

**BACKGROUND BRIEFING PAPER**  
**ON**  
**SPORTS WAGERING**  
**SUBMITTED BY**  
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**NOVEMBER 10, 1998**  
**LAS VEGAS, NEVADA**

[Please Note: This paper is intended as general background for the use of the Commissioners of the National Gambling Impact Study Commission. It is not intended for any other use, nor does it represent the position of the Commissioners or staff of the National Gambling Impact Study Commission.]

**INTRODUCTION**

Wagering on sports events "is probably the most common type of gaming."<sup>1</sup> From the bi-lateral bet between two friends to the office pool to the professional bookie, sports wagering is pervasive. Sports wagering is probably as old as athletics. In the era of Republican Rome, gambling was allowed on athletic contests "which are done for virtue" but not on other games.<sup>2</sup> Speculation and prediction seem to inherently involve a discussion of the probabilities or the odds of achievement. O'Brien has noted that sports betting "attracts some of the most cerebral bettors in the country, those anxious to match wits with oddsmakers and bookies."<sup>3</sup> Many gamblers learn the current point spread on major sporting events by consulting newspapers, radio talk shows, television and cable programs, on-line services, and other sources. By consulting the current line, potential wagerers, both legal and illegal, place educated bets on the outcome.

**LEGAL STATUS**

Sports gambling is legal in two states: Nevada through casino sports books, and Oregon, through a state lottery game based on NFL football. Delaware and Montana are allowed to have sports

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<sup>1</sup> VOGEL, ENTERTAINMENT INDUSTRY ECONOMICS, Fourth Edition, Cambridge, 1998, p. 408.

<sup>2</sup> CROOK, LAW AND LIFE OF ROME, 90 B.C.-A.D. 212, Cornell University Press, 1967, p. 271. A praetor's edict was needed to apply sanctions for gambling but the praetor refused actions to cover gambling debts. The praetor would allow actions against those who forced people to gamble against their will. While little is known about gambling statutes in Greece, many of the richest citizens were expected to provide a liturgy, or sponsorship, of athletic events. See MACDOWELL, THE LAW IN CLASSICAL ATHENS, Cornell University Press, 1978, pp. 161-164.

<sup>3</sup> O'BRIEN, BAD BET: THE INSIDE STORY OF THE GLAMOUR, GLITZ, AND DANGER OF AMERICA'S GAMBLING INDUSTRY, Random House, 1998, 5.

book by statute, but currently it is not authorized. These four states had a pre-existing statute to provide for sports gaming before enactment of Federal legislation in 1992, which prohibits sports betting in all other states.<sup>4</sup>

#### **SCOPE**

Because of the illegality of sports wagering in most states, reliable figures on the scope of sports gambling are difficult to find. There is at least one study that indicates approximately \$88 billion is gambled illegally on sports each year, with another \$2.46 billion handled legally in Las Vegas.<sup>5</sup> For example, a record \$77.3 million was bet in Nevada on the Super Bowl game between the Denver Broncos and the Green Bay Packers.<sup>6</sup> Illegal gambling on the Super Bowl may be 100 times that amount.<sup>7</sup> One speculation is that sports wagering is as "big as the lottery business."<sup>8</sup> However, the percentage of profit has slipped dramatically over the years, and some casinos may actually lose money operating sports book, retaining this form of gambling more as an amenity than as a revenue producer.<sup>9</sup>

#### **THE POINT SPREAD**

Sports wagering may be limited to choosing a winner or a loser. But beginning in the late 1930s, some bettors became drawn to the point spread, which attempted to compensate for the different abilities of competing teams.<sup>10</sup> There are some who argue that the

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<sup>4</sup> *The Professional and Amateur Sports Protection Act*, Public Law 102-559, signed by the President on October 28, 1992. Section 3702 of the Act stipulates that

It shall be unlawful for 1) a government entity to sponsor, operate, advertise, promote, license, or authorize by law or compact, or 2) a person to sponsor, operate, advertise, or promote, pursuant to the law or compact of a governmental entity, a lottery, sweepstakes, or other betting, gambling, or wagering scheme based, directly or indirectly (through the use of geographical references or otherwise), on one or more competitive games in which amateur or professional athletes participate, or are intended to participate, or on one or more performances of such athletes in such games.

<sup>5</sup> INTERNATIONAL GAMING AND WAGERING BUSINESS, April 1, 1996.

<sup>6</sup> FEOUR, Oddsmakers Say Betting Boasts NFL, LAS VEGAS REVIEW-JOURNAL, February 17, 1998, 11C.

<sup>7</sup> *Id.*

<sup>8</sup> O'BRIEN, BAD BET, p. 214.

