

The Regulation of Organized Gambling in Nevada

A report to the National Gambling Impact Study Commission

by
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1. Introduction: traditional regulation of organized gambling

Approximately 250 pages of statutes tightly control organized gambling in Nevada. A gaming board, a gaming commission, and a gaming policy committee are established to oversee the gambling industry. The board and commission have powers even over those merely “associated with” gaming enterprises, that exist—or would be tolerated—nowhere else in the free world. They have practically unlimited power to audit and inspect every device, book, paper, and record of a gambling establishment and to issue subpoenas to compel testimony under oath. They have the authority to investigate just about anyone both as a prerequisite to and during casino employment.

They have “full and absolute power and authority to deny an application or limit, condition, restrict, revoke or suspend any license, registration, finding of suitability or approval, or fine any person licensed, registered, found suitable or approved, for any cause deemed reasonable by the commission.” NRS 463.1405(3); NRS 463.220(7) They may adopt, amend or repeal regulations as they “may deem necessary or desirable in the public interest.” NRS 463.150(1). They may place any person on a list of excluded persons, otherwise known as “the black book,” that they deem “to pose a threat to the interests of this state or to licensed gaming, or both.” NRS 463.151.

The books and financial records of individuals, partnerships, limited liability companies, holding companies, and of corporations must be open to inspection at all times and anyone holding any appreciable interest in a casino must be found suitable in the commission’s virtually limitless discretion. Even casino employee labor organizations are subject to this oversight. Everyone, including maids and bus boys, are required to be fingerprinted and mug-shot before they are allowed to work. No license or permit is held as a right, and the board and commission hold all the cards.

The goal is to protect the industry from organized crime. The preamble to the statutory regulatory scheme, NRS 463.0129, puts it this way:

The continued growth and success of gaming is dependent upon public confidence and trust that licensed gaming is conducted honestly and competitively, that the rights of the creditors of licensees are protected and that gaming is free from criminal and corruptive elements.

The gambling industry has grown and succeeded to an extent that could not have been imagined when these words were written forty years ago. Nevada’s regulatory

scheme has done an excellent job protecting and nourishing “licensed gaming.” The measures may have been extreme, but they have worked.

They have worked so well, in fact, that they have succeeded in making themselves largely irrelevant. The battle against organized crime is certainly not over, but we have suckled the industry into an economic behemoth. Now we have to figure out how to protect Nevada from organized gambling.

2. Four factors

Four factors are critical to any analysis of the effects of organized gambling on Las Vegas. First, Las Vegas is a company town. Of the 25 largest employers in the State of Nevada, six are governments, two are hospitals, and 17 are casinos. All 17 are in the Las Vegas metropolitan area. Eight are larger than the Nevada State government. Of the largest 11 companies in the state, all 11 are casinos. Of the largest 100 companies in the state, 70 are casinos, and most of the rest are hospitals and utilities. Pluralism is foreign to Las Vegas.

The second factor is the history of organized gambling, with its roots in organized crime. This history is too well known to require explanation here and too involved for this space. Although most of the connections to organized crime have perished or been removed, history teaches us that no culture is ever wiped out by the displacement of a few individuals.

The third critical factor is the rate of growth. In the fifteen years between 1970 and 1985 the population of Clark County, i.e., the Las Vegas metropolitan area, doubled from 277,230 to 562,280. It took only 11 years for the population to redouble to 1,115,940 in 1996. Las Vegas is a town of newcomers. By the time a majority figures out what's going on, or are here long enough to care, they're not the majority anymore.

Last, but not least, is the nature of organized gambling. No one in the history of mankind has ever developed or operated a casino out of a burning desire to improve the lot of humanity. The enterprise taps a rather limited set of human motivations.

The days of broken legs and shallow desert graves are over. Small-time, crude, and not very effective, these methods were born of weakness, not of power. Today, Las Vegas casinos have real power.

The first question is whether that real power is exercised responsibly. The second is whether it is responsibly regulated. Chapter 463 of the Nevada Revised Statutes, which outlines Nevada's casino regulatory scheme, is irrelevant to these questions. True regulation of organized gambling must come from all levels and branches of government. The governor, the attorney general, the state legislature, the county commission, and the mayor and city council must all do their part in their respective spheres.

Today, while the gaming board is busy pasting pictures of slot cheats and old-fashioned organized crime wise-guys in their black book, organized gambling is busy pasting the governor, the attorney general, the state legislature, the county commission, the mayor and the city council in *their* book. Today the *green book* is the only one that matters.

3. A tour of the green book

When Nevada politicians, from the governor to the mayor, encourage the proliferation of gambling, from the West Coast to the East, a phenomenon inimical to the interests of Nevada, one must truly wonder whose interests they serve. A tour of some recent chapters in the green book will shed some light.

As a preface I would like to introduce a few items from the front pages of the Las Vegas Review Journal of October 29, 1998, the day of this writing. A front page article speaks about the "\$2 million" "three week media blitz" by one casino owner "that includes omnipresent and biting TV commercials attacking three Democratic County Commission candidates." Sheldon Adelson, it continues, has already contributed "as much as \$200,000 to each of the Republican candidates." His complaint concerns what he calls the "depths of corruption" at the commission chambers. The suggestion that he is trying to buy government elicited this response: "If I wanted to buy the government, I could have gotten it for a lot less." One of his targets, Clark County commissioner Erin Kenny "noted that Adelson hopes to persuade the County Commission to allow him to own and regulate the sidewalks outside The Venetian so he can prohibit the [local culinary] union's right to protest him."

