY CHILDREN. I'VE, I'VE GOT
FIVE OF THEM...I HOPE THEY GET CANCER OF THEIR EYES, THEIR
THROAT, I WILL DO WHAT I HAVE TO DO. WHEN YOU MESS
WITH MY FAMILY...THAT'S THE END OF IT. I AM JUST GOING TO
TELL YOU THE WAY I FEEL. I AM GOING TO DO WHAT I HAVE TO
DO, WHATEVER THEY'LL TELL ME TO DO." DURING A SUBSEQUENT
CONVERSATION BETWEEN HARTZELL AND THE VICTIM FOLLOWING A
TELEPHONE CALL FROM THE VICTIM'S WIFE TO HARTZELL, HARTZELL TOLD
THE VICTIM "SHE HAS TO GO. SHE HAS TO GO. THERE AIN'T NO WAY,
THERE AIN'T NO WAY. HEY, THEY'RE GOING TO LET THE WOMAN
COME IN AND TESTIFY AGAINST HIM AND PUT HER AWAY FOR
TEN, TWENTY YEARS?...SHE HAS TO GO. NOW I'M NOT SAYING
YOUR WIFE, I'M JUST NOT. BUT I'M TELLING YOU THE TRUTH,
WHAT YOU'RE DOING TO ME, IF THEY GIVE ME THE WORD, GO,
I'LL TELL YOU. AND THAT'S THE WAY I FEEL TOWARD LIFE.
'CAUSE I AIN'T GOING TO GET TAKEN A HOLE IN THE HEAD
FOR YOU...I COULD DUST YOU UP RIGHT NOW. BUT WHAT GOOD WOULD
IT DO?...BUT, IF THEY SAY TO ME, AL, 'PUT HIM AWAY'; I AM
GOING TO PUT YOU AWAY... THIS IS THE PRESSURE I GET.
YOU'RE NOT, YOU'RE NOT JUST THE ONE CUSTOMER... YOU, YOU ARE JUST A PAWN." DURING THE ENSUING TRIAL THE VICTIM, AFTER TESTIFYING TO THE AFOREMENTIONED THREATS, WAS ASKED IF ANY OTHER THREATS WERE MADE TO HIM. HE RESPONDED FROM THE STAND BY STATING THAT HE WAS TOLD BY HANIZELL THAT "THEM" KNOW THE BUS DRIVER AND THE BUS ROUTE WHICH HIS CHILDREN TOOK ON THEIR WAY TO AND FROM SCHOOL. VICTIM STATED FROM THE STAND THAT IT WAS CLEAR TO HIM THAT HAD HE NOT FURNISHED THE MONEY TO HANIZELL WHICH HE OWE, HIS CHILDREN WERE TARGETS FOR RETRIBUTION BY THE LOANSHARKS.

VARIOUS CONGRESSIONAL HEARINGS INVOLVING GAMBLING IN ORGANIZED CRIME REFLECT THAT IN ADDITION TO GAMBLING BEING A PRIME SOURCE OF REVENUE FOR ORGANIZED CRIME, THIS ACTIVITY HAS ALSO RESULTED IN THE CORRUPTION OF POLITICAL AND POLICE OFFICIALS. ACCORDING TO INFORMATION AVAILABLE, THERE CONTINUES TO BE SOME CORRUPTION ON THE PART OF SOME POLITICAL AND POLICE FIGURES. DETERRENTS TO CORRUPTION, I
BELIEVE, CONSIST OF SEVERAL FACTORS; THE FEDERAL GOVERNMENT'S INTENSIFIED EFFORT IN GAMBLING INVESTIGATIONS UNDER SECTIONS 1955 AND 1511; LOCAL POLICE ARE DEFINITELY AWARE OF THE FEDERAL GOVERNMENT'S PRESENCE; THE FACT INVESTIGATIVE EFFORTS AND GRAND JURY INQUIRIES ARE BEING MADE TO UNCOVER CORRUPTION. I THINK THAT THE EXISTENCE OF SUCH LEGISLATION HAS DEFINITELY SERVED AS A DETERRENT, BOTH BECAUSE THE POLICE OFFICER IS AWARE OF THE FEDERAL GOVERNMENT'S INTENTION TO PURSUE CORRUPTION AND BECAUSE THE BOOKMAKER UNDERSTANDS THAT PROTECTION TO LOCAL POLICE IS BY NO MEANS ANY GUARANTEE OF NOT BEING RAIDED, ARRESTED, OR CONVICTED. A LARGE SCALE PARTICIPATION IN ILLEGAL GAMBLING EXTENDS FAR BEYOND CORRUPTION. IT IS MY OPINION THAT THERE IS GENERAL APATHY ON THE PART OF SOME POLICE AND OTHER GOVERNMENT OFFICIALS WHO DO NOT THINK IT IS A CRIME TO ALLOW THE PUBLIC TO GAMBLE, THE "VIOLATION OF THE LAW" TYPE OF THINKING. THERE APPEARS TO BE FRUSTRATION ON THE PART OF SOME POLICE OFFICERS WHO HAVE THEIR INVESTIGATIVE EFFORTS REWARDED BY THE BOOKMAKER BEING FINED $25.00 OR $50.00. THE AVERAGE POLICE OFFICER, UNLESS HE IS WORKING A GAMBLING OR VICE UNIT, DOES NOT HAVE THE
OPPORTUNITY TO ARREST THE PRINCIPALS CONTROLLING AN ILLEGAL GAMBLING OPERATION; THE PRINCIPALS WHO HAVE THE MONEY TO CORRUPT SENIOR OFFICERS WHO MAY ON OCCASION DISCIPLINE THE OFFICER ARRESTING THE LOW LEVEL BOOKMAKER.

OUR INVESTIGATIONS TO DATE HAVE NOT DEVELOPED ANY EVIDENCE WHICH WARRANTS PROSECUTION FOR CORRUPTION UNDER SECTION 1511. I BELIEVE THAT IT IS POSSIBLE THAT THE TYPE OF EVIDENCE NEEDED TO PROVE SUCH VIOLATIONS IS OBTAINABLE THROUGH TITLE III ELECTRONIC INTERCEPTIONS BUT MORE PROBABLY BY THE SUCCESSFUL PROSECUTIONS OF KEY PRINCIPALS IN THE VARIOUS GAMBLING OPERATIONS. THEIR COOPERATION, AFTER CONVICTION AND SENTENCING, COULD PROVIDE THE NECESSARY EVIDENCE AS IT HAS IN OTHER AREAS. GENERALLY, THE PRINCIPAL IN AN OPERATION WILL PROVIDE FOR ANY PROSECUTION BEING PURSUED.

SINCE OUR ENTRY INTO THE INVESTIGATION OF VIOLATIONS OF FEDERAL GAMBLING STATUTES, WE HAVE AS IDENTIFIED BEFORE, OBTAINED THE CONVICTIONS OF 267 INDIVIDUALS. OF THESE INDIVIDUALS, THE VAST MAJORITY HAVE BEEN PLACED ON PROBATION FOR PERIODS RANGING FROM 3 MONTHS TO 5 YEARS; FINES ASSESSED
RANGED FROM $100.00 TO $10,000; JAIL SENTENCINGS HAVE RANGED FROM 6 WEEKENDS TO ONE YEAR AND A DAY. I STRONGLY FEEL WHEN AN INDIVIDUAL FACES A SUBSTANTIAL PERIOD OF INCARCERATION, A DETERRENT FACTOR IS ENCOUNTERED.

BOCKHAKERS HAVE BEEN ACCUSED TO FINES AND SHORT PERIODS OF PROBATION. NEITHER OF THESE PENALTIES SUBSTANTIALLY HURT OR SERVE AS A DETERRENT. JAIL SENTENCES AND THE USE OF THE IMMUNITY STATUTORY, WHERE KEY EMPLOYEES HAVE ACTUALLY BEEN CONVICTED FOR PERIODS OF 18 MONTHS, I BELIEVE ARE THE TYPE OF DETERRENTS REQUIRED TO CREATE A REAL IMPACT ON THE BOCKHAKING COMMUNITY.

I WOULD LIKE THE COMMISSION TO BE AWARE THAT IN CONNECTION WITH OUR GAMBLING INVESTIGATIONS, IT HAS BEEN OUR PRACTICE TO HAVE RECORDS SEIZED IN GAMBLING RAIDS AVAILABLE TO THE INTERNAL REVENUE SERVICE. THAT AGENCY'S SEIZURES, ASSESSMENTS, AND PROSECUTIONS ALSO HAVE HAD AN IMPACT. INTERNAL REVENUE SERVICE ASSESSMENTS HAVE BEEN IN THE MILLIONS. IN ADDITION TO FURNISHING INFORMATION TO THE INTERNAL REVENUE SERVICE IN CONNECTION WITH OUR INVESTIGATIONS. WHEN INFORMATION IS DEVELOPED DURING THE COURSE OF GAMBLING RAIDS AND SUCH ITEMS AS NARCOTICS OR WEAPONS ARE SEIZED THE DRUG ENFORCEMENT*
AGENCY AND THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS ARE
ALSO PROMPTLY ADVISED AND THE NATURE OF EVIDENCE SEIZED MADE
AVAILABLE TO THEM. WHEN PERTINENT, EVIDENCE AND DATA OF
INFORMATION TO OTHER AGENCIES ARE PROMPTLY FURNISHED TO THESE
RESPECTIVE AGENCIES.

IN ADDITION TO OUR DEALINGS WITH THE AFOREMENTIONED
FEDERAL AGENCIES, WE WORK CLOSELY WITH LOCAL POLICE DEPART-
MENTS IN THE ENFORCEMENT OF GAMBLING LEGISLATION AND ALMOST
DAILY DISSEMINATE INFORMATION PERTAINING TO BOOMMAKERS
WHICH OFTEN RESULTS IN RAIDS AND ARRESTS BY THE LOCAL DEPART-
MENTS. WE HAVE ENGAGED IN MANY COOPERATIVE VENTURES WITH LOCAL
LAW ENFORCEMENT AND, WHEN APPROPRIATE, INCLUDE LOCAL POLICE
IN OUR RAIDING TEAMS. COOPERATION WITH LOCAL POLICE DEPART-
MENTS, INCLUDING THE PHILADELPHIA POLICE DEPARTMENT, HAS BEEN
EXEMPLARY.

I FEEL THE COMMISSION SHOULD KNOW THAT OUR INVESTI-
GATIONS AND OUR INTELLIGENCE INFORMATION INDICATE THAT THE
LEGALIZED LOTTERY IN PENNSYLVANIA HAS HAD LITTLE OR NO EFFECT
ON ILLEGAL GAMING. IT WOULD APPEAR THAT LOCAL LOTTERIES
ARE NOT GEARED TO COMPETE WITH ILLEGAL GAMING. I BELIEVE

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THAT THE GENERAL PUBLIC IS APATHETIC TOWARD ENFORCEMENT
OF GAMBLING LAWS. ALL TOO MANY PEOPLE LOOK AT ILLEGAL
GAMBLING AS A VICTIMLESS CRIME. UNFORTUNATELY, WHAT THEY
DO NOT REALIZE IS THE BRUTALITY THAT IS EXERCISED BY
ORGANIZED CRIME IN PROMOTING GAMBLING AND OTHER ILLEGAL
ACTIVITIES. I HONESTLY DO NOT FEEL THAT THEY HAVE ANY
UNDERSTANDING OF THE FACT THAT GAMBLING EXPLAINS THE SINGLE MAJOR
SOURCE OF INCOME FOR ORGANIZED CRIME. THESE SAME PEOPLE SLOW
IF EVER, SEE THE SUFFERING INCURRED BY VICTIMS OF LOANSHARKS
WHO FEED OFF THE PROFITS OF GAMBLING.

IT DOES NOT SEEM POSSIBLE TO COMPLETELY ELIMINATE
ALL FORMS OF ILLEGAL GAMBLING. I THINK THAT WE IN LAW
ENFORCEMENT HAVE FOUND THAT GAMBLING LAWS DO NOT STOP GAMBLING
BEFORE IT TAKES PLACE. IT WOULD APPEAR THAT A MORE REALISTIC
GOAL WOULD BE TO ATTEMPT TO CONTROL ILLEGAL GAMBLING. IF
THE PRINCIPALS AND PROMOTERS INVOLVED IN ILLEGAL GAMBLING WERE GIVEN JAIL TERMS, LONG PEIIODS OF PROBATION, AND SIGNIFICANT
PENALTIES, ASSESSMENTS AND FINES BY THE INTERNAL REVENUE
SERVICE, THE PROFIT PICTURE WOULD NOT BE SO APPEALING. THERE

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WOULD THEN BE THE SERIOUS QUESTION ON THE PART OF EMPLOYEES
WITHIN THE BOOKMAKING ENTERPRISE AS TO WHETHER THE CHANCE WAS
WORTH THAT THEY WERE BEING PAID. ORGANIZED CRIME NEEDS THE
EMPLOYEES TO EFFECTIVELY OPERATE A BOOKMAKING OPERATION.
MAJOR OPERATIONS CAN BE PUT OUT OF BUSINESS AS THEY HAVE IN
THE PAST. THE SMALLER GROUPS WILL LACK THE POWER, POLITICAL
AFFILIATION'S, AND BUSINESSES OF THE GROUPS NOW IN CONTROL.
THERE WILL BE INDIVIDUALS WILLING TO TAKE THE CALCULATED
RISK TO MOVE INTO THE Voids CREATED, BUT THROUGH CONTINUED
PRESSURE THESE NEW PRINCIPALS WILL HAVE DIFFICULTY IN RECRUITING
EMPLOYEES TO BUILD THEIR Ventures INTO A MAJOR GAMBLING OPERATION.
GAMBLERS FEAR INCARCERATION AND STRONG PRISON SENTENCES.

I BELIEVE THAT CONGRESS HAS GIVEN THE FBI THE
EQUIPMENT TO DO THE JOB, GIVEN THEM THE SMALL DO JOB.

REGARDING THE QUESTION WHETHER LEGALIZED GAMBLING
WOULD HAVE AN IMPACT ON ILLEGAL GAMBLING, IT IS OUR EXPERIENCE
THAT IN SHORT AREAS WHERE LEGALIZED GAMBLING EXISTS IT IS A
DETERRENT TO THE ILLICIT OPERATIONS OF THE UNDERWORLD. WE
HAVE ALSO FOUND THAT THERE IS LITTLE OR NO IMPACT ON SUCH

25
RELATED AREAS AS GRAND AND CORRUPTION OR THE ASSOCIATED
CRIMES OF BURGLARY AND ROBBERY. BECAUSE CONVENIENT COLLECTION
SERVICES ARE AVAILABLE WITH THEIR READY CREDIT SITUATIONS,
THE WIDE VARIETY OF WAYS AND TAX ADVANTAGES OFFERED BY THE
CRIMINAL GROUPS, LEGALIZED GAMBLING HAS NOT BEEN TO LURE
AWAY THOSE INDIVIDUALS DEALING WITH IlLEGbL GAMBLING.

I WANT TO THANK YOU AGAIN FOR THE OPPORTUNITY TO
APPEAR BEFORE THE COMMISSION TODAY, AND I HOPE THAT WE HAVE
MADE A WORTHY CONTRIBUTION.
(Hearing recessed 12:50 p.m.; reconvened 1:30 p.m.)

MR. COLEMAN: Welcome back to the Commission meeting. This is the Commission on the Review of the National Policy Toward Gambling, the second day of hearings being held here in Philadelphia.

The next witness is Joseph O'Neill.

Mr. O'Neill is the Police Commissioner in Philadelphia. Mr. O'Neill has also been the Chief Inspector of the Detectives Bureau. We welcome you, Mr. O'Neill. You have a prepared statement, which you can either read or summarize as you see fit.

MR. O'NEILL: Yes, sir. I would like to formally introduce to the group Chief Inspector Frank Scafidi, who is responsible for our Internal Affairs Bureau within the Department.

Gambling has been a reality almost from the beginning of recorded history.

Certainly, during the lifetimes of the members of this panel, we all are aware of the impact exerted by this activity on our daily lives.

From time to time, campaigns have been launched to eradicate gambling. Laws have been passed. Speeches have been made. Investigations have been conducted. I feel safe in saying that
all this activity on the part of law enforcement has not dimmed the enthusiasm of our citizenry who wish to gamble.

This problem is one that we should attempt to revise and turn into an asset for use by the entire community. This inborn desire on the part of so many people to win or lose on a game of chance—should turn around to the advantage of our government and our people. By suppressing this activity, we are driving these people into the hands of the criminal to find an outlet for this activity; they must go to those who offer an opportunity for them to do so. The community thereby loses control of the operation. No tax revenues are derived from the millions of dollars wagered and no efficient way has been found to keep undesirables, criminals and other opportunists out of this business.

It is difficult for law enforcement and especially the police to effectively enforce gambling laws.

Contrast the public attitude against robbery, burglary and rape as against those laws regulating gambling. Very few people favor the robber or the rapist. On the other hand, great numbers of people see no real threat to them or
their community from gambling or from those who take part in the gambling operation.

We, the police, do not have the public support for the fight against gambling that is experienced in the criminal field. The so-called "victim" is difficult to pinpoint in the gambling area, thus we have few people who are actively involved in the activity that give us a legitimate cause for action. People gamble because they want to do so. There are those who should not gamble, just as there are those who should not drink alcohol or smoke tobacco because these actions are particularly harmful to them as individuals. These people cannot be effectively protected against themselves under our present system.

"Victimless" crimes is a term tossed about by those who wish to abolish all vice laws. In reality, there are no such categories as "victimless" crimes.

If an activity is criminal—there is a victim. Prostitution has a victim—the prostitute—or sometimes—the patron. These people may not consider themselves as "victims" but in reality they are. Narcotics, liquor violations, gambling, and sexual displays in print or in person all have
victims just the same as if these people were attacked with a weapon. Sometimes, the end effect on them and their families is in some ways more devastating than the physical attack.

I single out gambling for special consideration because I believe that we, as a community, can live with some form of legalized gambling. It would be beneficial to us as a community in many ways:

1. It is estimated that several million dollars a year is wagered by illegal gambling activities in Philadelphia each year. This money could be channelled into legalized activities resulting in some portion being diverted to government for the benefit of all.

2. Most of our manpower now being expended on investigating, arresting and presenting evidence against gamblers and related activities could be diverted to suppression of violent crime and other services to the people.

3. Last year, only six persons of 2,937 arrested charged with gambling went to prison on that charge. The time of the police, the prosecutors, witnesses and the Courts and Judges could be re-channelled toward more meaningful objectives.
4. Legalization would set standards for all gambling activities. The operators would be known. Rules of operation could be set. Everyone, including the police, would know what the rules were and they could be applied equally and fairly to all.

5. We should review the possibilities of a 2-year moratorium on the enforcement of certain gambling laws. During this period, state authorities could grant interim licensing privileges to permit "bookmakers" to operate under carefully-controlled conditions.

Today, we tolerate certain non-profit organizations resorting to gambling ostensibly to raise funds. The same type gambling for others is illegal. These operations must all be uniform and they must adhere to the same guidelines—if we are to treat all people the same.

These then, are my ideas and recommendations relative to gambling. Give them some thought and use them in your deliberations to reach a decision.

Let no one harbor the thought that because of anything stated here today, that the Philadelphia police will permit any laxity or let-up in the enforcement of the present laws against gambling—we
will not.

MR. COLEMAN: Thank you, Commissioner.

BY MR. COLEMAN:

Q Attached to your written statement you have kindly supplied us with some figures on gambling arrests starting with the year 1969 and the results of the arrests. I suppose most significantly going down to last year, 1974, there appears to have been a gradual decline in the number of arrests. Can you comment on that?

A Yes, sir. We have tried to be more effective in the arrest of gamblers, persons involved in the operation. As a result of this, we have been more selective, and we have had a higher rate held for court.

Q Now, on the last page you divide the categories into "lottery" and "horse wager." I may not be entirely familiar with the court system here, but just for 1974 the total cases in lottery, 2,408; held for court 1,885, and discharged at the hearing the balance. Now, what does that mean where you say "discharged at hearing"? They didn't get to trial?