<sup>9</sup> See, O'BRIEN, BAD BET, p. 251.

<sup>10</sup> For a discussion of the history of the point spread, see, O'BRIEN, BAD BET, pp. 236-241.

prevalence of the point spread has actually increased the popularity of some sports.<sup>11</sup> Bets are placed on the spread of points between the winning and losing teams' score, making this particular style of wagering more attractive for both bookies and gamblers. For bookies, the point spread could provide a sliding scale which could be adjusted so that any game, regardless of the abilities of the opponents, would draw wagers. For gamblers, the point spread makes every contest more interesting than a straight win/lose proposition.

Sports book operators attempt to equalize the total amounts bet on both sides of the book and avoid a "push" (making the exact point spread) by adjusting the spread or line. In football and basketball, for example, wagers based on the point spread are normally made at odds of 11:10. This means that whether betting for the favorite or the underdog, the bettor wagers \$11 to win \$10. The bookie thus retains a \$1 commission known as vigorish or "vig". In practice, this means a bookmaker will receive a return of 4.5 percent, based on the \$11 received from each side of the wager, no matter which team wins. The bookmaker will attempt to move the point spread so that an equal number of dollars are wagered on both teams. If the line has been moved so that the number of dollars on each side is uneven, then the bookie might make more or less than the theoretical 4.5 percent.<sup>12</sup> Recently, for the state of Nevada, the sports book hold percentage has been around 2.8 percent.<sup>13</sup> At a time when the volume of sports betting is increasing, the sports book "win" (the amount lost by bettors) has dropped from 7.34 percent to 4.2 percent from 1975 to 1996.<sup>14</sup>

The initial spread is based on a bookie's instincts and judgment. But after the initial line is established, all subsequent adjustments are responses to how gamblers perceived each team's odds of performance. Rather, the line is not an attempt to forecast a final score. It represents the bookie's attempt to

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<sup>11</sup> Sid Diamond, General Manager for Nevada Operations of International Sports Wagering Inc. has asserted that "Without it, the (NFL) might have at least 50 percent less fan base." FEOUR, Oddsmakers Say Betting Boasts NFL, LAS VEGAS REVIEW JOURNAL, February 17, 1998, 11C. One reason for the interest in the point spread is that it compels the bettor to watch an event to the end; the interest in a sporting event is not limited to winning or losing, which may be a fore-gone conclusion well before the end of a game. Another is that it makes betting more complex, allowing for factoring many variables, and thereby making the bet itself a reflection of greater thought, insight, or information by the bettor.

<sup>12</sup> This analysis comes from Vogel. See, VOGEL, ENTERTAINMENT INDUSTRY ECONOMICS, pp. 408-9.

<sup>13</sup> *Id.*, p. 409.

<sup>14</sup> O'BRIEN, BAD BET, p. 251.

split the betting evenly on both teams so the bookie's risk is minimized.

#### **SPORTS PARTICIPATION AND SPORTS WAGERING**

There is considerable evidence that some participants in sporting events gamble. Pete Rose, Art Schlichter, Michael Jordan, Albert Belle, and others are admitted gamblers.

Recently, there have been open admissions of point-shaving schemes. For instance, Dion Lee, a former intercollegiate basketball player at Northwestern, admitted his part in a scheme to fix three basketball games. Kevin Pendergast, a former place-kicker for the football team at Notre Dame, admitted to organizing point-shaving schemes.<sup>15</sup>

Also, there is evidence that some participants work to change the final outcome of a sporting event to assist gamblers. The 1919 Black Sox Scandal symbolizes such a compromise of the integrity of a sport. In 1996, 13 players at Boston College admitted gambling on sports events, with two betting against their own team.<sup>16</sup> In that same year, a study sponsored by the NCAA found that of the over 2,000 student-athletes surveyed in Division I basketball and football programs, 25.5 percent admitted betting on college sporting events while in school. The NCAA study found that 3.7 percent of the student-athletes surveyed had placed bets on games in which they played.<sup>17</sup>

In the National Football League, Major League Baseball, and the National Basketball Association, betting on your own sport is grounds for dismissal for any athlete or coach.<sup>18</sup> Each league offers referral services of treatment of gambling and other addictions.

#### **SPORTS WAGERING ON COLLEGE CAMPUSES**

There is much justifiable concern about the rise of sports

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<sup>15</sup> ASSOCIATED PRESS, Basketball Point Shaving Becomes Focus of Conference, LAS VEGAS REVIEW-JOURNAL, August 7, 1998, . Interestingly, Lee was partially motivated by gambling debts and Pendergast developed a gambling habit in high school.

<sup>16</sup> KINDRED, Ignoring Gambling Won't Make It Go Away, THE SPORTING NEWS, November 18, 1996, p. 7.