The parallel top headlines of the local "Nevada" section of the newspaper this morning read: (1) "Gambling addict punished for fraud," and (2) "Guinn, Jones campaigns raise over \$7 million." The first article tells of the tragedy of a 36-year-old woman who suffers from a gambling addiction and was sentenced to 15 months in prison for embezzling \$115,000 from a non-profit diabetes foundation to feed her addiction. The second article notes some of the five-figure donations to the Guinn campaign from prominent "gaming properties" of both New Jersey and Nevada.

Except for the clouds overhead, October 29, 1998, is a normal day in Las Vegas. An editorial cartoon on Sunday, October 18, 1998, said it all. With the caption "Well-known Las Vegas casino properties," Las Vegas Review Journal cartoonist drew sketches of the Bellagio, the Luxor, New York-New York, Stratosphere, *City Hall*, and the *Clark County Commission*.

Erin Kenny's concern that her commission might give away the sidewalks is not an hallucination. In one of the most bizarre chapters in American political history, the commission, the mayor, the city council, the governor, and the state attorney general have all arranged to have casinos "own" the sidewalks for the express purpose of removing the public right-of-way from constitutional government. These events are outlined below.

Green book chapter 1: The governor

As this is written, in the final days of October, 1998, we do not know who our next governor will be. When the commission meets in Las Vegas November 10th and 11th, the race between Kenny Guinn and Jan Jones will have been decided. The gambling industry's contributions to political campaigns are nothing new, but they have recently increased exponentially and gone nationwide, partly inspired by the formation of this commission. An article dated June 26, 1998, by Common Cause is entitled "Tilting the odds during the 1996 gambling commission debate." Immediately after the House passed its version of the gambling commission bill, "gambling industry soft money donations surged." "During the period May through July 1996 gambling interests gave \$1.6 million – more than 13 times as much soft money as they gave during the same period in 1994 and eight times the amount they gave during the period in 1992."

The article ends on this note:

October 28 - Speaker Gingrich names two members of the gambling commission. One, MGM Grand Chair Terrence Lanni, was personally approved by Mirage Resorts Chair Steve Wynn, according to the Las Vegas Sun.

Just two weeks earlier - on October 11, 1996 - the National Republican Congressional Committee (NRCC) received its largest gambling industry contribution ever - a \$150,000 soft money contribution from Mirage Resorts.

This month's issue of Mother Jones had this to say about casino contributions:

Such care and feeding of political leaders has paid off well: In 1996, when Congress and the Clinton administration created a National Gambling Impact Study Commission to probe the social and economic effects of gambling, Congress granted the commission only limited subpoena powers, and placed a number of strong industry allies on it.

The 1998 governor's race is so heavily laced with gambling money that members of the local press have unanimously reported that Kenny Guinn has been "anointed" by organized gambling to be the next governor of Nevada. He has been called "Kenny of the 1000 days" because he "announced his candidacy three years in advance of the election," (Jon Ralston, Las Vegas Review-Journal, 1-19-97); and "presumed GOP governor-in-waiting" (Jon Ralston, Las Vegas Review-Journal, 4-3-97).

An Associated Press article started with this:

Heavy betting by Nevada's big casino industry on Republican gubernatorial candidate Kenny Guinn runs counter to a long-standing national pattern of giving equal sums to both Democratic and GOP contenders.

(Las Vegas Review-Journal, 3-13-98)

The article noted that the state attorney general dropped out of the race “after raising only a tenth of the \$2.5 million Guinn had by January.” It later recounted an interview with a Nevada gambling expert:

Bill Eadington, a professor and gambling expert at the University of Nevada, Reno, says the strong support for Guinn may reflect a more active political role for the industry that stems from the expansion of gambling and resulting national debate over merits of casinos.

Spanning 1997, Nevada’s foremost political observer, Jon Ralston, put it this way:

If a candidacy has been sanctified by the high priests of the Strip, any potential blasphemers are dealt with swiftly and harshly. In the religion of politics, where money is worshipped, the gaming industry’s economic hegemony renders dissent virtually fruitless.

(Las Vegas Review-Journal, 1-19-97)

In Nevada, the politics of anointment is a brutally efficient process whereby a small cadre of connected consultants, most with ties to the Las Vegas Strip, are able to open money doors and shut others to put candidates in races and force others out.

(Las Vegas Review-Journal, 10-19-97)

Nevada...functions like a one-party state when it comes to major contests and even some minor ones. If you don’t belong to the Nevada Resort Association Party, you will not be sanctified. And without the blessing of the high priests on Las Vegas Boulevard South and their various apostles, most of whom are sprinkled throughout the Guinn network, you must run as a heretic. And most heretics merely make a lot of noise, tilt at a few windmills and end up crushed.

(Las Vegas Review-Journal, 11-2-97)

At the end of 1997, the Las Vegas Review-Journal published its list of the top 10 stories of the year. The first six, in order, concerned the murder of a 7-year-old in a Nevada casino left to play in the arcades; ethics investigations into various members of the county commission for granting airport concessions “to friends, business associates and family members of investment partners,” including one prominent casino lobbyist; a drive-by murder, not of, but *by* a Las Vegas police officer; high levels of perchlorate found in Lake Mead, the valley’s source of drinking water; the phenomenal growth of Las Vegas; and the trial of three police officers charged with beating a coin thief.

