

Statement to the  
National Gambling Impact Study Commission November 10, 1998

by  
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Madame Chair, members of the commission; members of the panel:

There are at least two misconceptions to address before responding to the questions posed by the commission.

A. First, we must debunk the notion that "If you make bookmaking illegal, it will increase organized crime and illegal bookmaking."

"In reality, state-run gambling stimulates illegal gambling rather than eliminating it," wrote James H. Frey, Ph.D., of the University of Nevada Las Vegas (UNLV) Department of Sociology. ("Gambling on Sports: Policy Issues" from the Winter, 1992, Journal of Gambling Studies, p. 355)

For reasons as to why this happens, I refer you to former FBI agent William F. Roemer, Jr.'s book, "The Enforcer," (Donald I. Fine, Inc., New York, p.196). Mr. Roemer also knows illegal gambling increases with state-sanctioned gambling -- Why? Because gambling get people hooked. The addicted must look elsewhere for action when out of cash and credit. This stimulates illegal gambling.

B. The next "red herring" lies in the myth that the state depends on sports gambling for its economic health. I'm sure you will receive numbers that will differ and you will research them independently. My guess is the truth is somewhere between the SEC information to stockholders and information to the IRS.

Revenue to the State of Nevada on Sports betting was minimal last time I checked in 1994 (copy attached). These figures are for all sports. My concerns focus on college sports, only a percentage of these figures. The potential for the expansion of this industry is huge and the impact on United States policy, reputation, and social order is critical. The Governor of Nevada recently imposed a state hiring freeze because of a downturn in the economy. We have one of the fastest growing economies in the country and, of course, it will slow. The biggest current problem today lies in generating enough employees for the new casinos. Money is not all there is to public policy. Where do we draw the line on gambling? Or do we?

Former basketball star and Senator Bill Bradley, D-New Jersey, stated the following upon the passage of the Professional and Amateur Sports Protection Act, October 7, 1992, (U.S.C.&&3701). This law prohibits states from professional or amateur sports betting

with few exceptions other than Nevada. (Delaware, North Dakota, Oregon and Montana have minimal activity).

"We all recognize the fiscal constraints under which States operate in these tough economic times," Senator Bradley said, "but we must not forget the consequences of sports betting. Based on what I know about the dangers of sports betting, I am not prepared to risk the values that sports instill in youth just to add a few more dollars to state coffers...State-sanctioned sports betting conveys the message that sports are more about money than personal achievement and sportsmanship. In these days of scandal and disillusionment, it is important that our youngsters not receive this message...Sports betting threatens the integrity of and public confidence in professional and amateur team sports, converting sports from wholesome athletic entertainment into a vehicle for gambling...Sports gambling raises people's suspicions about point-shaving and game-fixing...All of this puts undue pressure on players, coaches and officials...Sports would become the gamblers game and not the fans game."

Senator Bradley closed by congratulating his colleagues for acting in the best interest of youngsters and athletes by passing his bill. Incidentally, New Jersey was given the option of being grandfathered in and the people said no to sports betting. I will suggest a reason later. Now for the responses to the specific questions posed by the commission.

***1. What is the estimated volume of legal sports gambling? Of illegal?***

In 1990, all sports betting represented less than one percent of the gambling market share and contributed just 0.38 to 1.62 percent of casino win in Nevada (Nevada Gaming Control Board, 1990). At a six percent tax rate on a gross win of \$48 million in 1990, this resulted in only \$2.9 million for Nevada's treasury (Frey id.). Dr. Frey's study also referred to the work by congress and others to prohibit gambling on sports citing the links of betting to organized crime, the potential for "fixing " outcomes, and the negative impact betting has on the perceived integrity of events (p 351). Attached are figures from Nevada Gaming Control I used in testimony before the Nevada legislature in 1994. I question whether sanctioned and widespread sports gambling is good enough for the economy to outweigh the impact on the United States' leadership role in the world and responsibility to its citizens?

***2. How are sports gambling regulated? How are illegal sports gambling controlled in legal venues?***

STATE REGULATION IN NEVADA: There has been an explosion around the world of illegal and legal means to gamble on sports, yet Nevada's gaming control apparatus has little ability or expertise to regulate a situation that is unique to Nevada. In fact, I. Nelson Rose, author of "Gambling and the Law" and professor at Whittier College School of Law in Los Angeles takes a dim view of Nevada regulatory bodies. He notes that the fight for regulatory control is almost over and the casinos have pretty much won. Every year the

industry gets a little more of what it wants, he notes in the book Welcome to the Pleasuredome by David Spanier, (University of Nevada Press, 1992 p 231).