<sup>17</sup> Cited by Cedreic Dempsey in a Letter to Leo McCarthy, October 16, 1997.

<sup>18</sup> For example, the National Football League prohibits both gambling on NFL games and associating with persons involved in sports gambling. See, JEFF PASH, Testimony before the Senate Subcommittee on Technology, Terrorism, and Governmental Information, Washington, D.C., July 28, 1997. Pash is the Executive Vice President of the National Football League.

wagering on college campuses. For example, Cedric Dempsey, Executive Director of the National Collegiate Athletic Association, recently argued at the NCAA Southeastern Sports Gambling Summit that "there is evidence more money is spent on gambling on campuses than on alcohol." Dempsey claimed that "every campus has student bookies. We are also seeing an increase in the involvement of organized crime in sports wagering."<sup>19</sup> Bill Saum of the NCAA has called it "the Number One thing in the 90s in college."<sup>20</sup> There is some worry about campus gambling compromising the integrity of sporting events.<sup>21</sup>

Student bookies can be found on most college campuses, enabling betting on sporting events. Three years ago, *Sports Illustrated* ran a controversial report on college campus betting, calling it "rampant and prospering."<sup>22</sup> Gambling rings have been uncovered at Michigan State, Maine, Rhode Island, Bryant, Northwestern, and Boston College, among other institutions. While studies are sparse, Lesieur has found in a survey of six colleges in five states that 23 percent of students gambled at least once a week.<sup>23</sup> Some studies show that between 6 and 8 percent of college students are "probable problem gamblers," which is defined as having gambling habits out of their control. Many gamblers start as adolescents. One example is a Texas Tech sophomore who started gambling in 10th grade. By the time he was a senior in high school, he was winning and losing thousands of dollars. Another student at University of Florida talked of raiding \$20,000 from his joint checking account with his mother, and of owing tens of

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<sup>19</sup> LUNDY, NCAA Says Lady Vols Not Safe From Gamblers, KNOXVILLE NEWS-SENTINEL, August 6, 1998, C1.

<sup>20</sup> YERKES, Gambling 'Most Critical Issue' for NCAA, SAN ANTONIO EXPRESS NEWS, March 30, 1998, p. C1.

<sup>21</sup> For example, "The NCAA is concerned about the growth of sports wagering and its impact on our nation's students, campuses, and the future of sport." Letter from Cedric Dempsey to Leo McCarthy, October 16, 1998.

<sup>22</sup> LAYDEN, Better Education, SPORTS ILLUSTRATED, April 3, 1995, p. 68. Layden found that

The college better speaks the language of the trade -- juice, vig, tease, parlay, quarter (\$25), dollar (\$100), push -- and sometimes deals in amounts that would buy sport-utility vehicles. It seems out of place in a youthful, academic setting. Gamblers come equipped with war stories of losing money and winning money, stories you expect to hear from older, harder men. They have the ability to make a campus hangout feel like a Keno lounge or a storefront off-track betting parlor.

<sup>23</sup> LESIEUR, ET. AL., Gambling and pathological Gambling Among University Students, 16 ADDICTIVE BEHAVIOR, 1991, 517-527.

thousands to other friends.<sup>24</sup>

#### **SPORTS WAGERING, THE MEDIA, AND THE INTERNET**

Many Americans are now turning to the Internet to gamble on sporting events. There is considerable reason for worry. Internet gambling has become widely available at the same time that sports touting services have proliferated. At one point, 48 of the nation's 50 largest newspapers published betting lines and information. Sports periodicals that analyze upcoming contests, such as *College and Pro Weekly Football* or *Sportsforum*, are littered with advertisements for 1-800 and 1-900 odds information numbers, wagering phone numbers, celebrity information numbers, sports results networks, and confidential sports wagering accounts. There are also colorful advertisements for off-shore Internet gambling sites and for Internet sites located in foreign countries. For example, one site "located in the Caribbean" advertises "safe and legal" offshore books on virtually every type of sporting event, with parlays, teasers, totals, round robins, future and exotics. There is a caveat that "you should determine if these services are permitted under your local laws." Another advertises that it is "licensed in Antigua" and "every account is insured by a Lloyds of London policy up to \$100,000.00." There are on-line scores and news, line updates, daily Nevada rotation schedules, betting guides, parlay cards, virtual casino, and a live casino chat server. In an effort to draw linkage with the most prestigious of sports events, another site with an address in Jamaica has a Greek temple and a caricature of Zeus in its advertisement, claiming to cover "all major sports on the planet," with special high-roller phones. These are but a few of the many, many on-line services available.<sup>25</sup>

The NCAA and other organizations have expressed the fear that Internet gambling will increase the amount of sports wagering on college campuses and the number of gambling infractions by student athletes.