The anointment rated only #7, just ahead of “Mob forgotten, but not gone.”

Guinn's opponent is the mayor of Las Vegas, who, as discussed next, has given the casinos our community redevelopment funds and parks and recreation money and let them post their security guards on downtown streets. Either way, the casinos can't lose.

Green book chapter 2: The Las Vegas mayor and council

In 1986 the City of Las Vegas enacted a "redevelopment plan." Someone came across an old law that allowed cities to funnel tax money into a special "redevelopment" fund if only there was a plan to use the money to redevelop a part of the community. The problem with the city's plan was that there wasn't one. What they "enacted" was a map of the area that would henceforth have its increases in property taxes go to the new redevelopment agency. It had the word "plan" on the cover and that's as far as they got. In 1988 the newly formed redevelopment agency used its muscle for the first time to condemn the property of a small downtown business owner to help one of the state's largest law firms to expand its office building. Today this firm is on the city's payroll to defend the city's "redevelopment" activity.

The agency collected money until casino developers decided that it was drawing interest too long. After the city gave about \$30 million to a developer to build a new casino downtown, it used its power of eminent domain to condemn property for the expansion of another casino, the Stratosphere, in the name of community redevelopment. The Stratosphere, however, had no use for the blighted portions of the neighborhood. It only wanted the profitable business properties on the Las Vegas Strip and Main Street, including a portion of the smaller casino next door.

Then another \$30 million or so was lavished on the downtown casinos to help them clean up their storefronts and create a light and sound show. The same casino owners had recently committed around \$3 billion to new casino construction in New Jersey and Mississippi and on the Las Vegas Strip. Then they cried to the city council about how all this competition was hurting their downtown operations. Dutifully the city handed over the last of the property tax money which had been taken from the blighted properties for "community redevelopment."

The idea was to draft an empty "community redevelopment plan," hold meaningless public hearings on it, sign side contracts with the state's largest campaign contributors, describe it as a form of "trickle-down redevelopment," and hope no one notices. Fortunately, our local judiciary saw through this. The episodes have been exposed in the local newspapers and in the national press.

The "redevelopment" of Glitter Gulch included three bizarre items. The first is a ban on leafleting in the new downtown, except when it's done by the casinos from their doorways. The city made it a crime to stand in front of a Las Vegas casino and hand out literature that says "gambling is bad for the soul" or copies of the New York Times. The second is a ban on solicitation. The third is a provision in the contract between the city and the casinos that allows the casinos to patrol the new downtown with the casinos' own

private para-security force. The contract drafted by the casinos simply says that the casinos may provide "security" for the public street, without defining "security." Las Vegas is the only place north of Guatemala with private "security" patrolling public streets. These events, plus the revelation that our local leaders have given \$8 million of park and recreation money to the downtown casinos, sparked short-lived '60s-style demonstrations. As soon as the protestors decided to hold a picnic in their new "park," they were surrounded by both police and security guards.

In defense of their downtown scheme in federal court, the casinos submitted dozens of questionnaires filled out by tourists, with their names and addresses blanked out. How, when, and under what circumstances the questionnaires were presented and filled out their lawyers don't say. They point at the bottom where the tourists are asked to describe what they don't like about the "Fremont Street Experience." The questionnaires selected by the casinos to justify to the federal court what they have done, and seconded by the City of Las Vegas, all say "get rid of the bums," or "too many bums," or similar words.

The casinos' federal court brief is laced with this one argument: "bums" and leafleters are bad for business. The casinos say it forthrightly with no shame. One of the shops in the Fremont Street Experience sells Nazi memorabilia and "after-market" swastikas, arm-bands, and SS T-shirts to local skinheads. Although the swastikas are protected, the city ordinances and its agreement with the casinos forbid the rest of us from standing on the sidewalk and handing out leaflets protesting the most vicious symbolism the world has known.

Among the bums which the combined casino management, called the Fremont Street Experience Limited Liability Company, has kicked off the street as bad for business are the volunteers for the Salvation Army. They won't be there this Christmas with their bells and pots, just as they weren't there last Christmas. Other undesirables include priests and ministers who have been dragged into the local jail and strip-searched for daring to preach a gospel not approved by "the high priests of the Strip."

A federal court has declared the leafleting ban unconstitutional, but upheld the ban on solicitors like the Salvation Army. Both decisions are on appeal.

Green book chapter 3: The Nevada legislature

The Nevada legislature has not raised the tax on casino revenues since 1987. The sales tax gets raised almost every session and is higher than the tax on casino revenues. Lobbyists for "the gamers" simply tell the legislators that they *can't* raise their tax. During the 1997 legislative session, the Nevada legislature turned down a request to relieve people of the sales tax burden when buying hearing aids. During the same session the same legislature awarded Mirage Resorts sales tax relief for its multi-million dollar casino art collection. When the Mirage then wanted to charge admission, it was finally decided that enough was enough.

In October of 1994, former Navy Lieutenant Paula Coughlin secured a judgment against the Hilton casino-hotel for its lax security when she, along with about 80 other women, was assaulted on the third floor of the hotel during the now infamous 1991 "Tailhook" convention of military aviators. Months later, the Nevada Senate passed Senate Bill 474, the "Tailhook bill," to nullify such suits against casinos *retroactively*. With Coughlin's case still on appeal, the retroactivity clause was intended to nullify Coughlin's jury verdict in favor of the Hilton casino-hotel. The Senate passed it 15-2.