In the South for many years there was a "Sovereignty Commission" to protect "state's rights." In fact, it was there to protect segregation. Professor Rose is not the first to assert that Nevada's system of so-called "voluntary compliance" has grown too close to the industry it regulates. Organizational theory will support this.

**THE MEDIA AS FELLOW TRAVELER:** The First Amendment role of media as watchdog has eroded worst with sports. Media long ago crossed the line from neutral reporters to boosters. In 1992, the Society of Professional Journalists adopted a resolution at its national convention in Baltimore addressing the conflict-of-interest which the media have reporting on sports, given their financial interest in the industry.

In Nevada for example the publisher of the Gannett-owned Reno Gazette-Journal accepted a seat on the board of directors of Harrah's Entertainment, a company with major hotel-casino holdings in northern Nevada and a state-regulated industry. She also serves as president of Gannett West Newspaper Group with responsibility for Gannett chain newspapers throughout the western U.S. She has been heavily criticized within the publishing fraternity for facilitating a potential conflict of interest with her community's principal industry. If she attended every corporate meeting on the agenda in 1997, she stood to earn \$46,800 from the gambling corporation. (Reno News & Review, 29 January 1997, p. 10) In reviewing the situation, the Columbia Journalism Review quoted the Reno Gazette-Journal's own employee handbook: "Employees will not have any outside interest, investment or business relationship that dilutes their loyalty to the company or dedication to the principle of a free and impartial press." (id.) Harrah's parent corporation, "Promus, and its subsidiaries paid Gannett's Pacific Newspaper Group \$890,251 for newspaper advertising from Jan 1., 1994, to Feb. 28, 1995, according to SEC documents." (id.)

With billions of dollars in advertising and the increasing concentration of power in a few media companies, marketplace regulation has been replaced with wealthy media moguls playing monopoly with teams and satellites. ("King of Sports," Barron's Sept. 21, 1998; "Rupert Murdoch; Heartless Man in Spineless World," Mother Jones magazine; October, 1998 - an interesting and timely combination of sources). "The media baron who broadcasts the games the world loves controls the world's hearts, and hence the world's wallets," wrote Mother Jones contributor Zev Borow. While fans "may not be loyal to any network, they're out-of-their-minds loyal to their teams," said Fox Sports Net anchor Van Earl Wright. (ibid.) In the age of Rupert Murdoch, sports becomes a mere facilitator, a building block in the construction of his stateside media empire. As his media penetration increases, so does his political influence. Murdoch, who renounced British citizenship in order to circumvent U.S. laws prohibiting foreign ownership of television stations, makes or breaks political careers. British Prime Minister Tony Blair's government did nothing to prevent Murdoch from acquiring a major soccer team despite Murdoch's existing media and sports dominance in the U.K. He recently bought the venerable Los Angeles Dodgers, the last family-owned major league baseball team. Murdoch is always on the cutting edge

of technology. If there's an extra dollar to be made in media and sports, he will be the first to make it. "You know, with sports, it's like the world's biggest addiction. Once you've got them hooked, they're hooked," says Jacqueline Hunt, senior presentation coordinator of Murdoch's Fox Sports Australia. (ibid.)

Such words should act as a warning as we enter the brave new world of satellite and Internet-facilitated real-time gambling on sporting events in progress.

**THE NEVADA LEGISLATURE:** A problem in Nevada is that even though gambling is a state-created, privilege industry, it is nonetheless allowed to donate to political campaigns. This is not the case in New Jersey last time I checked, but I'm sure there's pressure to change that law. In the local elections this year, casino owner Sheldon Adelson was the high-profile subject of many campaign ads. His multi-million dollar expenditure is seen as a way to buy influence. There is nothing new in that thinking, but changing the culture is impossible to do from within. In the movie "Bugsy," Bugsy Siegel opens by saying they (organized crime) will do legally in Nevada what is illegal everywhere else and do it through the government.

In 1993 and 1995, I testified before Nevada legislative committees to ban gambling on college sports in Nevada and send a resolution to the U.S. Congress to apply its law equally. I visited and wrote congress regarding the issue(copy attached). In 1996 I presented a state and national plank to the Republican convention which was tabled (copy attached). The motion was tabled after discussion that the industry would not donate to campaigns. In 1997, I took a different route and requested the introduction of Assembly Bill 610 (attached) which would have allowed gambling but would have treated all schools equally under Nevada law. Before any betting would be allowed on a collegiate-level game, schools involved would have to give their permission. They would obtain a royalty for granting the privilege.