A That's correct. They were discharged probably at arraignment court in these situations.

Q The others were held for court. Now, they all went to trial?

A Yes, sir.
Q We heard from the District Attorney yesterday that those discharged at hearing would be on the recommendation of the District Attorney's Office. Is that correct?
A More often than not, yes.
Q Just so we understand it, are there some that are discharged merely by the District Attorney's Office, saying that they are to be dismissed, or must they all go before the court?
A No. They make a recommendation to the arraignment court judge. The arraignment court is the first step. That is in the Police Headquarters Building.
Q Those discharged at the hearing would be at that level?
A Yes, primarily. Some would go into other areas.
Q Speaking yesterday with the District Attorney, either I or someone proposed a question. After the arrest has been made by your police officers, was there any discussion prior to the recommendation of the dismissal with your Department, and the answer was no.
A More frequent than not, this is the case.
Q What effect would you say that procedure has on the willingness to continue men in the street, your police officers, to go out and make arrests?
A I would say it makes it more difficult for us to keep up the enthusiasm among the people out in the street.
Q The figures we got yesterday indicated that the convictions were comparatively fewer, and as you have just told us, after that, sentences were even fewer. What does the average fine consist of where there is not a sentence?
A I dare say it would be $100 or less.
Q Would that be for something like lottery numbers or runners?
A It could be either lottery or bookmaking. While we are on the subject, I must preface my comments by saying that under the Pennsylvania Supreme Court ruling we cannot identify individuals by names unless their case is totally completed. I have here a 54-year old male, for example, who I know of from having been the inspector in the South Division in years past. He has had 101 total arrests. 94 of these have been for gambling. He has been convicted 15 times, and he went to prison five times. Now, his prison terms were one month to 12 months on one occasion and six months to 12 months on four occasions, meaning he did the minimum.

We have another one, 63 years of age. The total arrests were 115. 49 of those were for gambling; 6 convictions. He went to prison one time for six to 12 months.

We have a 57-year old male with 71 total
arrests. 62 of these were for gambling; 19 convictions. 
He went to prison 13 times, each and every case under 
six months.
Q What is the minimum he would serve then?
A He served the minimum, probably. Also, he was some 
kind of a hardship case, and so forth. They all have 
heart trouble, diabetes, et cetera, very conveniently. 
We have a 60-year old who has 63 arrests, 55 of them 
for gambling and 20 convictions. He never went to jail.
Q Are these numbers violations, basically?
A Numbers and horses, both. In these particular 
instances they are primarily numbers. Illegal lotteries 
we call them. I have another one, 61 years of age. He 
has been arrested 59 times. 34 of these were for 
gambling and 10 convictions. He went to prison three 
times, 30 days, 60 days to 12 months, and 3 to 12 months. 
I have another one, 57 years of age, 59 
arrests, 51 gambling arrests with 15 convictions. He 
grew to prison three times 6 to 12 months. If you will 
just eliminate the names, sir, I will pass one of these 
up if you are interested.
Q We are very interested in the statistics.
A I just have one more. I don't want to burden you 
with these. This happens to be a female, 64 years of 
age, who all of her adult life has been involved in this,
as most of these people are. She has 59 gambling arrests of 71 total and was convicted 7 times, but never went to jail.

Q Commissioner, as you put it in your statement here and just testified to, you intend to continue. There will be no laxity or letup in the enforcement of the present laws, and that will be despite what you have just told us here and just showed us by case evidence that apparently the conviction rate is very slim, despite all your efforts.

A Correct.

Q What's the answer, in your opinion? What about mandatory sentences? What would you think of that?

A I think we have to deal with the problem realistically as I stated, and I think we have to have gambling permitted, some kind of legal gambling. I fail to see where gambling per se is wrong. In the interim, we will continue to make arrests. In fact, on this very date I am certain there is somebody being arrested for gambling. We will try to concentrate on those people whom we believe are the "higher-ups." Despite all of the nonsense you hear about the concentration of higher-ups, the probability of ever getting to the head of any gambling syndicate is extremely remote. We would like very much to see the courts start putting these people away who
are "the little fish." If you continue to get the little fish, ultimately the big fish have to fall by the wayside, because it's kind of an unwritten theory of when the little fish go to jail, the individuals they are working for continue to pay their salaries. Now he has got a double problem. He has got to pay the salary for the individual in jail, and he also has to pay for the replacement. Ultimately, we will get to them.

Q Commissioner, has it been your experience in these so-called little people when they are locked up, that the same bondsman appears in rather short order, and do they pay their own bond fees or own legal fees, to your knowledge, or their own fines?

A I haven't researched that, sir. I just don't know.

Q I think New Jersey is about to try or is trying a pick-your-own three-digit number in the course of their State Lottery. Assuming you were to put that in the State of Pennsylvania alone, with nothing further, no change of tax laws or anything like that, no extension of credit, do you think that would combat the present illegal numbers at all?

A We have a legal lottery here in Pennsylvania, and I would say it will put a dent into the illegal operation, but not too much of one, because you have to do that which the bookmaker or the number writer will do. You
have to extend credit to them, give them some kind of a
note for payment. I, of course, advocate setting up
bookmaking shops as businesses.

Q Licensed by the State?
A Yes, sir, absolutely. I have never played a horse
or a number in my entire life, but if I felt like bet-
ting on a horse today and happened to be off from work,
I could go up to the track right here in Pennsylvania
and go ahead and bet, go right up to the window. Yet,
if I happen to be stuck, if I am one of the working
people, in order for me to place a bet, I have to go to
the bookmaker. Now, he has committed an illegal act,
and so have I. It seems to be absolutely ludicrous. It
seems to me I should be able to go to a legitimately-
licensed bookmaker and say, "Here is my money; here is
the horse; this is the race," et cetera, or play a num-
ber with him.

MR. COLEMAN: Mr. Ritchie, do you wish to
question for the Commission?

MR. RITCHIE: Yes, if I may proceed.

BY MR. RITCHIE:
Q Commissioner, without any reference to the indi-
viduals' names that had those startling numbers of ar-
rests, was there any pattern to the nongambling arrests
or were they usually vagrancy-type arrests, or something?
A  No. I am certain we would find that some arrests were made because payments were not made for gambling debts or possibly they were involved in illegal liquor licenses. They seem to go hand in hand. Some of these people, in addition to this, run speakeasies. They have a combination of illegal activities.

Q  Despite the fact that they are constantly arrested by your Department, that does not seem to deter them from becoming constantly involved in the illegal activities?

A  No, sir. It's a way of life. You have to remember in the particular area where they live and, in fact, in some of our so-called higher class areas in this City and in other communities, the bookmaker and the number writer is not frowned upon or looked down upon. As a matter of fact, I can recall many years ago as a kid I lived in a section of the City where the number writer was a daily visitor to many of the houses, just like the milkman came. He would come along. Now, I think we have pretty much put a dent in.

Q  Do you have any statement of the amount of cost that your Department is presently encountering in enforcing these gambling laws?

A  Nearly $3 million a year.

Q  Is that based upon the number of men that you have
A

Q I wonder if there is nothing confidential about those types of records if you could share with the Commission what your method of arriving at those particular costs is?
A Certainly. We will supply it.
Q Thank you, Commissioner. We are trying to conduct a cost-benefit analysis of what is happening presently, and those records would be very valuable.

   Would you also explain the reduction in number of arrests based upon your selectivity? Do you attribute that to any particular success that you are diminishing the supply of illegal operators, or is it the supply may have increased but you are just being more discriminating about those people that you wish to arrest?
A When you talk about supply, sir, you are talking about logistics and numbers, I would presume. In reality, I don't think anybody in this City can tell you how many people are involved in the illegal gambling operations.
They just don't know. You don't know whether I, as a number banker or as a horse banker, have six people working for me at six distinct locations, or whether I have two working with me, or whether I have two today and six tomorrow, or if I am taking sports bets. You don't know how I hire people.

For example, the Flyers just went through a victory. Do I hire a dozen people? Do I hire a hundred people for a short period of time? Nobody, to my knowledge, can give you an exact figure. I doubt it will ever be available, even if we legalize gambling. Presumably, we will know the number of legal employees, but I am also certain there will be some illegal gambling just as we have bootlegging, so I wouldn't even hazard a guess, sir.

Q Would you agree in the event the Commission adopts your recommendations and there are legal forms of gambling instituted and, agreeing with you that there might be a possible residual effect of the illegal operators, would you agree that it would be a good strategy to take money from the legal operations to pay for the enforcement of the anti-gambling laws against the illegal operations; that is, take revenue from the legal operation and give it to law enforcement for whatever it costs to enforce the law so that the taxpayers
do not bear the expense of the continued enforcement of the anti-gambling laws?

A It sounds to me like an excellent idea, particularly in view of the fact that the probability of the fact that the people involved in the legal gambling area would hopefully be very prone to turn in those that they know are involved in illegal gambling, just as today we have people who are involved in the liquid refreshment business, alcoholic beverages, beverage licensees, and they frequently are a source of information on illegal operations, because it is their buck you are spending.

Q I take it the $3 million figure is an annual figure?

A It's an approximate annual figure, yes.

Q Could you give us some kind of an idea of how many officers out of the 8,000 plus, I believe you said, in your force that you allocate to this type of enforcement, if you can separate gambling from the rest of the vices in your enforcement?

A I would say approximately 200 would be a reasonable figure.

Q That is all shifts? Is that approximately 200 men per month?

A No. That's on any given day, on a five-day basis, and sometimes they vary their shifts. They work a Saturday or Sunday when necessary, and so forth.
Now, each and every one of them, of course, is responsible for the enforcement of the gambling laws. I would say the probability of your finding open gambling on the streets is remote. I think you have to remember we are in the electronics age. We are in the age of the telephone, and many of these major operations come out of business and factory areas. You have people right within a stone's throw, possibly right within this building, who pick up the telephone and call in their horse wager and never make contact with anyone.

Q Possibly within the room?
A Could be, sir.

Q Your statistics, Commissioner, on the number of people who are arrested for gambling and using the examples you gave us that are committed to some type of incarceration, do you find any similarity between that particular phenomenon relating to gambling and other crimes? Are your courts putting people in jail for other offenses?

A Well, you are hitting on a delicate subject. Not to the degree we would like them to, and if they are putting them in, they are not putting them in long enough. We are going off on a tangent. However, in my opinion, entirely too many prison criminals are walking the streets of this City. Of course, now they are
walking the streets of the surrounding communities, too.

Q You understand the purpose of my question is not to invite any type of controversy between you and the courts. It's just if, in fact, there is a requirement for some different type of treatment of gambling sentences, it has to be based on the fact that they alone are not being sentenced. If criminals are not going to jail for anything, including murder, then it does us little good to recommend a different treatment for gambling.

A I would think percentagewise you would find many more criminals if we for a moment imagine these people are not hardened criminals, as such, are going to jail or at the very least are being convicted. Let me put it that way. Of those convicted, they are going to jail.

Q You mentioned several types of tolerated gambling activities, whether it be by law tolerated or by policy tolerated. Directing your attention to bingo as it exists in the City of Philadelphia, does that provide a morale problem or an enforcement problem for your officers about enforcing other types of laws?

A I don't believe so, because here we tolerate bingo that is presumably run for charitable purposes. Of course, the thing that concerns us is that we feel some of the professionals who run these games take entirely too much percentagewise from them; but this is between
them and the church and the groups they are running it for. This is another area, incidentally, where we have been waiting for a long, long time for legislation to be passed in legalizing that which is tolerated.

Q Do you sense there is any current interest in legalizing bingo and subjecting it to perhaps regulation that may or may not be required?

A Well, I can speak for myself. I am very much interested in it.

Q The impact of the legal state-conducted lottery on the illegal lottery or numbers operations has been a subject of some dispute. You indicated that you felt it had made a dent in it. Is it a significant dent?

Are people likely to buy a lottery ticket from the corner drug store because it benefits the elderly in the State of Pennsylvania as opposed to taking a chance on the illegal lottery, which might result in a great benefit for themselves, should they win?

A No. I am inclined to think in all probability they go to the local store because it happens to be convenient, and there is no problem with it. They don't have to go chasing after any illegal numbers writer or bookmaker, or what-have-you. They go in; they buy their groceries; they buy their cigarettes, whatever they purchase at the same time and buy the ticket. Therefore, the reason I
state it probably made a dent is that they spend that 50 cents or dollar, or whatever it is now. They don't have that to spend on the illegal numbers. I don't think the gambler really thinks about where does the money go. You know, the guy that is playing that particular number or buying that lottery ticket, I think he is interested in winning. When people are selling chances on an automobile, the first thing you are interested in is winning the car. The second thing you are interested in is the fact that this goes to help some home, some boys' home, or what-have-you.

Q Do you have any evidence which you have developed through the illegal lottery operators that you have arrested, and perhaps those who have collaborated, which would indicate from their standpoint that the legal state-conducted lottery is a threat to their business?

A No, I do not, sir.

Q Regarding the institution of pari-mutuel wagering on horse races as it exists in this area, has that provided an incentive to be interested in enforcing the laws against illegal horse betting, horse rooms, or enforcing those types of laws, or has it in fact resulted in a disinclination to involve one's self in that from your observations, not from any policy questions? Have your officers been more interested or less interested in
working on horse rooms since pari-mutuel wagering has been legalized?
A I would say their interest has neither abated nor has it increased. With them, it's a job. They are told to do it; they do it.
Q This question can be directed to either one of you, the Chief Inspector or the Commissioner. You have an internal security section. Is it independent and reporting only to the Commissioner or is it an integral part of the force?
A Independently reports directly to me.
Q How large is your internal security section, sir, if you can say?
A Well, I prefer not to say, sir.

MR. RITCHIE: I yield to Mr. Farrell or Dr. Allen.

BY MR. FARRELL:
Q Could one reason why you are in favor of legalization be because you think it would help ease the problem of corruption that stems from gambling in a large city?
A I am reasonably sure it would. As I stated, I would like to see a moratorium on it, and let us see just what happens.
Q Sort of a trial basis?
A Sort of a trial basis. I might be proven totally
wrong. If so, I will say I was wrong, or I may be proven right. In that case I would say, "Well, those of us who feel that way were right."

Q Are police officers out on the street being placed in a very difficult situation now because of public apathy and the amount of money they are offered by gamblers? It seems it is difficult to enforce the law. Does it make it reduce their desire to prosecute? Are they being put in a very tough situation by gambling laws?

A No, I don't really think so. I would say we have out there some people who would do or not do their job, depending on how much is offered to them. Conversely, I dare say of the over 8,000 men we have, the vast majority of them do the best they can, day in and day out under the law. Despite some of the statements made, like "open wide" and "widespread," I defy anybody in this room to go out as a stranger and find a bookmaker that will take their bet or find a numbers writer that will take a number for you.

Q You would not adopt a policy of not arresting gamblers on your own? You don't feel this is appropriate; is that correct?

A Absolutely not. We are responsible to uphold the law. The law in this State states it is illegal, and,
therefore, we will continue our efforts to arrest those people who are violating the law.

Q If the District Attorney told you that he wasn't going to prosecute any gamblers and made it public, would that change your position at all?

A It would. It would be a lessor in frustration. We certainly wouldn't go out and arrest them if he wasn't going to prosecute them. I may have mentioned this to you in our conversation before. We now have some screening by the D.A., and there are instances where we arrest people with X number of numbers, and the D.A. in his opinion says, "I don't feel this is prosecutable. This individual has no prior arrest record or his arrest record is minimal. I would suggest that we don't follow it through." This is what we do. We don't. We listen to them. We also do this in the area of narcotics when we have a minimal amount of marijuana, for example.

Q I feel compelled to give you a chance to respond to some of the testimony we had yesterday about police corruption in Philadelphia. Is there anything that you wish to respond to by saying you don't think it's a severe a problem as we have heard or don't you feel any comment is necessary?

A Well, I don't know totally what you have heard, but I have a little quote here from Mr. Walter Phillips.
"Illegal gambling is open and widespread in Philadelphia and flourishing because of paid for protection by members of the Philadelphia Police Department." Well, this in my opinion is certainly erroneous on its very face. We in the Department are cognizant of the fact in any large organization, and indeed in fact in any small organization, that there are people who succumb to temptation. We are aware of that. However, "open" implies that specific, easily-identifiable paraphernalia is used in our lottery material, and there is open solicitation on the streets, and these open operations are easily identifiable and susceptible to the men of this Department, and I say it is not true. I suggest he offer proof or evidence to support the allegation.

In fact, he stated, I think, on occasion, clearly and emphatically that, just as I stated, most of the gambling activity is done by phone, and it is difficult to break up. We also know, of course, they use flash paper, rice paper, code name, numbers, and they also all suggest strongly they are concerned about the police. Otherwise, why would they go to this trouble? Why bother with flash paper, rice paper, code names, and numbers? Why not do what they did in New York? They give you a duplicate slip. In Philadelphia when you play a number, the fellow doesn't write it down and say,
"Hero is your copy." There just is no such thing.

Q Francis Schafer, who is going to testify later on today, proposes that if gambling were legalized, part of the money should be used to raise police salaries. Do you think this would help make the police less likely victims of pressure to be corrupt in gambling-related encounters?

A Well, I don't know. When you get into this salary issue, all you have to do is take a look at some of the people in this nation who have fallen by the wayside and look at the salary scales they have, so I'm not so sure that is the answer. I would be perfectly willing to see some of the folks who aren't benefiting now, like the older folks and the deprived folks, benefit from these funds.

MR. FARRELL: Thank you very much.

MR. COLEMAN: Dr. Ethel Allen, who, Commissioner, I am sure you know is a member of the City Council, is here. We welcome you. I am sorry you couldn't be here earlier.

BY DR. ALLEN:

Q Commissioner, how many cases of corruption relative to gambling would you say that your internal security squad has had to investigate over the last ten years?

A I can't take it back that far, Doctor, but I think
Frank has the figures for the last few years.

MR. SCAFIDI: We did a quick analysis of 1971-1974 inclusive. We brought formal disciplinary charges against 108 police officers strictly on gambling-related corruption.

DR. ALLEN: That is the thrust of my question.

MR. SCAFIDI: 10 of those 108 were found not guilty. The other 98 were punished to some extent, either through arrest and dismissal or dismissal, resignation under charges, and suspension in the lesser cases.

BY DR. ALLEN:

Q You don't accord them the same degree of treatment that you accord a citizen who is participating in gambling? In other words, even though he is guilty of corruption under a gambling circumstance, he is strictly under the jurisdiction of the Police Department and is not remanded to the prosecutor's office for punishment in most cases?

A He may or may not be. It all depends on the type of situation. In most of the circumstances, indeed, I would say, in all of them, we conferred with the District Attorney.

MR. SCAFIDI: Where there was evidence of
criminality, and in most cases there was, it was discussed fully with the District Attorney, and we abided by his recommendation. That did not preclude us from taking departmental action against the officer.

Q What do you evidence as criminality? Bribery? Extortion? What?

MR. SCAFIDI: That's right, ma'am. The two major categories are seeking a payoff, which I think you can see is difficult to prove and, two, the association with gamblers, which falls short of criminality but is against the departmental regulations.

Q Then you are running 10 percent, which is a much higher ratio of activity than is exhibited by virtue of the Municipal Court records limited to the police who are arrested versus the number of convictions, which you say run about two percent; so you are running about ten times their ratio on your treatment of corruption in the Department?

A 93 percent conviction rate compared to 10 percent stated.

Q Do you confer with the District Attorney in the
initial phases after that investigation is completed and you feel you have some finding, or do you wait until after the formal inquiry is held and adjudication is made by the Police Inquiry Board?

A It will depend on the particular investigatory board. There are some that go like that, where you have data today of a payoff going to take place tomorrow. The probability is it will go through, and you make the apprehensions, and then we confer with them. Then you also have other situations where you get information that is going on with specifics. This requires some investigation to determine whether or not there is any accuracy to the complaint, to the information given to you, and frequently you find there isn't.

Where there is, then you get to the stage where you confer with the D.A. to determine whether or not in his opinion criminality is evident.

Q What percentage of your total manpower is your vice and gambling squad?