One Senator who voted against it, Joe Neal, called it "corruption of the highest order." The retroactivity clause, he said, sends a message "that this Senate is controlled by money interests and we dance to their tune." (Las Vegas Sun, June 8, 1995) Coughlin's attorney stated: "There is no real justice in Nevada." (Carson City Nevada Appeal, June 2, 1995) After enormous public outcry, the state Assembly removed the retroactivity clause.

Green book chapter 4: The county commission and the attorney general

Sheldon Adelson of the Sands/Venetian has recently bitterly complained because he has not received the same treatment at the hands of the Clark County commission as other Las Vegas casino operators. Because nobody is usually watching, the commission has traditionally allowed casinos to begin construction before submitting a traffic study. In Adelson's case, the local culinary union watched very closely, and the commission, in Adelson's eyes, sided with the union in requiring the traffic study in advance. All the commission really sided with, for once, was common sense and good planning, but Adelson wanted the same as everybody else was getting.

Adelson's next battle will be over the sidewalks. The MGM Grand convinced the commission to let it own the sidewalks and Mirage, Incorporated did the same. Like Adelson, the MGM wanted to bust the unions. Mirage, Incorporated wanted to build its projects all the way out to the curb, even if it meant forcing people to walk in the gutter. The commission - and other political offices - smoothly obliged. Now it's Adelson's turn. At least one relatively new member of the commission, Erin Kenny, however, thinks it's time to stop this nonsense. She's right.

In 1991 and 1992 the MGM Grand and Mirage Inc., convinced the Clark County Commission to "privatize" the sidewalks in front of their establishments. In their pre-development agreements both promised to dedicate the sidewalks to public ownership for public use and access. Both times the promise was broken or retracted at the last minute.

The casinos know that they will ultimately lose in court should anyone ever have enough money and energy to drag this issue to the highest levels. Until then, they will get away with what they can for as long as they can. Mirage, Inc. has private security guards patrolling "its" sidewalk and will continue to dictate its use. Mirage has also built theater bleachers on "its" sidewalk, forcing hundreds of people every night to walk in the street

between the buses and taxicabs. Some day a court might decide that this is not only unconstitutional, but unconscionable. Until then, everyone who wishes to stay within public right-of-way will just have to walk in the gutter.

When the sidewalk along Tropicana Avenue was privatized in favor of the MGM in 1991, it was agreed that the sidewalk would be for public access and that the MGM would record an easement granting the right of public use. Instead, the MGM recorded a declaration of private ownership and a list of restrictions. The document is called an "easement," but here's what it says:

⇒ The MGM "retains full rights inherent to the ownership of private property, to the full extent permitted by the Fifth and Fourteenth Amendment to the United States Constitution."

⇒ The MGM may "evict, expel, or revoke the permission to use the Easement..."

⇒ "The easement shall not be used as a public forum for the organized dissemination of information of a political, commercial, economic or sectarian nature."

⇒ "No solicitations, picketing or hand-billing activity, for any purpose whatsoever, may be conducted upon the Easement."

⇒ "(T)he Easement remains the private property of the Grantor, and is not dedicated to public use..."

When a deputy district attorney saw the restrictive declaration, he wrote a letter to the attorney for the MGM saying that the MGM breached its agreement with the County and that the MGM should not even think about enforcing this attempt to restrict public rights. He showed this letter to me in the spring of 1994 when, as a deputy attorney general, I was researching these issues. I suggested to him and others in his office that the only way to settle the question would be for the district attorney to file a quiet title action, i.e., ask a court to determine that the MGM, as the deputy district attorney pointed out in his letter, violated the pre-development agreement. The response: "Oh, no, it's too political. We're not getting involved."

The letter has never seen the light of day. No one in Nevada government has ever had the courage to represent the public against the interests of the MGM. No one in a position of leadership at the MGM has ever had the personal integrity to call this nonsense off.

When the idea was first publicly presented to the County Commission by the MGM in 1991, then commissioner Jay Bingham gushed about what a wonderful thing it would be if the county and the casinos no longer had to contend with constitutional rights on the sidewalks. Since the County was in the "public sector" and the MGM was in the

"private sector," the MGM could do what the County could not do, i.e., violate what would otherwise be people's constitutional rights once it "owned" the sidewalk.

The MGM's first exercise of its new-found power was to cause union picketers to be arrested for trespassing on "its" sidewalk. Despite much controversy over this national disgrace, MGM's ownership and control of the sidewalk remains recorded to this day.

Governor Bob Miller's solution was to declare that it was not his problem, even though both he and the attorney general are members of the Nevada Board of Transportation that formerly owned the right-of-way.

Facing election, state attorney general Del Papa's response was to direct her staff to "Keep me out of this until November." In addition to being the highest law enforcement officer of the state, the attorney general is also the officer responsible for enforcing Chapter 463 of the Nevada Revised Statutes regulating the gambling industry.

One of the first things Steve Wynn, Chairman of the Board of Mirage, Incorporated, did with "his" sidewalk in front of Treasure Island was ask the Planning Commission for permission to extend his pirate show theater all the way out to the curb with bleachers. When he originally appeared before the Board of County Commissioners with the Treasure Island plans, on January 22, 1992, Commissioner Christensen asked Wynn about the traffic problem he might create with the show. Wynn replied: "That's my job. I not only intend to do it, I intend to do it enthusiastically. I intend to break my neck to do it and if people are so fascinated and transfixed by all this that they can't stand it, they've got to stop and look, then I will have been successful and someone else will have to worry about the traffic...."