The bill recognized the property right resulting from the substantial sports investment of taxpayers, students and donors through their respective institutions. These institutions "create the excitement" by producing athletic performances broadcasted and used for gambling outside the scope of the "fair use doctrine." "Fair use" for purposes of this discussion may also be roughly defined as a news description of facts emanating from an event. It is also used to describe excerpting from a piece of writing for purposes of criticism or illustration. (The formal definition may be found in 17 U.S.C. section 107)

**TELECOMMUNICATION LAW.** Television sports programming deserves a great deal of study and discussion independent from the FCC. It seems to me that the concept of public airwaves needs to be reinforced. Telecommunications law is rapidly evolving. For example, in 1996, the National Basketball Association sued Motorola to prevent transmission over Motorola pagers of news of games in progress. The NBA asserted a heretofore unrecognized property right in the news emanating from in-progress sporting events. "To allow an entity to monopolize the facts that naturally flow from its activities is a dangerous precedent," commented an online publication, Cyberspace Lawyer (vol. 1, no.

7, October, 1996). Another interesting example is the Liechtenstein Lottery [www.interlotto.li](http://www.interlotto.li). The small country of Liechtenstein, which internationally markets a national lottery, would like the laws of Liechtenstein to apply to a computer or satellite user in Utah where gambling is still illegal.

A Nevada company, BIOCHEM, took over INTERBET, providing bingo and a sports betting website. The law provides for "clearances" or addressing "fair and equitable pricing" that is required under interstate commerce. The question of jurisdiction is being addressed in many states and nations. Nevada law clearly defines gambling as a "privilege industry." (State v. Rosenthal, 93 Nev. 36, at 41, 44, 559 P.2d 830 1977). If there is no difference from any other business, then do away with the expense of gaming control. If it is different, and if Nevada has a virtual monopoly on sports betting, there is a federal as well as a state responsibility under interstate commerce wherein casinos have a liability for activity beyond "fair use" of sporting event news. Hence, the introduction of AB 610. Otherwise, recall Sen. Bradley's caution about converting sports from wholesome athletic entertainment into a vehicle for gambling.

**PROLIFERATION OF NON-PROFITS:** NCAA and the other organizations involved with sports add to the complexity of this discussion. The "foundations," "booster clubs," and tax law have been quite an education for me as a Regent. The proliferation of 501(c)(3) tax-exempt, non-profit organizations hurt the true non-profit work being done by so many organizations. Many of these groups seek to make government decisions without the accountability of government. The foundations control the university system of this state. (See "Regent Shelley Berkley" in *Running Scared* by John L. Smith; Barricade Books, Inc, 1995, p. 308-309).

If your response to all this is, "we'll make it all legal because we can't stop it," let me refer to the Knight Foundation. Its Commission on Intercollegiate Athletics several years ago issued a report which reflects hope as well as frustration: "I think the temptation is for us to throw up our arms and say we can't possibly change this mess... Such a position is pretty feeble in light of what's happened in Eastern Europe. If the Berlin Wall can come crumbling down, I find it hard to believe we can't deal with the problems of college athletics."

### ***3. What is the general player profile for sports gambling? How well are youth and adolescents kept from sports gambling?***

In conversation with Steven L. Oster, MA, staff counselor in Student Psychological Services at UNLV, several profile indicators were discussed. His 1992 master's thesis addresses the parameters of undergraduate gambling. With a committee of six Ph.d.'s using the South Oaks Gambling Screen, or SOGS, the following was reported:

- Over 92% of students under 21 years of age had gambled.
- Over 50% gambled in a casino.
- 22% gambled weekly.

Using SOGS, 11.2% scored in the pathological gambling range. Gambling and pathological gambling behaviors displayed a significant relationship to male gender, non-residency status, being over 21 years-old, and getting drunk often. DSM-III-R, proposed DSM-IV, and SOGS criteria measured pathological gambling at 5.1%, 4.2%, and 11.2%, respectively (DSM Diagnostic and Statistical Manual of Mental Disorders).