A Each and every individual in the Department is responsible for the enforcement of all laws. Now, if we take approximately 200 people here specifically involved in this and then we compare that with the 8,000 that we have, then 80 would be one percent and 160 would be two percent. It would be about 2.5 percent.
Q How many women are utilized in those activities?
A They are utilized periodically when the need arises for them. If today, for example, we were going to go after an operation in which women were involved in the illegal aspect of it, where we felt a woman could be beneficial to us, she would be utilized. The women, of course, are absolutely utilized in the search of the person, of the females we take into custody.
Q Are they utilized on the Inquiry Board?
A If a woman comes before the Board, yes.
Q Inspector Scafidi, you said 103 cases were brought to the attention of the Department over the period between 1971 and 1974. Were the predominance of these cases in the latter two years or predominant in the other two years?
A (Inspector Scafidi) I believe the earlier two years had the higher figures. Unfortunately, I categorized it by the result of the police action; that is, arrest and dismissal, rather than by years.

Off the top of my head, I would think the greater activity was in the earlier two years, 1971-1972.

DR. ALLEN: We will take a recess at this point.

(Ten-minute recess.)

Q I don't know whether anyone has asked this before
or not, Commissioner, but do you feel in the period of your tenure with the Police Department that there has been or there is now any correlation between organized crime or the syndicate, however you wish to label it, and police corruption in the City of Philadelphia?

A I think it's an extremely broad question. When you say "organized crime," particularly in view of the fact that my time in the Department has been primarily in investigative work, I also ask the questions who, why, what, when, and where. We read about "organized crime," and a lot of this cannot be neither supported nor refuted. That is the difficulty sitting right here in this chair and you sitting there. We probably believe that there are certain people who are involved in syndicates or organized crime, but believing it and proving it are very far apart, particularly in this world of rights that we live in today. I dare say neither you nor I would be so bold to say that this one or that one is engaged in it.

Q One final question. Do you feel the legalization of gambling would free your men who are involved in the activity relative to the enforcement of gambling statutes to the extent that you would be able to make any viable or visible impact on the other violent crimes that are commonly referred to as victim crimes?

A Yes.
Q You do? Then what segment of your budget would you say at the present time is devoted to the enforcement of the gambling statutes?

A We gave that prior to your coming in.

DR. ALLEN: Thank you very much.

Mr. Ritchie?

BY MR. RITCHIE:

Q Commissioner, your counterpart in Boston urged the Commission, not unlike yourself, to consider legalization for many of the same reasons. We have had additional testimony from other levels of law enforcement who have urged the Commission to continue prohibition of gambling; that is, the anti-gambling laws we have for many of the same reasons. Have you made your views known to a political process? Is there any interest on the part of your legislature in making some sense of this hodgepodge of laws that we presently have?

A Yes. Some few years ago we had a committee here from the State. At that time I made my views very clear, and the then Mayor made his views, and the present Mayor is of the same opinion as I. I don't advocate we just legalize it, period. I maintain we should give it a try. Nothing excepting death is irreversible. If it did not work, then we could always go back to enforcement of the law. I don't mean to be repetitious, but the way it is
now it is a lesson in frustration. We are arresting people over and over again, and they are seldom being convicted. Those being convicted are not going to jail for long periods of time, and we are not really getting to the heart of it.

MR. RITCHIE: Commissioner, on behalf of the staff, we wish to thank you for your cooperation and your participation.

I would like to have the record reflect that ours is a continuing request. We will be developing a great deal of information. We frankly would like to have the fine judgment of candid officials such as yourself in the future, if you would not mind continuing to take time from your busy schedule to work with us.

MR. COLEMAN: I might ask, Commissioner, those case histories that you gave us, which I found to be very interesting, to say the least, if there is some way you could clip off the names and send it to us, I am sure it would be quite helpful to us.

COMMISSIONER O'NEILL: I would be perfectly willing to leave them with you. I certainly have the confidence in you to know you would eliminate the names. It's very simple, if that would be your
pleasure.

MR. COLEMAN: It would be very interesting.

I would appreciate it.

DR. ALLEN: On behalf of the Commissioners, Commissioner O'Neill, I would like to thank you for your presentation and taking the time to be with us.

COMMISSIONER O'NEILL: Thank you for asking.

MR. COLEMAN: For the record, Dr. Allen will chair the meeting.

DR. ALLEN: Our next witness is Dr. Donald Cox.

DR. COX: Madam Commissioner and other members of the Commission, I want to thank you for putting me on here as a pinch-hitter for the distinguished Judge Lord on short notice. I was not on your agenda, but as one of the five members of the Pennsylvania State Lottery Commission appointed by the Governor, I was out in Lancaster this morning at an official State Drawing, and I read in the paper about your hearings, and I thought I would come by and make a brief statement. I have no printed statement.

As you know, we are appointed by the Governor to serve in a three and a half-year-old
POLICY TOWARD GAMBLING

JOSEPH F. O'NEILL
POLICE COMMISSIONER
PHILADELPHIA, PA.

WM. J. GREEN, JR.
FEDERAL BLDG
600 ARCH STREET
MAY 29, 1975
GAMBLING HAS BEEN A REALITY ALMOST FROM THE BEGINNING
OF RECORDED HISTORY.

CERTAINLY, DURING THE LIFETIMES OF THE MEMBERS OF
THIS PANEL, WE ALL ARE AWARE OF THE IMPACT EXERTED BY
THIS ACTIVITY ON OUR DAILY LIVES.

FROM TIME TO TIME, CAMPAIGNS HAVE BEEN LAUNCHED TO
ERADICATE GAMBLING. LAWS HAVE BEEN PASSED, SPEECHES
HAVE BEEN MADE, INVESTIGATIONS HAVE BEEN CONDUCTED. I
FEEL SAFE IN SAYING THAT ALL THIS ACTIVITY ON THE PART OF
LAW ENFORCEMENT HAS NOT DIMMED THE ENTHUSIASM OF OUR
CITIZENRY WHO WISH TO GAMBLE.

THIS PROBLEM IS ONE THAT WE SHOULD ATTEMPT TO REVISE
AND TURN INTO AN ASSET FOR USE BY THE ENTIRE COMMUNITY.
THIS INBORN DESIRE ON THE PART OF SO MANY PEOPLE TO WIN OR
LOSE ON A GAME OF CHANCE - SHOULD TURN AROUND TO THE
ADVANTAGE OF OUR GOVERNMENT AND OUR PEOPLE.
BY SUPPRESSING THIS ACTIVITY, WE ARE DRIVING THESE PEOPLE
INTO THE HANDS OF THE CRIMINAL TO FIND AN OUTLET FOR THIS
ACTIVITY, THEY MUST GO TO THOSE WHO OFFER AN OPPORTUNITY
FOR THEM TO DO SO. THE COMMUNITY THEREBY LOSES CONTROL OF
THE OPERATION. NO TAX REVENUES ARE DERIVED FROM THE
MILLIONS OF DOLLARS WAGERED AND NO EFFICIENT WAY HAS BEEN
FOUND TO KEEP UNDESIRABLES, CRIMINALS AND OTHER OPPORTUNISTS
OUT OF THIS BUSINESS.

IT IS DIFFICULT FOR LAW ENFORCEMENT AND ESPECIALLY
THE POLICE TO EFFECTIVELY ENFORCE GAMBLING LAWS.

CONTRAST THE PUBLIC ATTITUDE AGAINST ROBBERY, BURGLARY
AND RAPE AS AGAINST THOSE LAWS REGULATING GAMBLING. VERY
FEW PEOPLE FAVOR THE ROBBER OR THE RAPIST. ON THE OTHER
HAND, GREAT NUMBERS OF PEOPLE SEE NO REAL THREAT TO THEM OR
THEIR COMMUNITY FROM GAMBLING OR FROM THOSE WHO TAKE PART
IN THE GAMBLING OPERATION.
WE, THE POLICE, DO NOT HAVE THE PUBLIC SUPPORT FOR THE FIGHT AGAINST GAMBLING THAT IS EXPERIENCED IN THE CRIMINAL FIELD. THE SO CALLED "VICTIM" IS DIFFICULT TO PINPOINT IN THE GAMBLING AREA, THUS WE HAVE FEW PEOPLE WHO ARE ACTIVELY INVOLVED IN THE ACTIVITY THAT GIVE US A LEGITIMATE CAUSE FOR ACTION. PEOPLE GAMBLE BECAUSE THEY WANT TO DO SO. THERE ARE THOSE WHO SHOULD NOT GAMBLE, JUST AS THERE ARE THOSE WHO SHOULD NOT DRINK ALCOHOL OR SMOKE TOBACCO BECAUSE THESE ACTIONS ARE PARTICULARLY HARMFUL TO THEM AS INDIVIDUALS. THESE PEOPLE CANNOT BE EFFECTIVELY PROTECTED AGAINST THEMSELVES UNDER OUR PRESENT SYSTEM.

"VICTIMLESS" CRIMES IS A TERM TOSSED ABOUT BY THOSE WHO WISH TO ABOLISH ALL VICE LAWS. IN REALITY, THERE ARE NO SUCH CATEGORIES AS "VICTIMLESS" CRIMES.
IF AN ACTIVITY IS CRIMINAL - THERE IS A VICTIM.

PROSTITUTION HAS A VICTIM - THE PROSTITUTE - OR SOMETIMES - THE PATRON. THESE PEOPLE MAY NOT CONSIDER THEMSELVES AS "VICTIMS" BUT IN REALITY THEY ARE: NARCOTICS, LIQUOR VIOLATIONS, GAMBLING, AND SEXUAL DISPLAYS IN PRINT OR IN PERSON ALL HAVE VICTIMS JUST THE SAME AS IF THESE PEOPLE WERE ATTACKED WITH A WEAPON. SOMETIMES, THE END EFFECT ON THEM AND THEIR FAMILIES IS IN SOME WAYS MORE DEVASTATING THAN THE PHYSICAL ATTACK.

I SINGLE OUT GAMBLING FOR SPECIAL CONSIDERATION BECAUSE I BELIEVE THAT WE AS A COMMUNITY CAN LIVE WITH SOME FORM OF LEGALIZED GAMBLING. IT WOULD BE BENEFICIAL TO US AS A COMMUNITY IN MANY WAYS:

1. IT IS ESTIMATED THAT SEVERAL MILLION DOLLARS A YEAR IS WAGERED BY ILLEGAL GAMBLING ACTIVITIES IN PHILADELPHIA EACH YEAR.
THIS MONEY COULD BE CHANNELED INTO
LEGALIZED ACTIVITIES RESULTING IN SOME
PORTION BEING DIVERTED TO GOVERNMENT FOR
THE BENEFIT OF ALL.

2. MOST OF OUR MANPOWER NOW BEING EXPENDED ON
INVESTIGATING, ARRESTING AND PRESENTING
EVIDENCE AGAINST GAMBLERS AND RELATED
ACTIVITIES COULD BE DIVERTED TO SUPPRESSION OF
VIOLENT CRIME AND OTHER SERVICES TO THE PEOPLE.

3. LAST YEAR, ONLY SIX PERSONS OF 2,937
ARRESTED CHARGED WITH GAMBLING WENT TO PRISON
ON THAT CHARGE. THE TIME OF THE POLICE, THE
PROSECUTORS, WITNESSES AND THE COURTS AND JUDGES
COULD BE RE-CHANNELED TOWARD MORE MEANINGFUL
OBJECTIVES.
4. LEGALIZATION WOULD SET STANDARDS FOR ALL GAMBLING ACTIVITIES. THE OPERATORS WOULD BE KNOWN. RULES OF OPERATION COULD BE SET. EVERY ONE, INCLUDING THE POLICE WOULD KNOW WHAT THE RULES WERE AND THEY COULD BE APPLIED EQUALLY AND FAIRLY TO ALL.

5. WE SHOULD REVIEW THE POSSIBILITIES OF A 2-YEAR MORATORIUM ON THE ENFORCEMENT OF CERTAIN GAMBLING LAWS. DURING THIS PERIOD, STATE AUTHORITIES COULD GRANT INTERIM LICENSING PRIVILEGES TO PERMIT "BOOKMAKERS" TO OPERATE UNDER CAREFULLY-CONTROLLED CONDITIONS.

TODAY, WE TOLERATE CERTAIN NON-PROFIT ORGANIZATIONS RESORTING TO GAMBLING OSTensibly TO RAISE FUNDS. THE SAME TYPE GAMBLING FOR OTHERS IS ILLEGAL. THESE OPERATIONS MUST ALL BE UNIFORM AND THEY ALL MUST ADHERE TO THE SAME
GUIDELINES - IF WE ARE TO TREAT ALL PEOPLE THE SAME.

THESE THEN, ARE MY IDEAS AND RECOMMENDATIONS RELATIVE TO GAMBLING. GIVE THEM SOME THOUGHT AND USE THEM IN YOUR DELIVERATIONS TO REACH A DECISION.

LET NO ONE HARBOR THE THOUGHT THAT BECAUSE OF ANYTHING STATED HERE TODAY, THAT THE PHILADELPHIA POLICE WILL PERMIT ANY LAXITY OR LET-UP IN THE ENFORCEMENT OF THE PRESENT LAWS AGAINST GAMBLING - WE WILL NOT.
### Gambling Arrests

<table>
<thead>
<tr>
<th>Year</th>
<th>Bookmaking Male</th>
<th>Bookmaking Female</th>
<th>Bookmaking Total</th>
<th>Numbers &amp; Lottery Male</th>
<th>Numbers &amp; Lottery Female</th>
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<th>All Other Male</th>
<th>All Other Female</th>
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<th>Total Gambling Male</th>
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<td>21</td>
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<tr>
<td>1969</td>
<td>5099</td>
<td>561 (11.0%)</td>
<td>28 (5.0%)</td>
<td>246 (43.9%)</td>
<td>287 (51.1%)</td>
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<td></td>
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<tr>
<td>1970</td>
<td>4943</td>
<td>607 (12.3%)</td>
<td>6 (1.0%)</td>
<td>180 (29.7%)</td>
<td>421 (69.4%)</td>
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<tr>
<td>1971</td>
<td>4601</td>
<td>357 (7.8%)</td>
<td>8 (2.2%)</td>
<td>120 (33.6%)</td>
<td>229 (64.1%)</td>
<td></td>
<td></td>
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<tr>
<td>1972</td>
<td>3606</td>
<td>332 (9.2%)</td>
<td>13 (3.9%)</td>
<td>159 (47.9%)</td>
<td>160 (48.2%)</td>
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<tr>
<td>1973</td>
<td>2542</td>
<td>413 (16.2%)</td>
<td>4 (1.0%)</td>
<td>176 (42.6%)</td>
<td>233 (56.4%)</td>
<td></td>
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<td></td>
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<tr>
<td>1974</td>
<td>2683</td>
<td>274 (10.2%)</td>
<td>6 (2.2%)</td>
<td>113 (41.2%)</td>
<td>155 (56.6%)</td>
<td></td>
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<tr>
<td>TOTAL</td>
<td>23,474</td>
<td>2544 (10.8%)</td>
<td>65 (2.6%)</td>
<td>994 (39.1%)</td>
<td>1485 (58.3%)</td>
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481¢
### LOTTERY

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<tr>
<td>TOTAL</td>
<td>19,719</td>
<td>9277</td>
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### HORSE WAGER

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<td>170</td>
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<td>216</td>
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<tr>
<td>TOTAL</td>
<td>2522</td>
<td>915</td>
<td>1607</td>
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lottery in an advisory capacity, only we do not make policy. I understand from Mr. Ritchie you formerly took testimony from our first executive director, Mr. Kaplan, who has moved on to higher and better things.

I am not here in any official capacity. I am not directed by our new director, Mr. Nelson, or our chairman, Mr. Ter Horst. I am here as a private citizen who has been doing some research in the past six months into organized gambling.

One thing I would like to take issue with is the question Mr. Ritchie asked our Police Commissioner. Could we use any of the net income from legal gambling, such as the lottery, to help in law enforcement? On paper, as a citizen, I would be all for that; but, unfortunately, I am privy to the facts of our commission, and I hate to tell you, and I will not divulge how far down we are this year in the net income as against last year in millions of dollars. I can say at this stage we are down about a third, and that income has been committed by State Statute of the Legislature to benefit exclusively senior citizens of the Commonwealth. That money has already been committed for free bus transportation, rent subsidies, and property tax
subsidies. Now, where the money is going to come
from to make up from that deficit that has been
committed to by the end of the year, I don't know,
but I would like to offer one alternative plan, if
I might.

I understand it was a major issue at your
hearings in Washington, and that is sports gambling.
I understand Mr. Kuhn and Mr. Rozelle testified
against it, and I gather from the New York Times
stories on organized sports, professional sports
gambling, and college sports, that this is probably
the biggest gambling business in America today,
bigger than the numbers game. It's anywhere from a
$20 to $25 billion operation. I can name you stores
within a block of this courthouse where it is going
on with respect to college sports, football, basketball, and professional sports.

Now, in the six months I have been on the
Commission I have done some exploration into the
legitimacy of organized sports gambling. Remember
that I am now speaking as an individual citizen.
I have come to the conclusion it can be done and
done, hopefully, in the open and legally if you draw
the line, and that is to get Federal legislation to
approve sports gambling at the professional level.
only. That is, hockey, basketball, football, and baseball, and to keep the college players out of it, because those hardship cases in college might be susceptible to bribe. Now, the reason I say draw the line at the professional sports level is because I have talked to several professional football players, both active and retired. Two of them are from the Eagles, who are former all pros. I will not mention their names, but they are distinguished players. They both think this can be accomplished. It's going on right now. In fact, these two players admitted while they were playing with the Eagles they were betting on other teams. They were never caught. They would look up at the scoreboard and see which of the two other teams playing in other towns were up or down by how many points. Of course, you know several football players like Paul Hornung and Alex Karras were caught betting a few years ago. Since then the sports players have been pretty honest, and the reason for it is they are paid too well. They are paid so well that it would jeopardize their careers if they accepted any bribe of $10,000 or $20,000, because they would be blackballed for life.

You take the hockey players in our Flyers.
If any of them accepted a bribe to throw the game, such as the goalie, why he would lose a chance of upwards of a million or two million dollars of pay and bonuses in his career. The feeling is among those I have talked to that the professional players are now paid so well that the first string players would probably not be susceptible to big bribes from professional gamblers, either if you had it legal or illegal as it is today.

In college it is a different ballgame, where you have students who are scratching their way through and might bow to a bribe attempt. That’s why I say we should draw the line.

Now, this is probably going to take Federal legislation, because you are talking about interstate sports between teams in one or more states. Even though the betting might take place intrastate, you are talking about a no-man’s land where there is really a whole new area of law. I have talked to a law student who is on the lottery staff, who is going into this in detail. He filled me in this morning with some of the points. One of the points would be a player who is over the hill, who is in his last year, and he has only got a year or two to go as a professional player, he might bow
to a gambler to throw a game. By the way, the type of player who would throw a game, interestingly enough, is not the quarterback; it's the corner back, the one who could drop and fall, not intercept the pass or conveniently fall and let the opposition win back, capture a pass for the winning touchdown. He is the one who is most susceptible to gambling in football.

To conclude my brief statement, I feel we must get professional sports gambling out into the open and get it from undercover. I understand the F.B.I. at your other hearings announced half of their arrests were for illegal sports gambling and numbers gambling. You just heard the Police Commissioner of Philadelphia. I don't know how many of his arrests are for sports gambling, but I know it's going on wide open in this City. I can name the stores where it is taking place, and I would like to see it come above-board for two reasons. One is to get increased revenue for this Commonwealth, and we need it. We could make good use of the net income to benefit our senior citizens. Two, I think in the long run it will reduce the illegal betting and the crime that comes out of it.

That is the end of my testimony. Thank you.
DR. ALLEN: Thank you very much, Dr. Cox.

BY DR. ALLEN:

Q I notice in your testimony you made no reference to exempting the winnings from taxation. How do you feel on that point?

A Well, the problem with the illegal numbers and the illegal sports betting is they are exempt from taxation. That is why they occur. That is a problem all over, and we are waiting to see what happens in New Jersey, which was the first state to start the numbers betting legally.