Practically in the same breath, the commissioners decided to allow Wynn to own the sidewalks because *leafleters* were causing an obstruction! Protected from "escort service" and other leafleters on the sidewalk, children would henceforth walk in the gutter.

Asked by then commissioner Don Schlesinger to explain the "legal hardship" that is required by law before he could be allowed to build so close to Spring Mountain Road, Chairman Wynn responded: "That's the way I designed it, Commissioner...." There was no follow-up. Despite protests by the county's professional planning staff, the commission unanimously gave Wynn everything he wanted.

The result: hundreds of people transfixed and thousands forced to walk in the street to get around the theater and the bleachers. After I sent videos of mothers pushing baby strollers in the traffic to the transportation committees of the state Senate and Assembly, a narrow, substandard, sidewalk was added below the bleachers, taking space, paid for by public tax dollars, from an already congested Las Vegas Strip. Even more people now walk in the street than before, and Wynn's security force even patrols the second sidewalk.

Although the county had abandoned its responsibilities, the State of Nevada held a recorded easement that declared that the sidewalk was "for the purpose of providing free, ample, unrestricted, and unencumbered pedestrian access along Las Vegas Boulevard for public use, as if such access were being provided on public right-of-way." The easement was air-tight.

The day of the court hearing challenging his claim of ownership, Chairman Wynn's attorneys suddenly appeared with a quitclaim deed. On March 20, 1995, state Attorney General Frankie Sue Del Papa approved a quitclaim revoking the public easement and giving the state's right-of-way to Wynn. The timing was no coincidence. About \$3.5 million worth of property rights was given away on personal signatures without either the public hearing or the authorization by the Board of Transportation required by law. The attorney general is the state official charged with enforcing the public hearings laws and prosecuting felonious conversion of state property, along with the state's gaming regulations.

Another traffic issue deserves to be mentioned. The Regional Transportation Commission has plans to construct a monorail connecting the airport to the major casinos, to downtown, and to the convention facilities at Cashman field. The casinos have meanwhile interjected their own monorail plan. They presently have a plan before the commission to build, own, and control that portion of the route between Tropicana and Sahara avenues that comprises the Las Vegas Strip. The aim is to squeeze out for themselves the only portion of the route that would generate positive revenues. One side effect of the casino plan would be to wipe out the only single family residential development in the resort corridor. It has been described by insiders as a "done deal."

5. Children

Since the rape and murder in 1997 of 7-year-old Sherrice Iverson, a Los Angeles second-grader who had been playing in and around a casino arcade in Primm, just outside Las Vegas, discussion about children in Nevada casinos has intensified. Two months after the murder, the Clark County Commission voted to close the arcades after 10 p.m. on weekdays and after midnight on weekends. We'll soon see why it just might be better, after all, to turn the children loose in the streets at night.

Children play an ever-increasing role in the economy of Las Vegas and other gambling cities. Developers of the Circus Circus casino, which opened on the Strip on Oct. 18, 1968, were the first to see that the era of the high-roller would not last forever and that expansion of the gambling industry would require the whole family. The explosion in the gambling industry around the country in the past 10 years could never have happened without the married-with-children crowd.

Casino-hotels such as the MGM Grand, centered around a children-oriented theme park; the Excalibur, a hop-scotch away, modeled around storybook themes inside

and out; Treasure Island, with its sidewalk pirate show; and Circus Circus, with its clowns and big top, are architecturally and thematically designed to attract children. Thousands of Sherrice Iversons can be seen walking, standing, running, skipping, wandering, loitering, moping, and even falling asleep in Las Vegas casinos every day. Many are left unsupervised for long periods. Now that Las Vegas is no longer just an adult Disneyland, but caters to children of all ages, we might want to know what the younger ones do while their elders gamble and drink. The most popular year-round casino baby-sitters are the casino arcades.

Unfortunately, a large percentage of the games in casino arcades are gambling devices. While the casinos are arcades for adults, the arcades are nursery casinos. The arcades perform three functions. The most obvious is to free up the parents to gamble. The second is to free the kids of their money. The third is to train the next generation of gamblers.

A "gambling game" is defined by Nevada law as "any game played with cards, dice, equipment or any "mechanical, electromechanical or electronic device or machine for money, property, checks, credit or any representative of value ... "

This describes many of the games in the arcades. Some are miniature versions of casino games. At least one is indistinguishable from a casino device. While the representative of value in the arcades is a rectangular paper token (much like a theater ticket) which is turned in for toys, the representative of value in the casino is a stiff circular "chip," which is turned in for cash. The biggest difference is that the kids are ripped off even more than the adults.

As in the casinos, the level of skill involved in the arcades varies from game to game, but is negligible, and the games are mostly of chance. The arcade games are more deceptive, because they are frequently designed to suggest a level of control that doesn't exist. One arcade game, for example, resembles a roulette wheel in every respect except for the so-called "skill lever" which the child pulls to stop the wheel. But the ball keeps on bouncing through the numbers, and the result is random.