#### **POSSIBLE SOLUTIONS**

There has been considerable discussion about potential solutions. Edward Galanek, a witness at the last hearing in New Orleans, has suggested that sports wagering be legalized.<sup>26</sup> Others have suggested greater enforcement efforts. For those citizens who

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<sup>24</sup> *Id.*

<sup>25</sup> See, *COLLEGE AND PRO NEWLY FOOTBALL*, October 29-November 4, 1998 and *SPORTSFORUM*, October 29-November 4, 1998.

<sup>26</sup> GALANEK, TESTIMONY BEFORE THE NATIONAL GAMBLING IMPACT STUDY COMMISSION, New Orleans, September 11, 1998. See, WEINERT, *Illegal Sports Betting, CASINO NOTES*, September 20, 1998.

violate state laws, stiffer penalties have been suggested; for professional athletes, stiffer penalties. Some have argued that student gamblers suffer expulsion. Some believe that student athletes who gamble should lose their eligibility entirely.

At the very least, colleges should have written, credible and visible policies against student gambling.<sup>27</sup>

Some believe that promotions for lotteries or casinos should not be shown during a sporting event, and that gambling businesses should not sponsor a sporting event.<sup>28</sup>

There have also been suggestions that newspapers should not run advertisements for touting services or handicappers. Some newspapers have complied with this request.<sup>29</sup> In Florida, the Attorney General's Office ordered the print and broadcast media to "cease and desist" running ads that promote illegal gambling.<sup>30</sup>

Many believe that the law is clear about Internet Gambling: it is illegal. Recently, Indiana Attorney General Jeff Modisett issued an opinion that gambling on the Internet is a Class D felony, punishable by 18 months in prison and a fine of up to \$10,000. While there is no court decision in Indiana, Modisett argued that his opinion bears "legal weight" in his state. Modisett acted, in part, because of his concern about the growing use of internet gambling on college campuses and by adolescents.<sup>31</sup>

Others argue that Internet Gambling is illegal because it involves transmission of wagering information. Pash has argued that it violates 18 U.S.C. 1084, except where such gambling is legal at both the sending and receiving ends of the transmission.<sup>32</sup> While

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<sup>27</sup> See, UDOVICIC, Special Report: Sports and Gambling A Good Mix?, MARQUETTE SPORTS LAW JOURNAL, Spring, 1998. p. 421.

<sup>28</sup> CHRISTENSEN, Say It Ain't So, MIAMI DAILY BUSINESS REVIEW, July 29, 1998, A1.

<sup>29</sup> See, REINA, A Warning About Gambling Tip Ads, ABI/INFORM, February 8, 1997.

<sup>30</sup> KLEINDIENST, State Gets Tough on Sports Bets," THE ORLANDO SENTINEL, December 24, 1997, p. C7.

<sup>31</sup> PRESS RELEASE FROM JEFFREY MODISETT, ATTORNEY GENERAL MODISETT: INTERNET GAMBLING IS ILLEGAL, July 8, 1998.

<sup>32</sup> PASH, Senate Subcommittee on Technology, Terrorism, and Government Information. The relevant portion of the U.S. Code reads as follows:

(a) Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or

there is some debate about meaning of the term "transmission" in the U.S. Code, logging on and the acceptance of the bet should qualify as a transmission under section 1084.<sup>33</sup>

Some Internet gamblers have been arrested. In March, 1998, the United States Attorney filed criminal charges against 14 individuals involved with sports bookmaking, marking the first time that anyone has been arrested for Internet gambling.<sup>34</sup>

#### **CONCLUSION**

The rapid proliferation of computer technology and credit availability has made sports wagering possible from anywhere, anytime. As computer and communication technology continue to evolve and mutate, the difficulty of oversight becomes geometrically more complex. The amounts of money involved, and the dangers posed to adolescents, college students, and problem gamblers, are enormous.

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contest, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers, shall be fined under this title or imprisoned not more than two years, or both.

<sup>33</sup> See, ROBBINS, Baby Needs a New Pair of Cybershoes: the Legality of Casino Gambling on the Internet, 2 BOSTON UNIVERSITY JOURNAL OF SCIENCE AND TECHNOLOGY LAW 7, 24. Also, see *Sagansky v. U.S.*, 358 F.2d 195 200 (1st Circuit), cert. denied, 385 U.S. 816 (1966), finding that a "transmission" is when someone uses an interstate telephone to accept bets and wagers as part of business.

<sup>34</sup> ROSE, Internet Operators Arrested, INDIAN GAMING, August, 1998, 14.