The greatest advantages of the illegal sports betting, whether its organized sports or numbers or even bookmaking or the horses, is that you have instant winnings, instant payoffs, and no tax. Now, on our new numbers game in Pennsylvania that just went into effect yesterday, which is halfway to the numbers, you write your own number, you have an instant winning, but you get taxed. You get taxed if you have a big winning, and there is no way around it, because we have your name. No matter how you do it, you will get taxed.

Q The thrust of my question is should it be taxed or should it not be if you are trying to be competitive with the illegal operation, which is not taxed? Then doesn't it follow that you would not tax the winnings in a legal operation so that you could thus be competitive?
A To compete with the illegal, the answer should be yes, don't tax them; but I can't see how the Commonwealth can dare pass such legislation that would be tax-free. If not the Commonwealth, the Federal government would step in on the big winnings, the $10,000 and above winnings.

Q Suppose it was a recommendation of this Commission that the Federal government also exempt the winning from taxation? What is your opinion relative to that?

A I haven't thought that one through, Dr. Allen. I would disagree with Senator Scott. I think it's a Federal problem, because of the interstate nature. Because of that, I think the Federal government must think through that question of taxation. I don't know the answer. I know we have to face up to it.

Further reflection on your question might lead me to conclude that it would probably be in the best interest of the Federal government to tax winnings of sports pool betting but at the same time to put strong teeth into penalties for illegal operations of the same type. By this I mean, heavy fines and jail penalties, with no early probation, until the underworld gets the message that the government means what it says.

In the long run, putting illegal sports and numbers betting into the goldfish bowl of public
scrutiny could be the best single move that your Commission could make in its recommendations to Congress.

DR. ALLEN: Thank you very much.

Commissioner Coleman?

MR. COLEMAN: I have no questions. By the way, I appreciate your coming, sir.

DR. ALLEN: Mr. Ritchie?

MR. RITCHIE: I have no questions.

MISS MARSHALL: No questions.

DR. ALLEN: Thank you very much.

Next will be Charles Brown, president of the Pennsylvania District Attorneys' Association.
MR. BROWN: Good afternoon. I am Charles C. Brown, Jr., District Attorney of Centre County, Pennsylvania, and President of the Pennsylvania District Attorneys’ Association.

By way of a little background, Centre County is largely a rural county located in Central Pennsylvania with a population in excess of 100,000, which includes approximately 30,000 students at the Pennsylvania State University, which is the principal employer in the county and the county’s best known institution.

I am in my tenth year as District Attorney of Centre County, having been elected three times. I have one full-time assistant and one part-time assistant. I employ one full-time secretary and one part-time secretary. I also maintain a private practice. The State Legislature has set my salary (and the salary of other Fifth Class County District Attorneys) at $13,500.00.

I have served as President of the District Attorneys’ Association since March, 1974, and will terminate my tenure in office this July. Our Association includes all 67 counties in the Commonwealth and has a headquarters near Harrisburg. We presently have an executive director, a training
co-ordinator and an office secretary. We are hopeful of obtaining funds to continue the headquarters.

In light of the impressive array of experts who have testified—and who will testify—particularly from urban areas—and the statistics that are already in the Commission's possession, I will limit my remarks to those areas and subjects with which I am most familiar.

In communities throughout Pennsylvania, such as those in Centre County, gambling is part of everyday living. I dare say this is true everywhere. Organizations such as fire companies, church groups, scouts, little leagues, fraternal organizations, high school athletic booster clubs, ball teams, etc., rely heavily upon bingo games, raffles and lotteries for income. Without this income many of these groups could not exist. Police officers do not look "the other way" for these money raising projects to go on. The sales of tickets and the games flourish in their presence. To attempt to enforce the gambling laws in such a situation is impractical. To get elected, and to remain in office, public officials—including judges and District Attorneys—find it necessary to buy lottery and raffle tickets to keep the good will of the
many, many people involved. Police officers often find it a political and social necessity to do the same. Frankly, local prosecutors are constantly fearful that someone will file charges against one of these groups that is running a bingo game or a raffle. Obviously the situation is saturated with hypocrisy and selective law enforcement.

Further, local police forces, the state police, and District Attorneys' offices do not have the manpower or finances available to pursue prosecutions of gambling on this level—let alone the desire to do so. Indeed, these limitations also adversely affect investigations and prosecutions aimed at organized crime.

My fellow District Attorneys largely feel the same about this matter. On several occasions the Pennsylvania District Attorneys' Association has passed a resolution favoring legislation permitting bingo where the proceeds will benefit an educational, fraternal or charitable group. It has also been suggested by District Attorneys that raffles and lotteries be legalized where these groups benefit. This would prevent situations where priests are prosecuted for bingo and bingo games are stopped at county fairs. This has happened in
Pennsylvania.

I realize full well that gambling proceeds are a major source of income for organized crime. Gambling proceeds provide the bank roll for other criminal activities. Thus the dilemma! How do we prevent the hypocrisy and permit deserving organizations to raise funds and yet effectively fight the criminal elements in our society?

The following suggestions are not meant to be official pronouncements in the Pennsylvania District Attorneys' Association, but do reflect the thinking of many District Attorneys:

1. Legalize bingo, lotteries and raffles where the organization receiving the proceeds is an educational, fraternal, public service or charitable organization. This no doubt will require licensing by the state and/or local municipality.

2. Permit state-wide lotteries, and perhaps some other forms of gambling, for revenue-raising purposes. Perhaps local municipalities ought to be given this opportunity also. If not, they should be allowed to share in the proceeds.

I have said little about the legalization of gambling as a means of raising funds for government because I have not really studied this question.
However, if the adverse effects of the bureaucracy created to operate the lotteries, etc., do not outweigh the benefits, then I see no reason for not permitting gambling to raise revenues.

3. Take the handcuffs off law enforcement efforts to combat organized crime. I will defer to my colleagues in the urban areas to define what exactly is needed. However, I do have these questions: a) Wire-taps and electronic eavesdropping should be permitted; b) District Attorneys should be given full power to grant immunity to key persons to obtain their testimony before grand juries and at trial; c) To facilitate the investigation and preparation of cases, full subpoena power should be given to District Attorneys.

4. Gambling on sports, such as baseball, football, hockey, basketball and soccer, should not be legalized. The risk of tampering is too great. The Black Sox scandal of 1919 and the college basketball scandals are ample evidence of this fact.

5. Legalization should be approved that would professionalize the District Attorney's office. In Pennsylvania this means such things as raising the salaries of District Attorneys so a private
practice is not necessary, granting tenure to the District Attorney's staff and providing retention election for District Attorneys. This, of course, will provide more effective law enforcement leadership in all phases of crime fighting. Legislation has recently been drafted and will be presented to the Pennsylvania legislature to further these ends.

Law enforcement must be careful that it does not run counter to the flow of an activity—gambling, in this case—which is accepted by a very large majority of the public. This creates an impossible situation as the tide will surely overwhelm us. On the other hand, organized crime is a cancer in our society and should be removed. To do both is a delicate matter.

I hope my remarks will be helpful to the Commission. Thank you very much for permitting me to appear.

DR. ALLEN: Thank you very much, District Attorney Brown.

BY DR. ALLEN:

Q What is your assessment of the accuracy of the investigating and recording done by the Pennsylvania Crime Commission?

A My only comment on that is, number one, I am not
completely familiar with the statistics. I would have no statistical gathering apparatus or function in our operation that I could say, "Well, I think they are wrong." I do know that there is at times conflict involving local prosecutors and local law enforcement agencies with the Crime Commission personnel, particularly those that come into an area and carry on operations and investigations. While that does not address myself directly to your question, I do feel there is some conflict that happens. Maybe it is just personalities. It's one of misunderstanding of functions. It's one of overlapping of functions. Therefore, I am not sure there is the cooperation among these agencies that there should be to get accurate statistics. I can't honestly address myself to the facts and figures. I am familiar with them and I feel they are accurate. I am sort of begging off the question a little with that comment, I am afraid.

DR. ALLEN: Thank you very much.

Commissioner Coleman, as the prosecuting attorney of Monmouth County, New Jersey, do you have any questions to pose to Mr. Brown?

BY MR. COLEMAN:

Q Mr. Brown, in the area where you are, which you have told us somewhat about, is there any organized numbers as
we have in the metropolitan areas?

A I think I could safely say no. I would not say there are not elements of organized crime.

Q How about bookmaking?

A Not really. Of course, I am talking on behalf of State Police and in terms of their investigations. Like the State College borough has maybe 30,000 people. The next biggest borough is Bellefonte. That has about 8,000. You know, it is really a rather small area. Therefore, we are with small police forces.

I think the answer is pretty safe that in rural areas such as Centre County, those things do not exist to any great degree.

Q Just one other question. You mentioned something about the legalization of sports betting, and you definitely say it should not be legalized, and you referred to certain prior scandals in the sports field. Now, we heard a great deal of testimony in the past with regard to professional sports, witnesses saying they should not be legalized. Whether that means they can live with the illegal, I am not sure. Assuming the bribery and going back to the one you mentioned of 1919, I assume it is similar to the more recent basketball scandal. I wasn't around then, and I am sure you weren't either.
Assume those bribes were committed by gamblers, not by bookmakers. In other words, gamblers bribed the basketball or baseball players. Would it really make any difference if it was legal or not if the bettors are the ones who are going to do the bribing?

A I would address myself to the problem involving the bribery, the possibility of bribery from any source. I feel it would be virtually impossible to isolate, or insulate I guess is a better word, the professional or the college athlete from any bribery attempt no matter from whom. That is what I am concerned about, not whether it's the bettors that are doing it or the bookmakers that are doing it. I feel we try to keep the sports figures, the teams, away from any kind of tampering. That is my concern. It would make no difference to me whether it was the bettor doing it or the bookmaker, or whoever.

MR. COLEMAN: Thank you very much, sir.

DR. ALLEN: Thank you, Commissioner Coleman.

Miss Marshall?

MISS MARSHALL: No questions.

DR. ALLEN: Mr. Ritchie?

BY MR. RITCHIE:

Q Mr. Brown, is there wagering of football games at
Penn State presently, in your judgment?

A I am sure, of course, excluding the bets that go on all week long by people who work side by side and people in the bars where someone bets $5 saying they can or can't win, because that goes on all the time...

Q I am not excluding social wagering.

A The answer, first of all, on that level is it certainly does. It goes on just like, unfortunately, the same kind of betting that goes on, such as can Bellefonte High School beat Clearfield High School football teams. That happens, yes.

Q Do you see any adverse effect of that type of wagering upon sporting events?

A Not of that kind of wager that is normally done by people who are taking a guess at what might happen. They are going to put a few bucks on it to make it interesting. It doesn't involve that much money, and it doesn't go to the football player.

Q If you will, understand that professional bookmakers describe their activities identical to that.

A I would understand that, but I think that is just not so. You can substitute A and B in any kind of situation and say A is Mr. Brown and B is Mr. Smith, and they are betting over a beer at the bar, and that's all we are doing. The point of it is when you get the kind of figures
and numbers involved and the amounts of money, the
temptation is to bribe or fix, to get involved in the
decision and the outcome is not really a gamble.
Q  Again, if our experience is of any merit, that
would occur by the alumni of Penn State who are placing
wagers not by bookmakers. Do you agree that it is the
player who is trying to get an edge on the bookmaker?
That would be the person who would offer the bribe.
That normally is alumni who say, "Look Coach. I just
want to know how the quarterback's feeling. Then we
will talk about superturf for your stadium next year."
Do you agree that that type of pressure might not be
present?
A  Oh, yes. I certainly do agree. I agree with that.
Q  Have you had occasion to have brought to your
attention sports pools or parlay card operations at
Penn State?
A  Not specifically at Penn State. When I was at
college, which was a much smaller college not so far
away at Huntingdon, Juniata College, there was always
during the week the football slips. I know they are
available at the various places of business and work in
Centre County. They basically cover all the football
teams, let alone just Penn State. I don't detect in Centre County that there is any great amount of betting going on just involving the Penn State teams.

Q: Do you see anything that is harmful to sports from your experience from the parlay card or the pool card type of wager?

A: If I thought that they were going no further than the local area, which involves the people of Centre County or Bellefonte, or whatever community it might be, I guess I would say no, because I don't think there is enough involved that anybody is going to illegally tamper with the teams or the game, and this sort of thing.

I have a feeling, and I must admit it's not much more than that, because nobody has come and told me this is so; but I have a feeling back somewhere along the line this gets into organized crime, organized gambling.

Q: Assuming it's not organized crime, let us just consider the integrity of college football. Wouldn't it be necessary to fix ten games in order to prevail on one of those cards to any appreciable amount of money?

A: When I used to be more aware of what was happening you could do it three out of three. Your point is well taken, yes. It would take more than just a game.
Q Then your position is not only as an active District Attorney but one who is speaking for a great number of District Attorneys in this State on the legalization of sporting wagering as one against sports events wagering and not sports by a sports pool operation?
A Well, I guess that is true. I am greatly concerned, and I know there is a great concern and a problem when we are talking about the gambling that you talk about. Yes, gamble on anything. Gamble on nothing. Gambling on these things I don't think is particularly realistic. Somewhere along the line it seems to me there has to be some lines drawn. My personal feeling is that I would like there to be no gambling and no permitted gambling, no legal gambling, on sports, because I see the possible effects of this to be very adverse in both college and amateur and professional sports, so that's the line I have drawn.

I suppose if there was some protections along the lines you have talked about in terms of pooling and everything, it might not affect the integrity of the sport. I would be interested in seeing how that would work and for that reason could say yes, I think I would favor that if the proceeds would go to proper beneficial organizations.

Q As a former prosecutor, I am empathic with the
position the present laws have placed you in as a prose-
cutor and particularly since you are involved in the
political process. Could you tell us about what has hap-
pened with the resolution to the Legislature by the
District Attorneys? Was it put by the wayside. Was
there no attention paid to it?
A That is virtually true. Usually our resolutions,
which sometimes suggest there be something put into the
hopper by a legislator, and it's often something already
put in there and we take a stand on it, normally get
sidetracked somehow. I think in each session there
seems to be a feeling that we are getting a little
closer to something being enacted, but the legislature
just backs off.
Q Would you think there would be any different result,
assuming the Commission made a recommendation to the
State of Pennsylvania? Would they pay any more atten-
tion to this Commission than they have paid to your
Association?
A I think the answer to that question is yes. I
think anything like that would help. Pennsylvania is
not immune from this factor. It takes some ground to
support. Each legislator has to know when he goes back
home he is not going to be costed by voters on the
streets, let alone be defeated by the people who disagree.
Then, of course, there is the fear of being defeated. We have seen that with income tax. At one time a politician couldn't talk about it without having to duck. Then all of a sudden it became the thing to talk about.

I am quite sure if the Commission, along with District Attorneys and the public saw what the benefits might be from legalization of bingo and other games like that, yes, I think it would happen. So I would welcome the Commission's support in that.

Absolutely.

Q Regarding bingo, sir, is it an every night occurrence in your district?

A Absolutely every night, and I feel that's probably true of the 67 counties in the Commonwealth. Every night in Centre County you can find a bingo game, and during the summers when there are firemen's carnivals and things like that, probably two, maybe three, in the county going on all the time.

Q Is this participated in by a particular group of people? I am not asking for a market survey, but we have been told that generally little old ladies of both sexes are involved in bingo games more so than persons who are younger and more vital and who would rather go to a saloon.

A I don't agree with that in Centre County. I must
say that being the District Attorney in a county like I am, it is like having a neon light on top of your head. I get kidded a lot of times, and lots of times, frankly, I just don't go where I might go otherwise. From my observation,-- and I do go to carnivals and county fairs, and once in a while to firehalls,-- no, the bingo players in Centre County are of all ages. I mean if "son" or "daughter" can understand the numbers and put a little piece of corn down, he will be playing, too. Usually, of course, he has momma or dad alongside. Why, if we are told that bingo is paying off mortgages of churches and sending people to school and accomplishing all types of worthwhile objectives in the City of Philadelphia, and if it is that constant an event outside the urban area, then why hasn't the legislature seen fit to grace it with some type of regulation which would insure that it is run correctly?

Of course, that is my question, also. I suspect to some degree it is because of the experience that I have. Now, Centre County happens to be divided. We are not that big numerically, certainly, and geographically we are a little larger than the normal county. We have five legislators that have a little piece of Centre County. I suspect all of them feel as I do. It goes on anyway, and why do I have to take a stand on it? Nobody in
Centre County seems to be complaining about it, so I will say or do nothing. Beyond that, as a guess, I don't know why the Legislature would not act in this regard. It seems silly, of course.

MR. RITCHIE: Thank you.

DR. ALLEN: Mr. Farrell?

MR. FARRELL: Thank you.

BY MR. FARRELL:

Q Have you noticed any change in public attitude since the beginning of the State Lottery which might make people more tolerant of illegal gambling, such as your juries and your citizens?

A Well, I think they aren't any more tolerant. I think they continue to be the same. They sort of point to the lottery and say, "See, the State now does it. Why can't we? Why is there any problem? Should there be any?"

I must be honest with my remarks, because I do represent the District Attorneys' Association. In Centre County raffle tickets for a half-ton pickup truck for a fire company are being sold all the time. I know because I got tickets yesterday, because I am a member of the fire company. They say, "Sell your tickets, or buy them." This goes on all the time. My wife is in the women's club, and my son is in the little league.
and all this goes on. You get the idea in Centre County there really hasn't been any change in attitude with the type of gambling we have, because the proceeds go for a proper purpose. I am a little isolated from some of the problems in the more urban areas where the organized crime element and involvement is a little more obvious.

Q. You would probably not go along with having mandatory jail sentences for gambling offenses for the very reason that someone who is running a bingo operation might be brought before the court, and the judge would have no choice but to sentence him.

A. The only kind of prosecution we have had in the almost 10 years I have been District Attorney has been usually of stewards or bartenders of a club where the Liquor Control Board has found out that a one-armed bandit or punchboard, or some such operation like that is going on, and they swoop down. In about half the time all they will do is cite the license holder for a violation of liquor control laws. The other half will be brought to my attention, and they will file charges. Usually the steward comes in, and he is given a very light fine. He is never given a jail sentence. The judge really doesn't say anything. He said, "$200 and probation and costs," and that is it. Nobody even bats an eye, and it doesn't happen very often.
Q There is no investigatory subpoena for District Attorneys, is there?
A There is none.
Q Are there other states that have this?
A Well, there are those that have the power, yes. District Attorneys have the power to issue a subpoena. We have it now in terms of the grand jury presentments. So long as there were grand juries in Pennsylvania, that was used by many District Attorneys as the time to get the witness in to prepare their cases and find out what is going on. But if there is no grand jury, and that is likely now, particularly if a county makes that decision, because there will be that option, then up until the time of trial you have no power to get them in. You either go find them or guess.

If you would ask me what state has them, I might defer to my colleague, Mr. Coleman, because I am not sure.
Q I meant to say probably most states do have that power.
A I would guess they do. It is a problem D.A.'s have been raising and pointing out to the legislature and to the Rules Committee, that all the rules and statutes that followed the amendment wiping out, so to speak, or permitting, the option, that we should have the
subpoena power. So far, we haven't gotten too far.

Q Just one last question from an evidentiary standpoint. Are these hard gambling cases? Are they hard cases to try? Are they difficult to get convictions?

A My experience is they have been just guilty pleas. We have never tried a gambling case in Centre County.

Q You have never tried a case in Centre County?

A No. We usually have it right there. There is your punchboard or whatever, and there is no attorney or defendant going to ask a jury to say, "I didn't have them in my possession." I think the police in questionable situations sort of turn their backs and say, "I am going to come back in here in two minutes, and those things better be away." I think a lot of that happens.

I must say, speaking for my colleagues where there are prosecutions, yes, I know from them they are difficult, very, very difficult.

MR. FARRELL: Thank you.

DR. ALLEN: Thank you Mr. Farrell and Mr. Coleman. Thank you Mr. Brown.

(Witness excused.)