Another game is designed after what is called the "Big Six" wheel, a vertically mounted wheel with numbers and an indicator at the top. The child bets on the number that will sit under the indicator when the wheel stops. This version might be called the "Little Six."

Another machine found in most casino arcades is an exact rendition of one found in most casinos. Quarters are piled on a ledge behind glass. A broom-like device pushes them off when they reach a certain density. The player tries to bring the quarters to that density by depositing his own into the machine. The gobs of quarters on display hanging over the ledge likely tantalize the kids more than the adults, but the kids, unlike the adults, can win only paper tokens.

A game called "Prize Zone" offers "21 for fun" and "Speed Draw," which is a five-card draw poker played very much like the poker machines in casinos and taverns. Extra points are given for playing fast, training the toddler to be a speed poker machine player. Prize Zone is manufactured by LazerTron in Pleasanton, California.

Another LazerTron game, called "Rollin' for Riches," is five-card poker played with a rubber ball and spinning dice. The child rolls the ball down a plank to stop the dice on their numbers for pairs, straights and "jackpots." Despite the deceptive appearance, the player has no useful control over where the ball lands.

These are not pinball machines or video games designed to afford entertainment time for the money. They are virtual slot machines designed to turn money over quickly. One watches the children in the arcades with dismay. Many exhibit the same agitated and frustrated demeanor of gambling-addicted adults as they pump their coins into the machines. A representative of LazerTron stated over the phone that these machines are distributed "all over" and that LazerTron has "made them legal" by making them "skill-based." Unfortunately, skill is not what distinguishes a child's game from a gambling device, at least not in Nevada. Poker, for example, is more a game of skill in the casino than it is with the LazerTron machine. Blackjack is also a game of skill. Skill is involved in betting on horses and football games. Consequently, Nevada law talks about "money, property, checks, credit or any representative of value," not skill.

The first definition of "gamble" in The American Heritage Dictionary is "To bet money on the outcome of a game, contest, or other event." The second is "To play a game of chance for money or other stakes." Only the second speaks of a game of "chance," whereas both speak of putting money up for "stakes." Every gambling game has an element of chance, but so does every sporting event, which is why gamblers waged \$1 billion last year in Las Vegas sports books. It is the placing of money on an outcome for some representative of value that defines gambling. Ping pong is a game of skill. It's when people bet on the outcome that the sport degenerates into gambling. That it is not the nature of the game but the wager which constitutes gambling was affirmed by the Nevada attorney general in a published opinion in 1948. It is not what is in the game, but what is on the game, that matters.

The casinos are taking advantage of children's universal desire to imitate their parents - to do what they see mommy and daddy do in the casinos. And see them they do. Nevada law doesn't forbid the presence of children in casinos. It says only that they may not "loiter" in them, a term that has been ruled unconstitutionally vague in every other context. Casinos are masterfully designed to force everyone to walk past gambling tables to get to the pool, the ice cream parlors, the hotel rooms, and the arcades.

As in quarter slots and quarter craps, children abandoned to the arcades can lose their bankrolls quickly. After losing an allowance or paper route money in 30 minutes or less, they frequently spend hours wandering about the casino grounds. Like 7-year-old Sherrice Iverson.

You can call one an arcade and the other a casino or switch the words and they work either way. We have arcades for adults and casinos for children, or vice versa. Under Nevada law, persons under the age of 21 shall not "(p)lay, be allowed to play, place wagers at, or collect winnings from ... any gambling game," but children do play gambling games all day long when we call the room an "arcade" rather than a "casino."

When it's quitting time, adults walk over to a casino cashier and trade their representatives of value for cash; children walk over to a redemption cashier and trade their representatives of value for toys. What difference this makes, after the games have been played and it's time to go home, is hard to discern.

In 1995 the Texas legislature passed what is known as the "Fuzzy Animal Act," carving out an exception for arcade games that award prizes worth less than five dollars, with the idea, apparently, that what is unfit for adults is o.k. for children. It didn't take long before someone realized that the Fuzzy Animal Act could be used as a loophole to devise gambling games for adults. Known as "eight liners," the new games have caused turmoil in Texas. Attorney general Dan Morales has tried everything he can to get the act overturned or repealed, but with no success. Once let out, legalized gambling is hard to put back in the box. The Texas experience proves the foolhardiness of legalizing "kiddie casinos."

There are hundreds of ways to entertain children that don't involve speed-feeding money into machines. It's no accident that casino-hotels feed children betting devices. You hook them best when you hook them young.

Perhaps the best solution to the problem of children in casinos would be to keep them out entirely. Gambling den operators have proven themselves irresponsible baby-sitters. If you wouldn't invite one into your house to watch your kids while you're gone, you probably shouldn't bring your children to theirs. Banning children from casino grounds might even slow the wildfire proliferation of casinos across the nation. Returning gambling to a strictly adult affair might encourage a retreat from the suburbs to adult islands like Las Vegas, where gambling belongs.

6. The Las Vegas Convention and Visitors Authority

Tourists bring money, but they also bring crime, pollution and congestion, and they use all kinds of public facilities, from roads and parks to the police station and the courthouse. To help allay these public costs, Nevada long ago imposed a room tax for county fairs and recreation facilities. The transformation of Clark County's "Fair and Recreation Board" into the "Las Vegas Convention and Visitors' Authority," the centralized marketing arm of the Nevada gambling industry, is the pride of certain casino promoters and lobbyists. It is also one of the reasons why, despite one of the healthiest economies in the nation, Clark County has one of the lowest park acreage ratios in the

country - 1.4 acres per 1,000 population compared to a national average of about 5 acres per 1,000.