No relationship was found linking subjects' college major or underage drinking with pathological gambling. SOGS scores of UNLV students were consistently higher than found in previous studies. Critical elevated scores were reported for non-resident students. (Lesieur & Blume, 1987, Henry R. Lesieur, Ph.D., Dept. of Sociology and Anthropology, St. John's University, Jamaica, New York) I am also attaching a reference list from a similar article, "The proliferation of legalized gambling: implications for student affairs; Robert L. Ackerman and Terry D. Piper; NASPA Journal, Vol 33, no 2, Winter 1996.)

Much has been written over the past decade or so about state lotteries, run by governments, sending a message to young people that gambling must be all right since the government is doing it. In Nevada, our youngsters have been getting that message for much longer. In 1984, a congressman sent a letter to a constituent concerned about underaged gambling at U.S. military installations.

"I can certainly understand your concerns that the Army is encouraging gambling by young men and women by purchasing slot machines. However, slot machines have proven to be very popular with the troops, and certainly keeps them off the streets and away from drugs and other illegal activities. I believe it is a healthy recreational activity which is cost effective and enjoyed by our troops," the congresswoman concluded. (Letter attached.) Her husband at the time was a high level executive with the company selling the slot machines to the government. (Reno Gazette-Journal, 16 Sept. 1984, p. 19A).

***4. What are the current technological trends in sports gambling, and how do those trends affect its successful regulation?***

The children's television and computer game program, "Where In The World Is Carmen Sandiego," can be accessed in the home by children who then interact with the show. In Hartford, Connecticut, there are boxes that interact with the television to play trivia. A television with a sporting event is playing right next to it. According to Dr. Rob Hunter of Charter Hospital in Las Vegas, the length of time to become addicted dramatically shortens when it comes to video poker. Imagine the B. F. Skinner result of immediate reward and punishment of gambling on every play in a sporting event in real-time in your living room using your (or your parents') credit card. The MTV generation and beyond may not find craps or poker exciting. They do find the excitement of competition exciting.

On America West planes there are computers where the phones used to be. "The laws of Illinois" apply if shopping. Soon, with pressure to allow gambling in air space over the

United States, you'll see "the laws of Nevada" apply for casino and sporting events. If you think families have problems with 900 number porno calls, just wait for interactive gambling in the home

Under the heading "Electronic superhighways and the interactive future," (Gaming & Wagering Business, Aug-Sept., 1993 p 25), the magazine noted that "farsighted casino executives, the Steve Wynn's and Larry Woolfs and Bill Bennetts, are making their companies over into providers of general entertainment able to compete with Orlando and Hollywood for megabuck family leisure budgets...Mirage Resorts and Circus Circus and Caesars World and MGM Grand are entertainment companies adorning with gaming driven income statements of incredible cash-generating power. In the years ahead there will be nothing, absolutely nothing, these companies cannot afford to buy. There was news here in 1992 that was generally overlooked. The Professional and Amateur Sports Protection Act, in creating a Federal ban on new sports betting...would appear to give pari-mutuel sports a monopoly on interactive wagering on sports in the home."

I also refer you also to the June 1997 issue of "Financial World." The entire issue is devoted to sports and in part refers to Cablevision and the Sports Channel (now owned by Rupert Murdoch). "People close to the deal say ITT, which owns the Sheraton chain of hotels and is bidding for Caesars World casino-hotels, would like to turn Madison Square Garden into an interactive sports park." Last time I checked you could find a link to the MGM Grand Hotel Casino off the (WAC) Western Athletic Conference website

##### ***5. What is the social impact of illegal sports gambling?***

I make no distinction between legal and illegal sports gambling when it comes to gambling's impact on our society. On February 25, 1997, I spoke with Cedric Dempsey, executive director of the NCAA at an ACE (American Council on Education) meeting in Washington, DC. He said schools didn't have a problem with legal gambling; it was illegal gambling that was a problem. I said that's like saying it's OK to be hit by a defensive missile; it's only the offensive missiles that do harm.

Gambling is regulated for good reason and those reasons are magnified when you sanction gambling on sports --particularly college sports. I once heard a speaker say there were more security guards at the Mirage casino on the Las Vegas Strip than there were highway patrol officers in the entire state of Nevada. A member of the Nevada Gaming Control Board once told me there were only two people in gaming control who knew much about computers when the gambling industry can afford to hire the best in the world.

There is no way government can control such an industry, but the public can if enough people believe gambling on sports is not acceptable. People who normally would not gamble take government sanction as a statement that gambling is o.k. MADD (Mothers Against Drunk Drivers) and state legislatures have had an important impact on both the law and individual behavior. A clear statement from government, whether through policy

or law, would have a significant impact on sports. Nevada itself, in the not-too-distant past, reversed itself on the subject of gambling.