DR. ALLEN: Mr. Matthew P. Boylan will be our next witness. Mr. Boylan is the director of the Division of Criminal Justice for the New Jersey
STATEMENT OF
CHARLES C. BROWN, JR.
PRESIDENT, PENNSYLVANIA DISTRICT ATTORNEYS' ASSOCIATION
DISTRICT ATTORNEY OF CENTRE COUNTY

I am Charles C. Brown, Jr., District Attorney of Centre County, Pennsylvania, and President of the Pennsylvania District Attorneys' Association.

Centre County is largely a rural county located in central Pennsylvania. The population is slightly in excess of 100,000, which includes over 30,000 students at the Pennsylvania State University, which is the principal employer in the county and the county's best known institution.

I am in my tenth year as District Attorney of Centre County, having been elected three times. I have one full-time assistant and one part-time assistant. I employ one full-time secretary and one part-time secretary. I also maintain a private practice. The state legislature has set my salary (and the salary of other Fifth Class County District Attorneys) at $13,500.00.

I have served as President of the District Attorneys' Association since March, 1974, and will terminate my tenure in office this July. Our Association includes all 67 counties in the Commonwealth and has a headquarters near Harrisburg. We presently have an executive director, a training co-ordinator and an office secretary. We are hopeful of obtaining funds to continue the headquarters.
In light of the impressive array of experts who have testified—and who will testify—particularly from urban areas—and the statistics that are already in the Commission's possession, I will limit my remarks to those areas and subjects with which I am most familiar.

In communities throughout Pennsylvania, such as those in Centre County, gambling is part of everyday living. I dare say this is true everywhere. Organizations such as fire companies, church groups, scouts, little leagues, fraternal organizations, high school athletic booster clubs, ball teams, etc., rely heavily upon bingo games, raffles and lotteries for income. Without this income many of these groups could not exist. Police officers do not look "the other way" for these money raising projects to go on, the sales of tickets and the games flourish in their presence. To attempt to enforce the gambling laws in such a situation is impractical. To get elected, and to remain in office, public officials—including judges and District Attorneys—find it necessary to buy lottery and raffle tickets to keep the good will of the many, many people involved. Police officers often find it a political or social necessity to do the same. Frankly, local prosecutors are constantly fearful that someone will file charges against one of these groups that is running a bingo game or a raffle. Obviously the situation is saturated with hypocrisy and selective law enforcement.

Further, local police forces, the state police, and District Attorney's offices do not have the manpower or finances available to
pursue prosecutions of gambling on this level -- let alone the desire to do so. Indeed, these limitations also adversely affect investigations and prosecutions aimed at organized crime.

My fellow District Attorneys largely feel the same about this matter. On several occasions the Pennsylvania District Attorneys' Association has passed a resolution favoring legislation permitting bingo where the proceeds will benefit an educational, fraternal or charitable group. It has also been suggested by District Attorneys that raffles and lotteries be legalized where these groups benefit. This would prevent situations where priests are prosecuted for bingo and bingo games are stopped at county fairs. This has happened in Pennsylvania.

I realize full well that gambling proceeds are a major source of income for organized crime. Gambling proceeds provide the bank roll for other criminal activities. Thus the dilemma! How do we prevent the hypocrisy and permit deserving organizations to raise funds and yet effectively fight the criminal elements in our society?

The following suggestions are not meant to be official pronouncements of the Pennsylvania District Attorneys' Association, but do reflect the thinking of many District Attorneys:

1. Legalize bingo, lotteries and raffles where the organization receiving the proceeds is an educational, fraternal, public service or charitable organization. This no doubt will require licensing by the state and/or local municipality.
2. Permit state-wide lotteries, and perhaps some other forms of gambling, for revenue raising purposes. Perhaps local municipalities ought to be given this opportunity also. If not, they should be allowed to share in the proceeds.

I have said little about the legalization of gambling as a means of raising funds for government because I have not really studied this question. However, if the adverse effects of the bureaucracy created to operate the lotteries, etc., do not outweigh the benefits, then I see no reason for not permitting gambling to raise revenues.

3. Take the handcuffs off law enforcement efforts to combat organized crime. I will defer to my colleagues in the urban areas to define what exactly is needed. However, I do have these suggestions:

a) Wire-taps and electronic eavesdropping should be permitted; b) District Attorneys should be given full power to grant immunity to key persons to obtain their testimony before grand juries and at trial; c) To facilitate the investigation and preparation of cases, full subpoena power should be given to District Attorneys.

4. Gambling on sports, such as baseball, football, hockey, basketball and soccer, should not be legalized. The risk of tampering is too great. The Black Sox scandal of 1919 and the college basketball scandals are ample evidence of this fact.

5. Legislation should be approved that would professionalize the District Attorney's office. In Pennsylvania this means such things
as raising the salaries of District Attorneys so a private practice is not necessary, granting tenure to the District Attorney's staff and providing retention election for District Attorneys. This, of course, will provide more effective law enforcement leadership in all phases of crime fighting. Legislation has recently been drafted and will be presented to the Pennsylvania legislature to further these ends.

Law enforcement must be careful that it does not run counter to the flow of an activity -- gambling, in this case -- which is accepted by a very large majority of the public. This creates an impossible situation as the tide will surely overwhelm us. On the other hand, organized crime is a cancer in our society and should be removed. To do both is a delicate matter.

I hope my remarks will be helpful to the Commission. Thank you for permitting me to appear.
Department of Law and Public Safety. He is a former
U.S. Attorney who received the Special Award of Attorney General Robert Kennedy for prosecutorial efforts, organized crime, and labor lecturing, including conviction of first International Vice President of Teamsters, Anthony "Tony Pro" Provenzano.

In 1968 he was the special Deputy Attorney General for prosecution of Kavnaugh-DeFranco murder trials on recommendation of the New Jersey State Bar Association. Appointed by Governor Brendan Byrne, he is a former Assistant of the United States Attorney of Newark and a private practitioner of law in New Jersey and has worked for major Federal efforts against organized crime.

Mr. Boylan, we welcome you to the Commission on the Review of the National Policy Toward Gambling.

MR. BOYLAN: I have prepared some remarks addressed to the legalization of gambling based on our experiences in New Jersey. Rather than just read my statement, if you have no objection, I would paraphrase it.

Recently we introduced a daily lottery. We had since 1971 a weekly and a monthly lottery, and on May 22 we began a daily lottery called "Pick-It." I think Governor Byrne, who was
responsible for the Lottery Commission for making this innovation in our lottery program, put forward one of the best and perhaps commonly-held reasons for justifying legalized gambling when he said, "This new game will make inroads into the illegal numbers racket."

He also recognized, and I cite later on in my brief remarks, that although additional revenue will be generated for State Aid to Education and Institutions, no legalized gambling program is in and of itself a solution to the fiscal crisis of a major metropolitan area. The other reasons normally advanced for legalizing gambling are in the areas Dr. Allen touched upon; namely, corruption. I myself have had very little direct experience either as a prosecutor or as a criminal defense lawyer in gambling. My field was in governmental corruption on both sides of the table. However, when casino gambling was an issue in the State, I did read ironically enough at the request of John Goldstein, United States Attorney, a series of reports prepared by the Hudson Report, which you are probably familiar with. As far as I am concerned, it is the most impressive work in the field in terms of justification for legalizing gambling.
It was submitted in 1973 to the New York Gambling Commission when they were considering legalizing gambling, and particularly casino gambling.

Unfortunately, the one form of gambling which they did not recommend was casino gambling, which converted me from a proponent of it into a neutral on the issue which was overwhelmingly rejected by the voters of New Jersey. The one solid reason for legalizing casino gambling as advanced by Governor Byrne, which I shared, was introduced in a limited fashion in Atlantic City, and that reason was that if it worked, it would help the ailing resort industry and therefore create a labor incentive in allied fields; namely, hotels and restaurants in Atlantic City.

Atlantic City has a tremendous unemployment problem, had a tremendous unemployment problem in the range of 40 percent. The Governor said in recommending casino gambling for that particular county at that time, which provided for all kinds of options to guarantee the interests, was that it would help the unemployment situation.

In New Jersey we feel there has been this vigorous battle against organized crime. We feel New Jersey has received in some ways a "black eye"
because it has been rather successful in the battle. When you travel around the country, people constantly ask you why we have so much corruption and/or organized crime in New Jersey, and, of course, my answer has always been that we have exposed in New Jersey more than many other states have. I don't know that human nature is any more venal or corrupt in New Jersey than it is in any of the other states. Certainly on the governmental corruption level the successful prosecutions, Thompson in Chicago and Beale in Maryland and Mann in Florida, show that if you look, you will find governmental corruption at least in many areas.

In the area that concerns us, it was a revelation to me that the Hudson people recommended legalizing all forms of gambling. I don't know if they touched upon sports gambling, which has been a late starter in our society. The recommendation was based on the facts, and it was made by law enforcement people who were on the panel or study group. That recommendation was basically that the law enforcement group has found it wasn't effective, had been corrupted, and consequently they urged legalizing gambling to remove this temptation, at the same time increasing the law enforcement agency
efforts against illegal gambling.

In New Jersey we have, as Prosecutor Coleman can tell you better than I, 21 prosecutors. In different counties you have different successes of different problems associated with gambling in the populated populous counties in the northern part of the State.

It is very difficult to get a conviction for many forms of the numbers operations, as the most prevalent gambling crime that is brought to the attention of the court. In fact, we had a trial in Hudson County a few weeks ago where they had it on a tape. The jury threw it out. Hudson County is probably unique in that it is sociographically more amenable to gambling than many others because of the particular complexion of values and people.

In any event, in New Jersey we try to follow the recommendation of the Hudson Institute and combine both vigorous law enforcement against it on the one hand, and legalize that aspect of gambling which can be legalized under the present methods available for handling, on a legal basis, gambling.

We have the numbers, and we have, of course, the tracks. We don't have off-track betting, such as New York had. Of course, I read Paul Screvane's
remarks to you with great interest, because in this whole picture is an economic issue which must be addressed by Congress in terms of how much surplus income is actually available and how do you tap it, if you will, on the one hand, and at what point do you draw off income from more productive economic activity into gambling. The theory as everyone knows is that you are dealing with surplus disposable income, and that hopefully that is what is used as a form of what Screvane calls "entertainment." It is certainly a prevalent activity. We have recognized it in the State of New Jersey. We have not encouraged gambling, but we feel we have provided some sufficient number of outlets in order to at least meet what we perceive to be the public desire. We have gotten some revenues, but, again, that is not the principal reason behind the legalization of the numbers. Over the three-year period on which figures are available, $205 million was made available for state aid to education, which wouldn't have otherwise been available. No one can give you in this field, I don't think, hard judgments on what the impact is on organized crime, gambling, if that is the correct term.

In sports betting, which has become a
major source of gambling, there are what I would consider independent operators free of organized crime. On the other hand, it can't be denied that gambling has over the last 25 or 35 years been a principal source of funds for organized crime.

In broad outline, you have the economics of gambling. It is on an illegal basis and is unregulated except by prohibition. If you don't have legalized gambling, therefore, it is assessed on the basis of the return for the investment as against the risk.

We followed Lacey's policy in 1970 on the premise that you could drive organized crime out of existence if you had a vigorous law enforcement program. We have had a vigorous law enforcement program, and we haven't driven it out. We have contained it; perhaps we have hurt it. We have made it expensive; but gambling at least is an aspect of organized crime that continues to exist in New Jersey.

Basically, that summarizes my remarks to the Commission, and I would answer any questions that you have.

DR. ALLEN: Thank you, Mr. Boylan. We will start with Commissioner Coleman.
DR. COLEMAN: For the record, it will be very difficult for me to ask Director Boylan questions, because, in fact, he is my boss.

BY MR. COLEMAN:

Q I want to mention with regard to the remarks of Hudson County that Hudson was the only other county to vote for casino gambling besides Atlantic City, where they were going to put it. Perhaps, Director, if you could tell us, for the record, during that period following Judge Lacey's recommendations back in 1970, then Chief Justice Joseph Weintraub directed gambling violators be put in jail.

A Yes.

Q In fact, they were put into jail?

A Yes. That was the policy, from draconian policy, which I think may have accounted for the reaction of juries in the counties to acquit, because it became known publicly anyone convicted of a gambling offense was likely to get a minimum of a year in jail, possibly two or three depending, and it was followed, and the impact in my judgment was minimal.

Q We have heard a lot, Director, about wiretapping. Of course, I know you are pleased that the New Jersey Senate just passed, a few days ago, some sort of wiretap bill. Did you feel both before and during your time that
you have been director that it was absolutely essential
to have this continued as an effective tool in enforce-
ment in the gambling field?

A Yes. In gambling and narcotics where wires have to
be used for the communication of information as an
essential tool, it has been very helpful. It was a
package of tools created in 1970 together with the Divi-
ision of Criminal Justice addressed to organized crime
and gambling.

I think one experience you and I are both
aware of is in Union County where a good number of wire-
taps were used, at least a good number more than any
other counties. You probably could wiretap every corner
grocery store in the county if you wanted to, so perva-
sive is gambling. The point is essentially it is,
Prosecutor Coleman, and the point I make on Union County
in terms of allocating resources is there is a point you
must draw back and say, "How much is enough?"

Gambling is there. If you want to meet
it, you can meet it in the Ford plant. Any major
industrial group of men will have somebody who will
take the numbers. Today, in the affluent society in
which we live, any construction site with well-paid
workers will probably have someone who will take a sports
bet. Gambling started as a sport or horse racing as a
sport of kings, which implied you had that excess money to use. In an affluent society many people have excess money, and they choose, apparently wisely or unwisely, to use it in gambling. This seems to be a fact of life.

Q Just one other thing. In addition to your supervisory capacity of all the 21 prosecutors, who, unlike in other states, in New Jersey your department has criminal jurisdiction, and, of course, your office prosecutes gambling cases.

A Yes.

Q And has the state grand jury presented them locally?

A Yes, that is true. We have jurisdiction, and we have in many offices a special prosecution section that has—I would hate to tell you—how many matters to be presented to that state-wide grand jury based on wiretaps of gambling. Prosecutors have the primary jurisdiction and do enforce the gambling laws. However, we have complete criminal jurisdiction in the division, and we, of course, have responsibility for enforcing all of the regulatory agencies, banking, insurance, labor, the executors, all of the counterparts of what you would consider the Federal Regulatory Agencies when violations are brought to our attention. We have an anti-trust section. We supervise all the appeals from the prosecutors. We have an appellate section. We have consolidated every
county's appeal through it. We have a variety of sections, and we have a full arsenal of tools and a full arsenal of sections, and we still have gambling.

MR. COLEMAN: For the record, I want to thank the Director.

DR. ALLEN: Mr. Ritchie, the executive director of the Commission.

BY MR. RITCHIE:

Q Mr. Boylan, the situation that you have described, the luxury of having the type of latitudes that your office has as opposed to other attorney general offices who must have clear evidence of obstruction or inability to enforce the laws, would you explain how this came about? Was this a Constitutional effort? Was it something that is of recent origin?

A It came about, Director Ritchie, in 1968 and 1969. Our Attorney General's Office had no broad criminal jurisdiction. At that time there was a feeling in the Legislature that organized crime for some reason was flourishing in New Jersey. The prosecutors were confined to their own geographic counties. Most gambling was intercounty, and, consequently, it was felt they, the prosecutors' offices themselves, didn't have the tools. There was no immunity statute. There was no wiretap statute. Like many matters, there was an explosion
around that time where someone made a statement in the Attorney General's Office to the effect that too many legislators were comfortable with organized crime, which produced a number of hearings legislative-wide. The press, of course, picked that up properly and focused on it, and out of those hearings came other testimony indicating that the absence of coordinated efforts in the law enforcements had perhaps contributed to more infiltration of organized crime in New Jersey than elsewhere.

Henry Ruth, who is the current special prosecutor in Washington, testified about his experiences in New Jersey. Attorney General Sills at the time was not pleased with what he had to say about New Jersey. There was a groundswell legislatively, and out of that came the Division of Criminal Justice in 1970 with very broad powers and a state-wide grand jury, immunity statutes and wiretapping. Efforts then began to coordinate activity in this "organized crime" area. Of course, a prominent aspect of that is gambling. That is how it developed.

Q Would you describe since 1970 the efforts of your office and the efforts of the Federal Authorities in their fight against gambling to be an ideal marriage of forces both on a State and Federal level against this
particular problem?
A Yes. The Federal effort since 1970 picks up the interstate feature of gambling, which is primarily in the sports area now. You have to get odds from different out-of-state locations, in Rhode Island or Massachusetts, and again you have to draw a distinction. There is a Federal strike force and the United States Attorney's Office. The United States Attorney's Office, which everyone is very familiar with, under Lacey, Stern & Goldstein, has concentrated on political corruption and has done an outstanding job in that field beginning in 1969. The Strike Force group in the State has done a very effective job in a group of areas, one of which is gambling. The main thrust, though, has been on the State level against gambling. Together, it is an ideal marriage.

We have one other agency. We have the State Commission of Investigation, which is a very difficult body to describe. It is a creature of the legislature with nonpartisan appointees, whose function it is to investigate areas where legislation may be needed, and that also has an impetus.

Q The policy of your Chief Justice of imposing jail sentences is viewed with a good deal of jealousy by those states where no jail sentences are ever imposed.
Your sister state of New York has put one millionth of one percent of the people in jail for the past ten years for illegal gambling, however it may not be that extreme.

A  It is extreme. It is in that report.

Q  If we were looking at the efforts of law enforcement against illegal gambling from a multilevel, aided by the judiciary who says we are going to put people in jail, we would be looking at probably, in your judgment, and certainly those of the staff, at the optimum experience of law enforcement in this field. In light of all that, do you feel your impression that there has been no impact upon illegal gambling despite these successes, despite all of the deficiencies that normally are attributed to whatever failures law enforcement might suffer, is it something that from that we should conclude that law enforcement is absolutely incapable under any circumstances of controlling organized crime influence on gambling or gambling influenced through organized crime?

A  No. I don't think I went so far as to say it had no impact. I said it contained it and made it costly. I think if you are dealing with organized crime, jail sentences ought to be meted out. You are operating in one of the fields where a rationale policy should include jail sentences, because you are dealing with a criminal
venture which is a quasibusiness, and one of the factors in any business judgment is the risk of loss. The argument was that the imposition of fines was a license fee. I don't think putting people in jail has had the impact that, say, Fred Lacey thought it would have or the Chief Justice; but it sure had an impact, because when you did get key people, it was like any other business. You disrupted that business while they are being replaced.

Q: Did that have any effect?
A: Yes, it had some impact. I would not want to leave the impression with you it had no impact.

Q: Did it have any impact upon the person who wanted to participate in this activity not as an operator?
A: The gambler?
Q: Yes.
A: No. I mean as a bettor?
Q: Yes.
A: No.
Q: Would you suggest there be alternate strategies developed which would assist law enforcement aimed at the player rather than the operator?
A: You mean in order to discourage the player from using the illegal and converting to the legal?
Q: Yes.
A Well, I think the economics of that should produce that result. One of the great problems for the legalized system is that you get less dollars generally out of the legal system then you do out of the illegal system on one level of activity. For instance, I had a state trooper tell me earlier in the North that our present daily "Pick--It" odds are 800 to 1 today, 650 to 1 the other day, 700 to 1. Now, he didn't tell me he bet. You can get the numbers. Now, the daily lottery in that is 650, 700, and you will get dollars because you will be offering more than the illegal operation.

We haven't had enough experience to know what the impact is. If your objective is to drive out the illegal numbers, then you must give up some of the revenue. You must give up some of the other benefits, because you can never give credit in the numbers or you can never take the nickels and the dimes which are essential to a way of life, just as gambling is, essentially, to many people, a way of life. It is the adventure that makes the game. The State can't do that, but the State could certainly license an agent in a big plant or on a construction site. However, if you are going to stick them in office buildings in the downtown area, just making available to the middle class a new form of entertainment which they may not have had before,
they would probably enjoy it.

You have to have a multi-layered approach. In my presentation I say the best approach is vigorous law enforcement against the illegal, at the same time trying to meet on the legal the dollar and convenience levels you can get from the illegal. That's very difficult to do.