In 1955 the Nevada legislature gave Nevada counties the authority to establish county-wide fair and recreation boards for the purpose of constructing, acquiring, and improving fairgrounds, convention halls, public parks, playgrounds, swimming pools, golf courses, recreation centers, museums, zoos, "and other recreational facilities."

In 1967 the Nevada legislature allowed each Nevada county to "designate the name by which the fair and recreation board of that county shall be known." It also gave the boards the "additional power" to "solicit and promote tourism and gaming."

Clark County calls its fair and recreation board the "Las Vegas Convention and Visitors Authority." The board or "authority" describes itself in the following words:

The Las Vegas Convention and Visitors Authority is the official destination marketing organization of Las Vegas and operates the Las Vegas Convention Center. The LVCVA brings visitors to Las Vegas and Clark County by promoting tourism, conventions, meetings and special events.

The Authority's official "mission statement" is this:

Created in 1955 as the Clark County Fair & Recreation Board, the Las Vegas Convention & Visitors Authority (LVCVA) was charged with a dual mission which has essentially remained unchanged: to attract to the Las Vegas area a steadily increasing number of visitors to support the hotel and motel room inventory in Clark County; and to efficiently operate and maintain the LVCVA facilities. The LVCVA brings visitors to Las Vegas and Clark County by promoting tourism, conventions, meetings and special events.

Parks, playgrounds, recreational centers, and pools appear in neither description.

The 1998 LVCVA budget, typical of recent years, shows total revenues, mostly room tax revenues, of \$120,444,675. Total expenditures and financing are calculated at \$129,255,841. Of this, only \$11,424,826 is allocated to "community support." The rest goes to service the casino industry, primarily through the promotion of tourism and special events. The typical special event is a casino-promotional golf tournament.

An examination of the items included under "community support" in the LVCVA budget reveals that this \$11.4 million, or 8.8 %, is a special sort of "community support." Included is money granted to the various chambers of commerce which are dedicated to the promotion of business and tourism, the "courtesy campaign" advocating business courtesy to tourists, and the legally mandated allocations to the tax-collecting entities.

An amorphous "other" category contains allotments to the Mohave County Airport (In Arizona!), the Las Vegas Territory, and the City of Las Vegas. One million "other" dollars allocated to the City of Las Vegas goes to the Fremont Street Experience, which the city and the casinos are presently arguing in federal court is the casinos' private domain and which is patrolled by a "metrocasino" private security force. The last time anyone tried to use it as a picnic place, they were surrounded by police.

When the smoke clears, and there's a lot of it, the Clark County Parks and Recreation Department gets exactly zero, and the total recreation allotment to the entire valley comes to \$700,000, or one-half of 1%.

Remember the mission statement to the effect that one of the LVCVA's goals is to efficiently operate and maintain the LVCVA facilities? This is supported in the budget by an operating loss of \$7.3 million, 50% above what the facilities take in, with this one sentence explanation:

The LVCVA owns and operates two facilities, the Convention Center and Cashman Field Center. These facilities are not intended to be self-supporting, but rather to generate visitors to the Las Vegas area.

The contours of the term "community support" continue on the LVCVA's web page [www.lasvegas24hours.com]:

In addition to the initial shared distribution of the 9% lodging tax, the LVCVA further allocates tax revenues back to the community in the form of grants. Examples of these grants include collection allocation, the Clark County Fair, Chambers of Commerce, and territory grants. From time to time, the LVCVA provides additional financial community support for various projects throughout Clark County. The most recent of these projects include contributions to the Fremont Street Experience and the Laughlin/Bullhead City Airport.

To the LVCVA, the collection allocation mandated by state law and millions handed over to some of the richest casino operators in the country are "community support grants" from the LVCVA.

The agency's attitude is reflected in its widely published statement that it was charged in 1955 with a "dual mission which has essentially remained unchanged" "to attract to the Las Vegas area a steadily increasing number of visitors to support the hotel and motel room inventory in Clark County; and to efficiently operate and maintain the LVCVA facilities." However, it wasn't until 1973 that the Legislature gave county recreation boards the authority to promote tourism "generally," as opposed to "the recreation facilities of the county." (Assembly Bill 723 in 1973 also added museums, zoos, and historical sites to the list.) It wasn't until 1983 that promotional advertising was allowed to be "done jointly with a private enterprise."

For decades the casinos have been getting away with the attitude that the money is theirs and they are entitled to do what they want with it, since it is a tax on their hotel rooms. We could say the same thing about any tax. Taxes usually do come back to us in the form of services. In this case, the money is returned in a barrel to the casino industry. We should ask ourselves why we spend our public funds to collect it.

Portions of the room tax do go to transportation improvements and the general funds of the collecting cities and counties, but the overwhelming bulk of the money supplements the casino marketing divisions of Las Vegas casinos.

The most money the LVCVA has ever allocated to a “public park” occurred when it recently defined the downtown casinos’ “Fremont Street Experience” as a public park for the purpose of handing eight million dollars of our tax money to the downtown casinos to maintain their storefronts.

7. Conclusion

The strength of the Nevada regulatory model is its capacity fulfill its legislative mandate to fuel “the continued growth and success of gaming” by freeing it from “corruptive elements” such as organized crime. The weakness of the Nevada regulatory model is its incapacity to even address the corruptive element of organized gambling.