On March 24, 1909, Governor Denver Dickerson signed Assembly Bill No. 74, introduced by Democrat Assemblyman George McIntosh from Carlin. It ended legalized gambling in Nevada. That crusade took fifty years and was also lead by a Methodist minister. Incidentally, University Regent Charles Lewers spoke on the effects of gambling on the operation of the university and the financial impact of the loss of students (Nevada Forum, October 14, 1908; October 19, 1908; Nevada State Journal). The banner at the October 12, 1907 anti-gambling rally at the Grand Theatre in Reno read, "Gambling Will Catch Some Of Our Boys, Will It Be Mine Or Yours."

The Reno Evening Gazette, on February 8, 1909. published this poem.

O Nevada, wicked state,  
Cut the gambling, ere too late;  
Lift yourself out of  
The mire,  
Throw the crap game  
In the fire.

Gambling was legalized in the midst of the Great Depression in 1931 ("Veiling the Tiger: The Crusade Against Gambling," 1859-1910; Phillip I. Earl; Nevada Historical Society Quarterly, Vol. XXIX, Fall 1985, No. 3).

I never read a sports page until I ran for university regent. Understanding the politics of sports and gambling became necessary and my goal to find a "model sports policy" a nearly impossible task. Starting in the early 1980s, the headlines read, "Regents OK loan to correct UNLV athletic cash flow" (1/14/84); "Regents reject Crowley proposal for non-profit corporation" (9/16/83); "In Trouble for Overspending on Athletics, UNLV Vows to Reform" (7/27/83); "Regents seek help to end disarray" (7/13/83); "Wiesner succeeds Molasky as UNLV Foundation President" (3/22/83); "No state money will be used to pay coaches, Regent chief says" (2/10/83); "UNLV Athletic Department better off without boosters" (2/13/83); "Report on UNLV Sports Tell It Like It Is - Bad" (1/12/83); "UNLV looks for bailout/UNR president says arena may not open" (1/27/83); "Blue Ribbon Committee on UNLV sports problems headed by Kenny Guinn" (1/9/83).

Ten years later, the headlines are about the same. On October 19, 1994, a majority of the regents of the University and Community College System of Nevada voted to pay basketball coach Rollie Massimino \$1.8 million dollars to leave after an illegal contract with the UNLV Foundation was revealed. Why did individuals go to such great lengths to keep the contract secret? (Nevada Attorney General's Opinion Request no. 94-42)

The negative impact of betting on the perceived integrity of events that the Sports Protection Act seeks to address begs this question and will continue so long as Nevada



schools are treated differently. Nevada has a virtual monopoly on sports betting except if a Nevada team is involved. In that case, gaming regulation forbids betting (Gaming Regulation 22.120). If UNLV has a winning team in the Final Four, as they did under Jerry Tarkanian for two seasons in a row, bookies cannot take bets. It is not in the casino industry's best interest, then, to have a winning college team in Nevada. This is a severe conflict of interest which will haunt our colleges until it changes. Our teams are no different than most others yet we are treated as if we are.

Concerns about when and where gambling takes place are now overshadowed by the impending explosion of technology with no thoughtful policy. Geography and state borders are no longer relevant with gambling through Nevada or off-shore. With today's technology, being in-state and able to gamble means nothing. The answer proposed by gamblers is to allow gambling on in-state teams. AB 610 proposed that but rightfully required consent and a royalty for more than "fair use" for all institutions. I still prefer the campaign slogan of a group lobbying along with NCAA and the professional leagues in DC for the Sports Protection Act, "Don't gamble on our children."

Nevada stands as the most high profile loophole though which the entire world could legally gamble on almost anything - elections, Little League, children's beauty pageants or worse. There is a concern around the world about organized crime. The United States, leader of the free world, sanctions, through Nevada, a structure that neither respects the property right of sporting performance nor draws the line on gambling on any measurable scale.

I believe the state and the industry should volunteer to draw the line at college sports. If not, then the industry should be made to abide by principles of interstate commerce and pay a royalty to the donors and taxpayers for more than "fair use" of the games they pay to produce. Madam Chair, I understand very well the politics surrounding this commission. The task is an ancient philosophical one of finding the "good." Please make your over-riding concern fair use of our educational institutions and not misuse of their students, supporters and taxpayers.