Q That's sacrificing revenue?
A Revenue, I think, has to be, as Governor Byrne said, incidental. You cannot solve the fiscal problems of any major metropolitan area through gambling revenues.

Q The majority of the illegal gambling that occurs in the State of New Jersey is on sports events. Would you then devise a system of legal wagering on sports events in order to combat crime?
A I think serious thought ought to be given to that, and that would be implementing, again, the Hudson Institute Report.

Q But you are aware, are you not, that representatives of all sports, organized sports, amateur and professional, are adamantly opposed to that, not on the basis of revenue to the State, or not on the basis of crime, but that it will ruin the existing institution of sport as we know it.
A I don't know that argument, and I listened to the man before me with some interest. I am familiar with
some of the scandals, not going back to 1919; Prosecutor Coleman, and I am aware that Paul Hornung lost a year at Green Bay because he bet, and Karras was knocked out of Detroit because he bet. I think it's pretty bloody professional right now.

The side feature of college sports is that it is professional on a purely sports basis. There is very little difference between the Big Ten and Notre Dame and what you see on Sunday, and the scandal is going to erupt on sports. It is going to be on the recruitment level, if one wants to call that a scandal. There is always saving grace in getting people into school who might not otherwise be there, and one has to balance that out. I don't see that legalizing sports betting poses any greater problem than the illegal sports betting that you have now. I just don't see it. All the sports leagues have their own ex-FBI agents watching out to insure integrity. As long as human nature is human nature you are going to have somebody somehow devising a scheme which will make it attractive to try to corrupt somebody. I mean you had the doctor from the Giants who allegedly was telling who had a bad leg and who had a bad arm. I think vigilance on their end will be the same whether it is legal or illegal. I don't follow the argument, but I don't profess to be an expert on it. I mean
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heard it.

MR. RITCHIE: Dr. Allen, on behalf of the
staff, I want to thank Director Boylan for the
cooperation your office has provided us. The
voluminous documents emanating from your office are
very helpful. Our staff is busily trying to digest
them in Washington, and we look forward hopefully
to continue to work with you on a very close basis.

That concludes my questions.

DR. ALLEN: Thank you very much, Mr.
Boylan.

(Witness excused.)

DR. ALLEN: Francis J. Schafer is the
executive director of the Pennsylvania Chiefs of
Police Association and has been since September of
1963. He has had a long career with the Pittsburgh
Police Department prior to his appointment, and he
can be expected to approach the subject of gambling
from the standpoint of a police officer. Mr.
Schafer?

MR. SCHAFER: Yes, Dr. Allen. I would
like to ask one question before I begin. I won't
be too long. Is the purpose of this to recommend
laws, and so forth?

DR. ALLEN: Mr. Ritchie, would you care
TESTIMONY

OF

MATTHEW P. BOYLAN

DIRECTOR OF THE DIVISION OF CRIMINAL JUSTICE

OF THE

STATE OF NEW JERSEY

BEFORE

THE COMMISSION ON THE REVIEW OF THE NATIONAL POLICY TOWARD GAMBLING

MAY 29, 1975

PHILADELPHIA, PA.

DIVISION OF CRIMINAL JUSTICE
DEPARTMENT OF LAW AND PUBLIC SAFETY
WILLIAM F. HYLAND, ATTORNEY GENERAL
MR. CHAIRMAN. I THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE THIS COMMISSION TO EXPRESS MY VIEWS ON LEGALIZED GAMBLING BASED UPON THE EXPERIENCE OF THE STATE OF NEW JERSEY.

IN ANY DISCUSSION OF LEGALIZED GAMBLING IT IS ESSENTIAL TO PUT IN PERSPECTIVE THE DIFFERENT JUSTIFICATIONS WHICH UNDERLIE THE VARIOUS ARGUMENTS SUPPORTING THE LEGALIZATION OF GAMBLING.

GOVERNOR BRENDA BYRNE OF MY STATE HAS ADVANCED THE MOST COMMONLY HELD JUSTIFICATION FOR LEGALIZED GAMBLING WHEN HE STATED ON MAY 20, 1975 IN ANNOUNCING THE INTRODUCTION ON A TEST BASIS OF "PICK-IT" - A DAILY LOTTERY - THAT "THIS NEW GAME WILL MAKE INROADS INTO THE ILLEGAL NUMBERS RACKET."

THE REASON BEHIND THE EXPRESSED HOPE OF GOVERNOR BRENDA BYRNE THAT INROADS WILL BE MADE INTO THE ILLEGAL NUMBERS RACKET IS THAT THE STATE WAS NOW ABLE TO OVERCOME ONE OF THE TRADITIONAL HANGDSCAPS OF ALL LEGALIZED GAMBLING, NAMELY, CONVENIENCE: "ONE OF THE BIG ADVANTAGES OF THE ILLEGAL NUMBERS GAMES HAS BEEN THE OPPORTUNITY IT OFFERS PEOPLE TO CHOOSE THEIR OWN NUMBER COMBINATIONS, WHETHER
BASED ON HUNCHES, DREAMS, BIRTHDAYS OR WHATEVER APPEALS TO THEM," HE SAID. "NOW, THE STATE LOTTERY CAN OFFER THE SAME OPPORTUNITY, WITH THE ADDITIONAL ADVANTAGES OF LEGALITY AND GUARANTEED PRIZE PAYOFFS."

THE BALANCE OF THE JUSTIFICATIONS ADVANCED FOR THE LEGALIZATION OF VARIOUS FORMS OF GAMBLING ARE, IN ADDITION TO REDUCING THE FINANCIAL BASE OF ORGANIZED CRIME, REMOVAL OF A MAJOR SOURCE OF OFFICIAL CORRUPTION, AN INCREASE IN STATE REVENUE, AND A RECOGNITION THAT THE COMMUNITY NO LONGER VIEW GAMBLING AS IMMORAL.

THE MOST COMPREHENSIVE RESEARCH EFFORT IN THIS AREA, UNDERTAKEN BY THE HUDSON INSTITUTE STUDY IN 1973, RECOMMENDED THE LEGALIZATION OF GAMBLING IN THE STATE OF NEW YORK BECAUSE OF THE TOTAL INEFFECTIVENESS OF LAW ENFORCEMENT AGAINST ILLEGAL GAMBLING. "INCREASED LEGAL GAMBLING IN NEW YORK, A POLICY ANALYSIS, REPORT BY HUDSON INSTITUTE TO THE NEW YORK GAMBLING COMMISSION - JANUARY 12, 1973."
THE STATE OF NEW JERSEY HAS ADOPTED SINCE THE CREATION OF
THE DIVISION OF CRIMINAL JUSTICE IN 1970, AND THE NEW JERSEY STATE
LOTTERY COMMISSION IN 1971 WHAT IT CONSIDERS TO BE AN APPROACH TO
LEGALIZED GAMBLING WHICH INCORPORATES THE BEST OF BOTH WORLDS.
WE HAVE VIGOROUSLY PROSECUTED ILLEGAL GAMBLING IN AN ATTEMPT TO
IMPLEMENT THE JUDGMENT IN 1970 OF FREDERICK B. LACEY, UNITED STATES
ATTORNEY FOR THE STATE OF NEW JERSEY, THAT ORGANIZED CRIME CAN BE
DRIVEN FROM THE FIELD OF GAMBLING IF "INDICTMENTS ARE BEING RETURNED
AND PROSECUTED VIGOROUSLY, AND PUNISHMENT IS SUFFICIENTLY SEVERE."
LACEY, FREDERICK B.; RECOMMENDATIONS TO THE 1970 SESSION OF THE NEW

THEN CHIEF JUSTICE JOSEPH WEINTRAUB DIRECTED THAT THERE SHOULD
BE A JUDICIAL POLICY OF JAIL SENTENCES FOR THOSE CONVICTED OF
PARTICIPATING IN VARIOUS GAMBLING OPERATIONS.

BOTH OF THESE POLICIES HAVE RESULTED IN AN EXTREMELY EFFECTIVE
LAW ENFORCEMENT EFFORT AGAINST ILLEGAL GAMBLING. BUT IT CAN BE SAID
WITH CERTAINTY THAT FIVE YEARS OF VIGOROUS LAW ENFORCEMENT HAS NOT
ELIMINATED ILLegal GAMBLING, ALTHOUGH IT MAY HAVE CONTAINED IT AND
MADE IT MORE COSTLY.

DURING THE SAME PERIOD OF TIME THE NEW JERSEY STATE LOTTERY
COMMISSION, SINCE JANUARY 7, 1971, HAS RUN A VERY EFFECTIVE WEEKLY,
AND BEGINNING NOVEMBER 29, 1972, DAILY, LOTTERY WHICH HAS PROCESSED
APPROXIMATELY 450 MILLION DOLLARS IN LOTTERY BETS THROUGH JUNE, 1974.

APPROXIMATELY 242 MILLION DOLLARS OF THIS TOTAL HAS BEEN ALLOCATED
TO STATE AND TO EDUCATION AND INSTITUTIONS. APPROXIMATELY 202 MILLION
DOLLARS HAS BEEN DISTRIBUTED IN PRIZES, 3,500,000 WINNERS. THE BALANCE
OF THE LOTTERY PROCEEDS HAVE BEEN USED IN THE ADMINISTRATION OF THE
PROGRAM, INCLUDING DIRECT EMPLOYMENT OF APPROXIMATELY 120 EMPLOYEES
AND THE USE OF MORE THAN 4,000 INDEPENDENT CONTRACTORS TO PROCESS THE
SALE OF THE LOTTERY TICKETS. THE OPERATION HAS BEEN SCANDAL FREE AND
HAS BECOME THE MODEL FOR APPROXIMATELY 13 OTHER STATES WHICH ARE
CONSIDERING THE ADOPTION OF A SIMILAR LOTTERY PROGRAM. IN ADDITION,
AS I INDICATED EARLIER, A NOVEL DAILY LOTTERY ("PICK-IT") WAS
INTRODUCED ON MAY 22, 1975, IN A TEST PROGRAM AT 350 LOCATIONS
THROUGHOUT THE STATE FOR A SIX MONTH PERIOD.

THE 205 MILLION DOLLARS GENERATED FOR STATE AND TO EDUCATION
AND INSTITUTIONS UNDER NEW JERSEY'S LOTTERY OPERATION BETWEEN
JANUARY 7, 1971 AND JUNE 30, 1974 SHOULD NOT BE CONSTRUED AS AN
ENDORSEMENT OF THE REVENUE GENERATING JUSTIFICATION PREVIOUSLY
DESCRIBED AS AN ARGUMENT IN SUPPORT OF LEGALIZED GAMBLING. AS
GOVERNOR BYRNE STATED AT THE TIME HE ANNOUNCED THE NEW LOTTERY,
"ALTHOUGH WE HAVE HIGH HOPES THAT THIS GAME WILL GENERATE ADDITIONAL
REVENUE FOR THE STATE, NO ONE SHOULD LOOK ON IT AS A SOLUTION TO OUR
FISCAL CRISIS."

THIS REALISTIC ASSESSMENT OF NEW JERSEY'S SUCCESSFUL LOTTERY
OPERATION IS ALSO A REALISTIC ASSESSMENT OF GAMBLING REVENUES IN
WHATEVER FORM AS A SOLUTION TO THE FISCAL NEEDS OF ANY MAJOR
METROPOLITAN STATE OR REGION. THE SURFACE ATTRACTION OF ADDITIONAL
REVENUE SHOULD NOT BLIND PROponents OF LEGALIZED GAMBLING TO THE
ECONOMIC ANALYSIS WHICH IS NECESSARY TO AN UNDERSTANDING OF THE
USES TO WHICH INCOME SHOULD BE PUT TO ACHIEVE THE MAXIMUM ECONOMIC
ADVANTAGE FOR A STATE.

IN ADDITION TO THE STATE LOTTERY, WHICH WAS INTRODUCED IN 1971, WE HAVE HAD PARI-MUTUEL WAGERING AT STATE LICENSED RACE TRACKS, BOTH THOROUGHBRED AND STANDARDBRED, FOR MORE THAN 20 YEARS IN THE STATE OF NEW JERSEY. IN 1955 THE TOTAL TAX REVENUE FROM HORSE RACING TO THE STATE OF NEW JERSEY WAS 22.8 MILLION DOLLARS; IN 1960 THE TAX REVENUE WAS 25 MILLION; IN 1965 THE TAX REVENUE WAS 28.8 MILLION; IN 1970 THE TAX REVENUE WAS 34.8 MILLION; IN 1973 THE TAX REVENUE WAS 36.5 MILLION DOLLARS; IN 1974 THE TOTAL TAX REVENUE TO THE STATE OF NEW JERSEY WAS 41.4 MILLION DOLLARS.

IN ADDITION TO THE TAX REVENUES DERIVED BY THE STATE FROM THE OPERATION OF THE FOUR LICENSED RACE TRACKS IN THE STATE, AN INDIRECT BENEFIT HAS BEEN THE EMPLOYMENT ON AN ALMOST YEAR ROUND BASIS OF MORE THAN 7,000 PEOPLE AT THESE VARIOUS TRACKS. ADDITIONAL ECONOMIC ACTIVITY IS GENERATED IN THE VARIOUS SERVICES AND SUPPLIES PROVIDED TO THE HORSE RACING STABLES QUARTERED AT OR NEAR THE TRACKS.
A third major area in which a form of legalized gambling exists is in the "bingo" and "lotto" games conducted exclusively by charitable and religious organizations such as churches, fire companies and other fraternal groups to raise money to defray the costs of their various charitable and fraternal endeavors.

In broad outline these legalized forms of gambling have their illegal counterparts. The traditional form of illegal gambling has always been considered the "bookie" who handled horse betting. In addition there has always been the illegal lottery operation commonly called the "numbers game." The most frequently described police activity in the media is either the seizure of a numbers bank or the break up of a large scale numbers operation. The continued existence of these illegal gambling operations is principally attributed to convenience, credit, and a better economic return for each dollar gambled. As Governor Byrne indicated, it is the expectation of the law enforcement community in the state of New Jersey that the new daily lottery closely modeled on its illegal
COUNTERPART WILL MAKE INROADS INTO THAT SOURCE OF REVENUE FOR ORGANIZED CRIME.

AN ENTIRELY NEW AREA OF ILLEGAL GAMBLING HAS DEVELOPED OVER THE PAST FIFTEEN YEARS AND IS A PRODUCT OF THE AFFLUENCE OF THIS COUNTRY, NAMELY, SPORTS BETTING. SPORTS BETTING, WHICH IS PREVALENT ON HOCKEY GAMES, FOOTBALL GAMES, BASKETBALL GAMES, AND ALL THE OTHER FORMS OF SPORTS ACTIVITY WHICH ARE SEEN ON NATIONAL TELEVISION, HAS BECOME A PRINCIPAL SOURCE OF ILLEGAL GAMBLING PROFITS. TO MY KNOWLEDGE NO EFFECTIVE LEGAL COUNTERPART OF THIS FORM OF ILLEGAL GAMBLING HAS BEEN DEvised IN THIS COUNTRY. ON A PURELY ECONOMIC ANALYSIS OF BOTH LEGAL AND ILLEGAL GAMBLING THIS PARTICULAR ACTIVITY IS NOT IN COMPETITION FOR THE GAMBLING DOLLAR WITH EITHER LEGAL OR ILLEGAL HORSE BETTING OR LOTTERY WAGERING.

IN THE STATE OF NEW JERSEY, THEN, WE HAVE USED LEGALIZED GAMBLING AS A TOOL IN A COORDINATED FIGHT AGAINST THE USE OF ILLEGAL GAMBLING INCOME BY ORGANIZED CRIME TO FINANCE ITS OTHER ILLEGAL ACTIVITIES. AT THE SAME TIME WE HAVE CONTINUED A VIGOROUS LAW ENFORCEMENT PROGRAM
AGAINST ILLEGAL GAMBLING, WHICH ON A PURELY ECONOMIC ANALYSIS IS
A BUSINESS COMPETITOR IN THE MARKET PLACE FOR THE ACKNOWLEDGED PUBLIC
NEED TO GAMBLE. WE BELIEVE THAT WE HAVE ACHIEVED A PROPER BALANCE
IN ADDRESSING THE PROBLEM CREATED BY THE NEED FOR LEGITIMATE OUTLETS
TO SATISFY THE GAMBLING INSTINCT WITHOUT CREATING A GAMBLING WASTE-
LAND. OUR PROGRAM OF LEGALIZED GAMBLING TOGETHER WITH VIGOROUS LAW
ENFORCEMENT AGAINST ILLEGAL GAMBLING IMPLEMENTS THE RECOMMENDATIONS
OF THE LAW ENFORCEMENT EXPERTS WHO CONTRIBUTED TO THE PRESTIGIOUS
HUDSON INSTITUTE REPORT FOR THE NEW YORK GAMBLING COMMISSION.

I HAVE NOT ATTEMPTED TO ADDRESS IN THIS PRESENTATION THE
TWO MOST SERIOUS HANICAPS UNDER WHICH LEGALIZED GAMBLING MUST
FUNCTION. THE FIRST IS THE TAXATION OF WINNINGS, AND THE SECOND IS
THE INABILITY OF THE STATE TO PROVIDE CREDIT. THE FIRST HANDICAP
CAN BE REMEDIED BY AN APPROPRIATE AMENDMENT TO THE INTERNAL REVENUE
CODE IF THAT IS DEEMED TO BE APPROPRIATE BY CONGRESS. THE HANDICAP
OF CREDIT IS ONE WHICH THE STATE OUGHT TO ACCEPT, SINCE IT IS THE
PRINCIPAL OBJECTION TO ALL FORMS OF GAMBLING, LEGAL OR ILLEGAL, AND EVEN IN A CREDIT BASED ECONOMY SUCH AS OURS SHOULD NOT BE ENCOURAGED IN WHAT OUGHT TO BE AN ACTIVITY FINANCED BY SURPLUS DISPOSABLE INCOME. THE PROBLEM OF CONVENIENCE, WHICH IS THE PROBLEM OF ACCESSIBILITY TO THE LOCATIONS FOR PLACING WAGERS, CAN BE SOLVED WITHOUT TOO MUCH DIFFICULTY.

IN CONCLUSION, THEN, THE STATE OF NEW JERSEY BELIEVES THAT ITS EXPERIENCE OVER THE PAST FIVE YEARS HAS JUSTIFIED THE COURSE WHICH IT HAS TAKEN IN ATTEMPTING TO ACCEPT THE REALITY OF THE GAMBLING NEED WITHOUT ABANDONING ITS DRIVE AGAINST ORGANIZED CRIME. GOVERNOR BYRNE, AS WELL AS ATTORNEY GENERAL WILLIAM HYLAND, HAVE BOTH BEEN LEADERS IN THE BATTLE AGAINST ORGANIZED CRIME IN THE STATE OF NEW JERSEY, AND KNOW FULL WELL THAT THE PRINCIPAL SOURCE OF REVENUE FOR ORGANIZED CRIME IS THE ILLEGAL GAMBLING DOLLAR. CONSEQUENTLY, THE DRIVE AGAINST ORGANIZED CRIME IN NEW JERSEY WHICH HAS BEEN VERY SUCCESSFUL IN THE PAST FIVE YEARS, HAS IN NO WAY BEEN IMPEDED BY THE EXISTENCE OF THE LIMITED STATE PROGRAMS IN WHICH LEGALIZED GAMBLING HAS BEEN PERMITTED. RATHER
THE DRIVE AGAINST ORGANIZED CRIME HAS BEEN INTENSIFIED DURING THIS PERIOD, AND IN NO WAY IMPAIRED BY THE EXISTENCE OF THE LEGALIZED LOTTERY PROGRAM. ON A PHILOSOPHICAL AS WELL AS ON AN ECONOMIC BASIS THERE IS NO INCOMPATIBILITY BETWEEN RECOGNIZING THE NEED OF SOCIETY FOR CERTAIN FORMS OF LEGALIZED GAMBLING AND AT THE SAME TIME RECOGNIZING THE NEED OF SOCIETY TO BE RID OF THE PERNICIOUS EFFECTS OF ORGANIZED CRIME FUELED BY THE PROCEEDS FROM ILLEGAL GAMBLING.
to answer that?

MR. RITCHIE: Congress created the Commission with an eye toward determining what the national policy on gambling should be and then to make recommendations consistent with that policy regarding Federal laws to the President and the Congress and advisory recommendations to the States regarding their laws and what those policy changes should be, if any. It doesn’t mean the Commission has anything except an absolute pragmatic approach and an open mind. I think the purpose of these hearings in the different communities is to insure that the Commission is receiving all of the valuable information that exists there so that its deliberations in Washington will be more complete.

MR. SCHAFER: Thank you, Mr. Ritchie, because I didn’t have time to digest everything that was mailed to me. In fact, I just returned from a trip to Europe, and I got back the other day, and I had written this before I left. Now I will go on with my testimony.

I am Francis J. Schafer, executive director of the Pennsylvania Chiefs of Police Association since September 1963.

Prior to then, I was with the Pittsburgh
Police Department, retiring from there in 1963. The last eleven years with Pittsburgh Police, I served as Assistant Superintendent of Police.

During my police career, I served for 18 months as a plainclothesman on the racket squad and became very familiar with the various forms of betting.

I am also a retired Lieutenant Colonel of Military Police from the United States Army Reserves.

Before I go on, I just want to say I am not too familiar with the Federal laws on gambling, but I am very well acquainted with our State laws and the impact they have on gambling.

The statements contained herein are my remarks, and I know that most members of our Association, if they were present, would express similar feelings.

For years I've been hearing people say that gambling couldn't exist if the crooked police and the corrupt politicians were not in league with the racketeers.

This may be so in a few instances, but you and I know that this generalization is not true.

In Pennsylvania, the average police officer
is an honest and dedicated person, and most politicians are sincere people, wanting to serve their communities and do what is best for their fellow man.

As long as illegal gambling is so prevalent, there will always be the temptation of easy money, that is, payoffs. To keep honest people honest, I have urged that the common types of gambling be legalized in our State.

I know that if you and any commission come forward with this recommendation, some church people and the do-gooders would be shocked. Let's not kid ourselves. Most people like to gamble, and the average person will gamble despite any law that has been enacted.

Why is it that certain people are shocked when someone advocates legalizing gambling. Their cry is "protect the average family." If they are so concerned with the average family, they should lobby for better laws to get the violent criminals off the streets. I am shocked at the rate of crime increase, that more persons are being arrested today and greater numbers are being found guilty, yet there are less persons in confinement today than there were 15 or 20 years ago.
Getting back to gambling: bingo—most of our older citizens enjoy playing bingo. Many of our older citizens enjoy a night out with bingo as their means of entertainment. What the hell is wrong with playing bingo? In Pennsylvania it is illegal, but the District Attorneys and the police turn their heads and have for years permitted bingos to be held by non-profit organizations. Law enforcement does raid bingos that are fixed or promoted by professionals, that is, the mob.

Let's legalize bingo and license this type of entertainment and continue to investigate the licensees, insuring that they are conducted properly and not financed by the underworld.

Numbers: Playing of numbers is a way of life. It is commonplace in all our metropolitan areas. It is a game enjoyed by many whereby a person can place a bet of a few pennies to dollars, and if he picks the winning three-digit number, he will receive approximately $6 for every cent wagered, or odds of 600 to 1. In areas where the heat is on, the odds will drop to 500 to 1, or even 450 to 1.

Many do not understand the costs involved in an illegal operation. When you play a number, the odds are 1000 to 1 and the payout is 600 to 1.
What happens to the other 40 percent? Well, the writer gets about 15 percent, the pickup man gets a percentage, more in areas where the heat is on, payoffs and attorney fees 10 to 13 percent. Where there is no payoff, this percentage is used for fines, court costs, et cetera. The "book" or top man has other employees to pay and he works on about a 2 percent margin. Two percent isn't bad, if you have a big enough daily play.

If numbers were legalized, the payout could be about 700 to 1, with about 10 to 12 percent tax off the top. This 10 to 12 percent would be nice income for any State.

Thousands and thousands of people jam our racetracks to bet the horses. Is there anything morally wrong for a person to place a bet on a horse in the event he can't get off from work to go to the track? According to the law, we have set up two standards; it is not against the law to play numbers but it is to book them; it is legal to place a bet on a horse at the track but not off-track. It is a small wonder that our children are confused by our double standards!

In Pennsylvania we have tracks open on Sunday. We have large scale gambling while the
Pennsylvania Sunday Blue Laws prevent legitimate stores from making sales. I feel I'm a good Christian and believe in observing the Sabbath, but I'm getting confused by the contradiction in our laws.

To go further, many of the persons opposed to legalized gambling play the stock market. If you think playing the stock market is anything but gambling, you better think again. I've been in the stock brokers' offices and have seen many people with what is termed "poker sweat." This is a nervous state in which people actually sweat when they gamble and are in over their heads.

Then let's give some consideration, and I know you have. You talked about it with the gentleman who preceded me from New Jersey. There are hundreds of thousands of bets made daily on football games, baseball games, basketball games, boxing matches, and the hundreds of other things that people bet on. In many cases, these are called friendly bets--let's call it for what it is--gambling! There's nothing friendly about a bet as the loser must pay off--and pay off with money!

I could go on and on with examples but you need only go down to a street corner and watch
the kids gambling -- pitching pennies, playing
cards for pennies, et cetera.

Also, almost all persons sometimes in
their lives have played penny ante, Michigan Rum,
or some other little gambling game. And, how about
all the friendly poker games in the private clubs.
Can we condone all this friendly gambling and then
try to draw a line as to what is legal and illegal
what is morally right and what is wrong.

Some states have already legalized state
lotteries. In Pennsylvania we have a State Lottery.
The Lottery Commission even uses a picture of
George Washington winking. "You can win in a wink,"
it says. I wonder what our children think about
this. Gambling is illegal, but the State conducts
a lottery and uses George Washington's picture to
advertise it, and then there is the payoff. I doubt
any state of legalized gambling pays out about 25
percent. Some say they are paying as much as 40
percent. I doubt that! I have seen days when
illegal numbers paid 800 to 1. When the heat is
on, the odds dropped but never did they drop to
more than about 500 to 1, which is at least giving
the people back 50 percent after the
commissions paid. The State never pays back that much. If you investigated their books, I doubt if you would find they paid out less than 25 percent.

Actually, I believe this is the poorest form of legalized gambling. It is only legalized as a source of revenue and not as an "out" for the little bit of "gambling instinct" in almost everyone of us.

When people bet they like to pick their own number and not be handed the next number by a drug clerk. Also, is it morally right for a state to run a lottery when all other lotteries are illegal.

I am not here to propose the Las Vegas wide-open type of gambling. That wide open gambling leads to many other law enforcement problems and it also may need "Mafia" bankrolling. I advocate legalizing the many forms of gambling that exist and are carried on today in our communities. Instead of our police chasing petty number writers, let them work on the more serious crimes that are repulsive to our citizens.

Presently in our Pennsylvania Legislature there is a bill to permit slot machines in clubs. I would be for that, as long as they don't appear
in drug stores and supermarkets, where kids can play.

Any legalized gambling can only be for adults. I would not want to see kids stealing to play slot machines or other gambling games.

I view legalized gambling in the same light as is done in the dispensing of beer and liquor. Do not involve the State as a "bookie" but rather as an agency to issue gambling licenses. Liquor and beer licenses are issued according to population and the same can be done with permits to book numbers, horses, et cetera. I do not believe that it would require nearly as much policing at the state level as does beer and liquor. With proper licensing, local police would be in a better position to eliminate "illegal gambling."

A bookmaker is a respected person in the British Isles and there is no reason this couldn't be so in this State. Also, I guess they still sell those 50 cent gambling stamps, don't they. There is no reason why licenses could not be issued at the State level in the same manner as I mentioned before, like beer and liquor licenses.

It is anyone's guess as to the actual revenue from gambling but I believe if legalized
gambling was properly administered, it would make
a large dent in the revenue of organized crime. Let
me quote from page 189 of "The Challenge of Crime
in a Free Society."

"There is no accurate way of ascertaining
organized crime's gross revenue from gambling in the
United States. Estimates of the annual take have
varied from $7 to $50 billion. Legal betting at
racetracks reaches a gross annual figure of almost
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tive estimates place substantial capital in the
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Also, on page 188 of the same report, "Law
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I contend that we can wage war on organized
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I further believe this would be a good source of revenue for the State to allocate to Municipalities for police salaries. I have said before that the municipal police officer indirectly works for the State as most of his work is in enforcing the State Penal laws and the Vehicle Code enacted by the State Legislature and therefore the State should subsidize his salary.

Also, I believe that if put to a vote of the people, a proposal to legalize gambling would win approval as the great majority will admit that they gamble!

You can't put it to a vote to say shall we legalize gambling or not. You would have to break it down a bit, because it would be like asking if you are for womanhood or against womanhood. You would have to spell out more clearly what you are going to legalize.

Many of us think back to the Prohibition Era when the average person drank and "bootlegging" was a profitable business. Today, everyone gambles and organized crime reaps the profits. When prohibition was repealed, the bootleggers went out of business. Just recently, bootlegging is again
becoming profitable as liquor is overtaxed. So, I
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for police salaries.

That is all I have written.

DR. ALLEN: Thank you very much, Mr.
Schafer. We will start the questioning with Com-
missioner Coleman.

BY MR. COLEMAN:

Q Just one thing I hope I interpret right. When you
talk about common forms of gambling and you say they
should all be legalized, assuming they can’t all be
legalized, what is your feeling? You have been a police
officer and you have had close association with police
organizations. You use the words, "Instead of our police
chasing petty number writers." What if the law still exists on the books with regard to the apprehension of these people, petty number writers, or otherwise? Should the police step up their efforts, continue with what they are doing, or slack off?

A The average police do not push too hard, because they are getting the same petty number writer that is getting his 15 percent for writing. The top man you will never reach, because the big boys do not touch anything. You will never catch them with anything. We have raided headquarters and never got the top man or the one that is supposed to be part of the Mafia.

Q Do you say while these laws are still existing, the police should just ignore them and that is a way perhaps to force the public into repealing laws that permit it?

A I don't believe the public wants them enforced. The police do try to enforce it, and it takes a lot of manpower and a lot of stakeouts, and so forth, to catch them. I can't speak much for Philadelphia, but in Pittsburgh and in Harrisburg, places like that, the smaller metropolitan areas, you may catch a man with one or two number slips, but it isn't enough to even go to court with, because he is dumping them or calling them in somewhere and disposing of the slips.
Relaying them to 300 or 400 other people?

Yes. You will still be catching the same little guys. I remember in 18 months catching the same guys 12 or 15 times, and they weren't bad fellows at all, really. It was my job to arrest them, and I arrested them.

MR. COLEMAN: Thank you.

DR. ALLEN: Thank you, Commissioner Coleman. Miss Marshall?

BY MISS MARSHALL:

Mr. Schafer, would you tell us where you would draw the line in terms of legalization of gambling? I know you specifically refer to bingo and numbers as two forms. What about off-track betting?

Off-track betting and sports betting. I see nothing wrong with sports betting. It is being done all the time.

Would you differentiate as one of our prior witnesses did between betting on professional sports events only, or would you include college sporting events, high school sporting events? Where would you draw the line?

I think the real betting is done on the professional teams, the baseball teams, and the professional football teams. I see nothing wrong with even betting on college teams. It is done now, because you see those slips. You
pick four out of ten, and you get 40 for 1 or something. You pick five, you get 50 for 1. That is very common.

I don't know whether the mob is behind it or not, because there are many individuals just running their own, picking the bets on their own. I see nothing wrong with sports betting, because your newspapers go along with it. They will tell you Muhammad Ali fights 6 to 2 or 3 to 1 that he is going to win. They put it right in. I read Jimmy the Greek Synder's column once in a while, and he quotes the odds on all of your sporting events.

Q Do you feel there might be perhaps undue influence placed on a teenager or a young college person if they were subject to the influence of having themselves being the object of betting?

A I don't think so, no more than they are today, because with the mob, they still try to reach them and throw a game and keep the odds at a certain level and try to throw games. I think it might be more honest, more open.

Q You make reference on the last page of your statement as a word of caution to not overtax gambling. Where would you draw your level of taxation? At what point?

A Well, you would have to figure out exactly what the operation costs are and what percentage should come to
the State. That was done with liquor at one time where
the state made so much money. It cost them so much for
the enforcement, checking the licenses and checking
whether they are selling to minors, and so forth.

To keep the odds high enough, they should
be at least 600 to 1 as the payout. Now, once you start
dropping below that, a person can start an illegal
operation and pay on the same numbers 600 to 1 if the
State is only paying 500 or 400. Once you go into that,
illegal gambling would no longer be profitable in the
field you are in.

Q Could you give us your best estimate, sir, on what
percentage or--

A I would say 10 to 13 overall tax besides paying for
your license. If the licenses cost $1,000 and they are
allocated so many to Philadelphia, because of population,
so many to Pittsburgh, as they do with the liquor licenses.
The liquor licenses are dispensed in this State that way,
and you license the people and you have to post a bond,
and so forth. You have your license. Then when you
revoke a license, it is open to the next one that comes
in. It runs, say, $1,000 or $1,500. Once you pay your
license, I would say the overall tax of 10 to 13 percent
would be readily available, because there would be no
attorneys' fees and no payoffs.
When I started to ask you about percentages actually I was going to start to ask you another question, but thank you. I was going to ask you to what extent was illegal gambling contributing to the problem of police corruption in the State of Pennsylvania?

Well, it has contributed to police corruption. If police are corrupt, it is due to gambling.

Entirely?

I think more or less, yes, because they are not involved in that much else. Politicians can be involved in building buildings, and so forth, with payoffs, but not police.

Do you feel the licensing of persons in legalized gambling industries would lead possibly to licensing problems with public officials?

I don't think so. There may be some favoritism, but this was done when they allocated the race tracks. That was just a little personal friendship and a little favoritism. Every company, every business, does that.

Have there been any problems or scandals, if you will, connected with the licensing of liquor stores in Pennsylvania or the granting of liquor licenses?

I don't think so. Serving to minors is the biggest problem and staying open after hours.

But not in the actual granting of the license?
A I don't think so. An applicant has to be a reputable person to begin with. I probably know cases, as other police officers, where the husband had served time, and his wife applied for the license. I don't think just because every man served time for bootlegging or something like that, that makes him a terrible person.

Q Would you feel the same way in the granting of a gambling license, for example, if the person had no other type of criminal record? Would you object to his being licensed?

A No. I think he is the one that should be in it. I think they would rather be in it legitimately than paying off to some hood up above.

MISS MARSHALL: Thank you.

DR. ALLEN: Mr. Farrell?

BY MR. FARRELL:

Q Just one question, Mr. Schafer. Do you think the Pennsylvania Crime Commission Report on Police Corruption adequately and accurately represents the true facts in Pennsylvania?

A You mean the book? There is only one that I saw in Philadelphia.

Q In Philadelphia and other cities.

A Well, there is one in the Harrisburg area, but I never really saw it.
Q    They have had it in Carbondale, Johnstown, and Phoenixville.

A    I just heard it on the news the other day. In fact, that was the day I came back from my trip. They reported they spent $1,800,000 in publishing that book under their investigation and there may be charges against two policemen. This is what they said on the news. I don't believe what I read on it just because a fellow gets a free meal, or something. That is common. I have walked beats, and businessmen would refuse to take my money if I had a cup of coffee, or something. I don't think that is corruption. I think the corruption part was overplayed for the City of Philadelphia. If they want to give $1.8 million, I would guess some investigator would put plenty of people in jail, and maybe not just policemen, but we will put others in jail, too. I think there is a lot of wasted money in that investigation. Now, that is my opinion. I am not speaking for the Association on that. I am speaking for me.

MR. FARRELL: Thank you, sir.

DR. ALLEN: Thank you very much, Mr. Schafer.

(Witness excused.)

DR. ALLEN: Our next witness is John J. Harrington, national president of the Fraternal
Mr. Chairman:

I am Francis J. Schafer, Executive Director of the Pennsylvania Chiefs of Police Association since September, 1963.

Prior to then, I was with the Pittsburgh Police Department, retiring from there in 1963. The last eleven (11) years with Pittsburgh Police, I served as Assistant Superintendent of Police.

During my police career, I served for eighteen (18) months as a plainclothesman on the racket squad and became familiar with the various forms of betting.

I am also a retired Lieutenant Colonel of Military Police from the United States Army Reserves.

Before I begin my testimony, let me say that I am not too familiar with the Federal laws on gambling, but I am acquainted with our State laws, and acquainted with the many aspects of gambling.

The statements contained herein are my remarks, and I know that most members of our Association, if they were present, would express similar feelings.

For years I've been hearing people say that gambling couldn't exist if the crooked police and the corrupt politicians were not in league with the racketeers.

This may be so in a few instances, but you and I know that this generalization is not true.

In Pennsylvania, the average police officer is an honest and dedicated person, and most politicians are sincere people, wanting to serve their communities and do what is best for their fellow man.
As long as illegal gambling is so prevalent, there will always be the temptation of easy money, i.e., payoffs. To keep Honest People Honest, I have urged that the common types of gambling be legalized in our State.

I know that if you or any commission comes forward with this recommendation, some church people and the do-gooders would be shocked. Let's not kid ourselves, most people like to gamble, and the average person will gamble despite any laws that have been enacted.

Why is it that certain people are shocked when someone advocates legalizing gambling. Their cry is "protect the average family." If they are so concerned about the average person, they should lobby for better laws to get the violent criminals off the streets. I am shocked at the rate of crime increase, that more persons are being arrested today and greater numbers are being found guilty, yet there are less persons in confinement today than there were fifteen (15) or twenty (20) years ago.

Getting back to gambling: Bingo - many, many of our people enjoy playing bingo. Many of our older citizens enjoy a night out with bingo as their means of entertainment. What the hell is wrong with playing bingo? In Pennsylvania it is illegal, but the District Attorneys and the police turn their heads and have for years permitted bingos to be held by non-profit organizations. Law enforcement does raid bingos that are fixed or promoted by professionals - the mob.

Let's legalize Bingo and license this type of entertainment and continue to investigate the licensees, insuring that they are conducted properly and not financed by the underworld.

Numbers: Playing of numbers is a way of life, and is commonplace in our metropolitan areas. It is a game enjoyed by many whereby a person can place a bet of pennies to dollars, and if he picks the winning three digit number, he will
receive approximately $6.00 for every cent wagered, or odds of 600 to 1. In areas where the heat is on, the odds will drop to 500 to 1, or even 450 to 1.

Many do not understand the costs involved in an illegal operation. When you play a number, the odds are 1600 to 1 and the payout is 600 to 1. What happens to the other 40%? Well, the writer gets about 15%, the pickup man gets a percentage (more in areas where the heat is on), payoffs and attorney fees 10 to 13%. Where there is no payoff, this percentage is used for fines, court costs, etc. The "book" or top man has other employes to pay and he works on about a 2% margin. 2% isn't bad, if you have a big enough daily play.

If numbers were legalized, the payout could be about 700 to 1, with about 10 to 12% tax off the top. This 10 to 12% would be nice income for any State.

Thousands and thousands of people jam our racetracks to bet the horses. Is there anything morally wrong for a person to place a bet on a horse in the event he can't get off from work to go to the track? According to the law, we have set up two standards; it is not against the law to play numbers but it is to book them; it is legal to place a bet on a horse at the track but not off-track. It is a small wonder that our children are confused by our standards!

In Pennsylvania we now have tracks open on Sunday. We have large scale gambling while the Pennsylvania Sunday Blue Laws prevent legitimate stores from making sales. I feel I'm a good Christian and believe in observing the Sabbath, but I'm getting confused by the contradiction in our laws.

To go further, many of the persons opposed to legalized gambling play the stock market. If anyone thinks that playing the market is anything else but gambling, he had better think again. I've been in the stock brokers offices and seen many people with what is termed "poker sweat." This is a nervous state in which people actually sweat when they gamble and are in over their heads.
Give some consideration to the hundreds of thousands of bets made on football games, baseball games, basketball games, boxing matches, and the hundreds of other things that people bet on. In most cases, these are called friendly bets — let's call it for what it is — gambling! There's nothing friendly about a bet as the loser must pay off — and pay off with money!

I could go on and on with examples but you need only go down to a street corner and watch the kids gambling — pitching pennies, playing cards for pennies, etc. Also, almost all persons sometimes in their lives have played penny ante, Michigan Rum, or some other little gambling game. And, how about all the friendly poker games in the private clubs. Can we condone all this friendly gambling and then try to draw a line as to what is legal and illegal; what is morally right and what is wrong.

Some states have already legalized state lotteries.

Actually, I believe this is the poorest form of legalized gambling. It is only legalized as a source of revenue and not as an "out" for the little bit of "gambling instinct" in almost everyone of us.

When people bet they like to pick their own number and not be handed the next number by a drug clerk. Also, is it morally right for a state to run a lottery when all other lotteries are illegal?

I am not here to propose the Las Vegas wide-open type of gambling. That wide open gambling leads to many other law enforcement problems and it also may need "Mafia" bankrolling. I advocate legalizing the many forms of gambling that exist and are carried on today in our communities. Instead of our police chasing petty number writers, let them work on the more serious crimes that are repulsive to our citizens.
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Any legalized gambling can only be for adults. I would not want to see kids stealing to play slot machines or other gambling games.

I view legalized gambling in the same light as is done in the dispensing of beer and liquor. Do not involve the State as a "bookie" but rather an agency to issue gambling licenses. Liquor and beer licenses are issued according to population and the same can be done with permits to book numbers, horses, etc. I do not believe that it would require nearly as much policing at the state level as does beer and liquor. With proper licensing, local police would be in a better position to eliminate "illegal gambling."

A bookmaker is a respected person in the British Isles and there is no reason this couldn't be so in this State. Also, today, the Federal government sells gambling stamps, so there is no reason why licenses could not be issued at the State level in the same manner that beer and liquor licenses are issued.

It is anyone's guess as to the actual revenue from gambling but I believe if legalized gambling was properly administered, it would make a large dent in the revenue of organized crime. Let me quote from page 189 of "The Challenge of Crime in a Free Society."

"There is no accurate way of ascertaining organized crime's gross revenue from gambling in the United States. Estimates of the annual intake have varied from $7 to $50 billion. Legal betting at racetracks reaches a gross annual figure of almost $5 billion, and most enforcement officials believe that illegal wagering on horse races, lotteries, and sporting events totals at least $20 billion each year. Analysis of organized criminal betting operations indicates that the profit is as high as one-third
of gross revenue—or $6 to $7 billion each year. While the Commission cannot judge the accuracy of these figures, even the most conservative estimates place substantial capital in the hands of organized crime leaders."

Also, on page 188 of the same report, "Law enforcement officials agree almost unanimously that gambling is the greatest source of revenue for organized crime."

I contend that we can wage war on organized crime by legalizing betting and divert that source of revenue into other channels.

I further believe this would be a good source of revenue for the State to allocate to municipalities for police salaries. I have said before that the municipal police officer indirectly works for the State as most of his work is in enforcing the State Penal laws and the Vehicle Code enacted by the State Legislature and therefore he State should subsidize his salary.

Also, I believe that if put to a vote of the people, a proposal to legalize gambling would win approval as the great majority will admit that they—gamble!

Many of us can think back to the Prohibition Era when the average person drank and "bootlegging" was as profitable business. Today, everyone gambles and organized crime reaps the profits. When prohibition was repealed, the bootleggers went out of business. Just recently, bootlegging is again becoming profitable as liquor is overtaxed. So, I am adding a word of caution—legalize gambling but don't overtax it in order that illegal gambling will never again be a profitable business.

I sincerely ask that you give this your full consideration for:

1. As a good method of combating organized crime by eliminating the profit from illegal gambling, and
2. Providing an outlet for average person's gambling urge.
3. Providing monies to municipalities for police salaries.
Order of Police and former president of the Philadelphia Fraternal Order of Police with whom I had the distinction of working on many occasions.

MR. HARRINGTON: Through some error in the mailing of the invitation to be here to speak, and because of the fact that I was traveling around, I do not have any prepared statement. My name is John J. Harrington. For six years I was president of the State of Pennsylvania Fraternal Order of Police. For eight years I was president of the Philadelphia Lodge of the Fraternal Order of Police, and for ten years I have been president of the National Lodge of the Fraternal Order of Police.

The Fraternal Order of Police is the largest organization of professional police officers in the country. It numbers 150,000 in members, and in its membership are chiefs of police on down to policemen and policewomen.

I have been a member of the Philadelphia Police Department, joining the department in 1940. I served in the detective division, and I served in the vice squad. I came here, as I said, without a prepared statement because of the facts that I gave you, but I can talk from experience and I can talk from the knowledge of talking to policemen all over.
the country personally.

Gambling and drinking are two of the biggest businesses in this country today, and gambling laws are just about as unpopular as the drinking laws were back in the early 1920's, the Volstead Act. People who never drank were drinking in closets, and today, because you have numbers and because it is on the sly, there are people who are playing numbers just for the thrill of it being illegal.

Now, I think because of these laws being unpopular laws, I say that there would be no gambling if the people wouldn't take part in it. Because the people want gambling and because it is an illegal act, then it must be backed by somebody who has no respect for the law and order, and this is where organized crime comes into the act. These people wouldn't be interested in gambling if there wasn't a great profit in it, and they do protect this profit, and this is where the trouble comes in. The gambling laws are the hardest laws to enforce, and the record shows that they are just wasting police power and police time, because just in the City where you are sitting right now, last year, there was 3,000 arrests made by the police.
3,000 arrests takes in probably 200,000 police-working hours, and of the 3,000 arrests, there was only 250 convictions. Of the 250 convictions, there was only 3 sent to jail.

Now, the president of City Council has stated that it costs approximately $40 million to try to control gambling just in the City of Philadelphia. This means it costs about $13-1/3 million to send one person to jail for gambling, so this is the proof that the people want it. It is an unpopular law, because although the police are spending all these hours trying to get these people, nothing is being done about it.

Now, the answer comes back from some people that there is police corruption. Well, there wasn't any police corruption in the 3,000 cases that they brought in and only 3 going to jail. What it causes in the police department is a lack of interest in this type of work, because, as a policeman, and I did work in this type of business, you just feel you are wasting your time. Why do it? Why go through all this aggravation, subject to being arrested yourself for making a false move? Why go through this? Nobody is doing anything about it. When you bring them in, they are out before you
count the number slips.

Now, bingo is gambling, and chance books is gambling, and horse betting is gambling. What is the difference of betting a horse at the track or betting it if you are person that can't go to the track and betting it with a bookie? It's still the same contest, still the same horses, and you are betting for the same purpose.

I think the gambling laws that we want enforced and we speak about enforcing are only for one type of people. I think these gambling laws are for the low-income people, because if a man is well to do enough to gamble and wants to gamble big, within two hours he can be in Puerto Rico or he can be in Aruba or he can go to Las Vegas if he comes from the western part of the country, and he can bet. The sky is the limit. I have been to Las Vegas, and I have seen the stakes. They have oil people coming in there, and you can bet whatever you want to bet. You read in the paper where the Arabs just came over there and bet over a million dollars in one weekend.

I have traveled in 29 countries throughout the world, and I find it is very profitable to some countries to control the gambling, such as
Ireland. Ireland has a wonderful hospital system, and it is paid for by four Irish Sweepstakes, two run in Ireland and two run in England. My suggestion would be for the Federal Government to do this, so hospitals would be free for everyone, the rich and the poor. The little guy is only betting that nickel and dime on that number to try to win to have a few hours of happiness. That is all it means. That is where the nickel and dimes come in. When organized crime multiplies these by the millions, this is where the trouble is. How do you stop the trouble? I say you control the gambling. Control it by Federal regulations, and on a Federal basis, on a State basis, do it the same as they did with the liquor. The Federal Government gets a percentage of taxation on liquor. The State Government gets their share on the taxation of liquor. I worked in a distillery, and I know it costs $.27 to make a fifth of liquor. All the rest goes to taxes here and there. I believe this is needed today. You will never come back with a prohibition law today, because the Government and the people depend on this taxation to run the Government.

Here is another thing that could help. If you had controlled gambling both on the Federal and
State levels, you would provide money for public benefits, such as they do in Ireland with the hospitals. You can make your own choice what you want to do with it. You could provide legal jobs for people who are now working illegally, and working illegally, they are not paying taxes. You could provide jobs which would make taxpayers out of them. You would protect the bettors. You hear testimony about 800 to 1, 500 to 1, 600 to 1. When I was locking up numbers writers and horse race people, when a number came out and it was a number a lot of bettors hit, then they changed the number, so everybody gets cheated. This way it would control gambling. You would protect the bettors. There wouldn't be any changing of the number.

If you really want to hurt organized crime, take the people away from them, and you will hurt them. It isn't the numbers that's hurting the people; it's the money that is coming from the numbers that is going into the different revenues and avenues that organized crime is hurting, so I say if you want to hurt organized crime, legalize gambling, all forms of gambling.

I think bingo and things like that create no harm to anyone. They are used for good purposes.
and if it wasn't for that, the people would be taxed or asked to contribute to other things. I believe people want it. Legalize it, and let the Government get the benefit from it and from the money using it in ways such as other countries use it. In Germany they have legalized gambling. Ireland has it, and England has it. We in the United States have legalized gambling, so you can't say this is right and this is wrong. When you bet on a horse, the only thing different you have are the bookies, and that is all.

DR. ALLEN: Thank you very much, Mr. Harrington.

BY DR. ALLEN:

Q During the period of your tenure as the president of Lodge No. 5 of the Fraternal Order of Police in Philadelphia, did you ever have occasion to recommend to the Police Department or to the District Attorney's Office, any of your membership, for prosecution for corruption, police corruption, relative to gambling?

A Did I recommend? No, ma'am.

Q Do you know of any instances where there might have been this type of recommendation made?

A Only through this Crime Commission Report. That is the only thing I know of.
Q While in the lodge, if you found evidence of a fellow officer who was involved in corruption relative to police and relative to gambling, what measure did you take to handle the situation?
A Well, if a man was accused of gambling, and so forth, corruption and gambling, we didn't come to his aid, because when I was president, we only came to the aid of a policeman who got in trouble out of the proper performance of his duty, and we kept it at that level.

DR. ALLEN: Thank you very much.

Commissioner Coleman?

BY MR. COLEMAN:

Q Mr. Harrington, I know you have told us you have been a police officer and apparently arrested some people in this field. We have heard other witnesses this morning talk about a change or fix of a number. How would you fix or change a number, assuming it came from the race track?
A It used to come from the United States Treasury, and they used to play the number from the United States Treasury. That number many, many times was changed.
Q Changed by whom and when?
A Well, it would be changed by the people controlling the numbers business, and that would come from the organized crime part of it. Today in most places in the
east it is taken from a mutuel handle at a racetrack.

It would be very difficult, and even if it is something published with a wide spread, it would be very difficult to change it. Now, they have changed it several times that I know of, and it has caused a lot of trouble. People got cheated because they just couldn't pay off.

Now, if you had it organized, a legitimate betting parlor, they could carry insurance if they got hit too much, the insurance could take over. That is why I say the settor would be protected, because he would be guaranteed on his bet. Today and in the past they have painted horses and put them in races and cheated that way. You have horses that come in, what they call the auto horses, from Canada. They come into this country, and you could bet your eyes on these horses. You took our biggest tool away from us, and when I say "you," that is figuratively speaking, when you took wiretapping away from us.

Q We didn't take it away from you.

A Figuratively speaking, because you will have people who will give a bookie four or five horses and the sum of money, and he won't write anything down. He will go to a phone and call them into the office. Now, where is that office? That is where the writing takes places. We used to be able to locate that office, but now we
can't tap a phone, so we can't locate that office. How are you going to stop the gambling as it is? If you had controlled gambling at a Federal and State level and you had these legitimate parlors, the people themselves would correct the situation, because why would you play with some fly-by-night when you could go in there when you are sure you are not being cheated, and you are sure you are going to get paid off.

It's sort of like a kid in a candy shop. When you have all the candy you want to eat, you don't eat so much.

Q    Suppose they gave credit?
A    Well, these are some of the regulations you would have to set down. We are not going to solve this whole thing and say how it should be formulated, and so forth, in a few minutes. This is going to take a lot of work. It is going to take a lot of mathematicians to set down the rules and regulations.

MR. COLEMAN: Thank you, Mr. Harrington.

Mr. Ritchie?

BY MR. RITCHIE:

Q    Mr. Harrington, the Commission is very interested in law enforcement problems. We are spending a good deal of time and effort to insure we correctly understand the dilemma of law enforcement carrying out policies
that maybe have little or no public support. We have employed a consultant, Mr. Burden, whom I believe you know, to be particularly aware of, not the Commissioners level, but the person who is really at the brunt of the responsibility and who must carry out the policies.

What I am interested in from you, Mr. Harrington, is regarding your membership. Assuming they all felt as you have expressed today, what support could any recommendations from this Commission have that are consistent with their views and what support could we expect from them?

A Well, I think all policemen would rather see gambling legalized, because it is always the easiest thing to do to say that it exists because a cop is being paid off, and that is an accepted fact. This is the answer. This is why there is gambling, and it is not so. You have many cases in small towns where it is almost impossible to enforce the gambling laws. Police would rather be without it, because in a small town you can only assign one or two policemen at the most to a vice squad. You can't walk up in uniform and step up to somebody that's going to play a number or a horse. They won't play it in front of you in uniform, so you have to dress like a working man. You may have to go down 5 o'clock, or so, whenever the trucks leave the depot, and you have to
associate with them. However, in a small department you may only have one man or two men. How can he go before people who know him? Everyone in town knows the five men in the police department, so you are burned out before you even get to working.

In Valley Forge and Phoenixville they have a gambler, so the gambler uses the plea bargaining. He says, "I will give you a bigger man if you let me go." They say, "Okay. You have immunity." He says, "I pay the chief." Now, the chief, who I know personally, doesn't have two cents to rub against one another, and he is innocent, and the court found him innocent, but they found him guilty of malfeasance in office, because while he was chief, there were numbers in his town, and for this reason he was demoted.

Q  Again, let's get back to the fact that whatever the Commission recommends is only a recommendation.
A  I understand.
Q  It's a political process at the Federal level with Congress and at each State level regarding their particular legislature reacting to those recommendations. My question was: Assuming that your organization agreed with the recommendations of the Commission, what support could those recommendations receive from your organization?
A  We would support it 100 percent, because policemen today, and I do talk to them all over the country, would rather have legalized gambling and take that burden off the police and the stink that comes with it.

Q  Have you ever had a formal poll of your membership to determine just exactly how many feel that way?

A  No.

Q  Would that be something that would be possible that we might arrange to have organized?

A  Well, Mr. Burden will be at our national conference, which is going to take place in August in Nashville, Tennessee, and there will be approximately 5,000 delegates there. I could put it right to them, because they are authorized to speak for the people they represent.

Q  I wonder if we might explore that with Mr. Burden to see whether or not it wouldn't be possible to perhaps construct some type of ballot and have a brief explanation, if that would serve any purpose? We don't want to interfere, but if there are X number of members of your organization who are involved in law enforcement and they feel very strongly, that is a voice that I am confident the State legislators and the members of Congress would not ignore.

A  We have a newsletter that goes to every one of our members, and we would put such a type of ballot in that
newsletter with an explanation of what it is and tell them to return it to the National Secretary's Office, and he could tally them up. These could be taken wherever we could be in touch with Mr. Burden, and we could find out where would be the most valuable place to take them or how they would want it to be handled. Q I would then like, as a matter of record, to generate that type of request.

A As a police officer, I think you would be giving a real service to the people if you would legalize gambling, because it would release hundreds and hundreds of policemen to do police work instead of chasing people up and down the street for writing a two cent number, and five cent number, and so forth. Today people are concerned with the robberies, the rapes, the murderers, the gang fighting, and so forth. You would release all these hundreds of policemen to cope with these sorts of situations rather than spending hours and hours and hours and then the case gets thrown out because you didn't say, "May I?"

DR. ALLEN: Thank you very much, Mr. Harrington. It was a pleasure to have you testify before the Commission.

(Witness excused.)

DR. ALLEN: The meeting of the Commission
on the Review of the National Policy Toward Gambling is adjourned.

(Witness excused.)

(Whereupon this public hearing was concluded.)


Mr. Chairman, I am John J. Hickton, District Attorney of Allegheny County, Pennsylvania. I thank you for the privilege and I welcome the opportunity to address this Commission.

I cannot speak to you about the effect a revision of the gambling laws would have on the national level or in the Commonwealth of Pennsylvania. I cannot speak to you about the extent of the illegal gambling operations in the State or in the county. Nor can I speak to you about the relationship of organized crime vis-a-vis illegal gambling. I believe these areas of discussions are more in the province of the various Federal, State and local organized crime investigative bodies. I can, however, authoritatively speak to
you about the prosecutorial situation as it presently exists in Allegheny County.

The problem is simple to diagnose but difficult to remedy. There are too many cases and too few qualified personnel to prosecute them. For the year 1974, approximately 9,000 cases were prosecuted. A breakdown of criminal complaints filed in the county for that year reveals that 21.9 percent of the complaints concerned crimes against the person, 26.6 percent involved crimes against property, 19.0 percent of the complaints filed represented narcotics violations, 2.7 percent involved violations of the Uniform Firearms Act, and 12.8 percent were complaints under the Motor Vehicle Code. In this last category, 80.0 percent of the cases concerned the operating of a motor vehicle while intoxicated. Thus, 83.0 percent of the complaints filed in the county involved crimes of a violent or serious nature. During this same period, 4.3 percent of the complaints represented violations of the State's gambling laws.

To prosecute these cases, I have a staff of 35 attorneys of which only 8 are full-time prosecutors. I remind this Commission that in the area of criminal law, the emphasis is solely upon the
rights of the accused and I would like to point out that, appallingly, in Allegheny County the prosecuting attorney invariably has but 5 to 10 minutes to prepare his case prior to trial.

To redress this imbalance which favors the rights of the accused over the rights of the victim and to improve upon the quality of representation and the conviction rate, I have established a policy on the prosecution of crimes. The first priority must be given to those crimes of a violent or serious nature. The citizens of Allegheny County must be protected from this type of crime. Secondly, to enhance the quality of the representation the victim received in Court, I have reorganized my attorneys into specialized prosecution squads consisting of Homicide, Rape and Child Abuse, Consumer Fraud and Narcotics. These squads correspond to the areas where, I believe, the need is the greatest.

I would also point out to this Commission that, upon taking office, I reduced the size of my detective force by sixteen due to evidence of graft and corruption resulting from protection bought by the illegal gambling operatives in the county. At present, I have a compliment of 23
experienced detectives which I have assigned to
the aforementioned squads in the interest of im-
proving the preparation of these cases for trial.

Now, I would like to devote a few words
to the gambling laws in the Commonwealth enacted
by the Act of 1972, December 6, P.L.______, No.
334, §1, effective January 6, 1973; 18 C.P.S.A.
5512, 5513, and 5514. These offenses are denominated
a misdemeanor of the first degree and carry a maxi-
mum penalty of a fine of $10,000 and/or five years
imprisonment. Many states, such as Massachusetts,
on the other hand, make the offense a felony thereby
imposing a more severe sanction. The Pennsylvania
statutes are broadly drawn and currently encompass
the innocuous practice known as "bingo." Presently
before the state legislature is Senate Bill 131
which, if passed, would reclassify the gambling
statutes as misdemeanors of the second degree,
thereby reducing the maximum allowable sentence to
a fine of $5,000 and/or two years imprisonment.
Also, Senate Bill 559, if passed, would legally
permit the conduct of "bingo."

Lastly, a review of the dispositions
of gambling offenses indicates that, invariably,
the offender is nominally fined, accompanied by
either probation or a suspended sentence.

Faced with all these facts, I have neither encouraged nor discouraged the enforcement of the gambling statutes. I have, however, attempted to deal realistically with the primary problems plaguing criminal prosecution in Allegheny County.

Reported by:

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