While the casinos abscond with our community redevelopment money, our devastated “west side” remains mired in poverty. While the casinos take our parks and recreation funds for their storefronts, the Las Vegas community is required to live with one of the lowest park acreage ratios in the nation. While they patrol the streets and sidewalks with their private security guards, force us to walk in the gutter, introduce our children to gambling in their arcades, and refuse to pay higher taxes, the Las Vegas community drowns in traffic congestion, overcrowded schools, and the fifth worst case of air pollution in the country. Under these circumstances it’s hard to listen to our industry regulators tell us how thankful we should be that a bunch of guys from Sicily aren’t stealing from the casinos.

Gambling has made Nevada an economic miracle. My first lesson in economics came from Donald Duck. Huey, Dewey, and Louie discovered the goose that laid the golden egg, except it wasn’t gold, but greenback cash. Being generous, Donald’s famous nephews decided not to keep it all for themselves, but to make the whole world rich. The only problem was, now that everyone was rich, no one worked anymore, and there was nothing for money to buy. The lesson: money must be tied to labor and value or it is worthless.

Nevada gambling operators are claiming to be the goose and telling people all over the country that casinos are the golden eggs. We must ask ourselves what the money is tied to.

When Las Vegas casinos were controlled by a prior cabal of owners, and before the local population was large enough to become a significant factor in casino economics, gambling was marketed almost exclusively toward those who could afford the passage to this desert island. Today there is a casino in just about every neighborhood. Locals can't even buy groceries without walking past rows of slot machines and inhaling the inseparable cigarette smoke. Safeway, Albertson's, Von's, Smith's Food King, and the rest of them are all in the gambling business, and it's no accident that every one of them places the casino portion of the store at the entrance. The Smith's chain entrance *is* the casino. To avoid taking their children into casinos, Nevadans would have to find babysitters to buy groceries!

The chances of an addict kicking the habit when it's impossible to even buy groceries without running the gauntlet of slot machines are not very good.

Las Vegas undoubtedly has the most taverns and convenience stores per capita in the world because they are an excuse for a limited gaming license. Because of the power of the economics involved, no neighborhood is safe from the erection of a convenience store on the corner or the next neighborhood casino. Many who would protest are employed in the casinos and are understandably afraid to stand up for themselves before the city council and county commission. Most everything is a done deal behind closed doors before the gavel hits the podium, anyway.

Casino power in this community has marginalized the gaming control board, the gaming commission, the gaming policy committee, and Chapter 463 of the Nevada Revised Statutes. The gaming board might have denied the requests to take over the sidewalks, force people to walk in the gutter, kick out the Salvation Army and everyone else who is "bad for business," take our parks and recreation money, take our community redevelopment money, and post private security guards on our downtown streets. The gaming commission wasn't asked. When city hall and the county commission chambers are just two more "well-known Las Vegas casino properties," the gaming board is irrelevant.

If organized gambling in Nevada is a model of regulation, it is no model of responsibility. Whether this industry *can* be responsible only the future will tell. The New Jersey model, where casinos are precluded from donating to political campaigns, has serious First Amendment implications, but even the Nevada model is founded upon the idea that gambling is a privileged industry with less than the usual protections. The federal model, which precludes corporations from contributing to campaigns, might at least stop the practice of evading the donation limits through multiple corporate entities.

The gaming control board is so notorious for being a revolving door to the powerful industry it regulates that the Nevada legislature has recently had to mandate a cooling off period. The flip-side of the power to crush heretics tilting at windmills is the power to lavish immense rewards on the faithful. Even where the board has jurisdiction, its members and staff might not always have the right incentives.

That city, county, and state officials can be induced to declare casino gambling to be a public use for the purpose of handing over our community redevelopment and parks and recreation money, while declaring the sidewalks to be private for the purpose of allowing the casinos to control who uses them, says as much about our installed officials as it does about their installers. That the highest law enforcement officer of the state would quitclaim state right-of-way to a casino owner without authorization or public hearing, says as much about our highest law enforcement officer as it does about the casino owner. That our state legislators are simply too weak to raise the gambling revenue tax, and that they would even consider the infamous "Tailhook bill," says as much about our state legislators as it does about their sponsors.

That there appears, however, to be no one in charge except those who do the bidding of organized gambling doesn't bode well for the prospect of regulation. Although regulators have done an excellent job running the old mob out of town, the new mob runs the town. Bugsy never had it this good.

The nature and history of gambling will follow it everywhere. The ability of organized gambling to dominate a community politically, however, will ultimately depend on its ability to dominate economically. Only the most vulnerable will be tempted to gamble with gambling. Communities which are doing well are not candidates for organized gambling, which targets communities desperate for a golden egg. If it saves you, it may also control you. Don't expect Nevada-style regulation to get you out of it.

About the author

A graduate of Las Vegas High School, the University of Santa Clara, and of the University of California, Hastings College of the Law, Chuck Gardner is a licensed attorney in Nevada and California and has practiced law in Las Vegas since 1985. He served as a deputy attorney general for Nevada between 1987 and 1994. On May 27, 1994, as local culinary union members demonstrated against the claim by the MGM casino-hotel that it owned and controlled the sidewalk along its border and could therefore order the arrest of union picketers for trespassing on the sidewalk, a newspaper report headlined "Deputy AG says sidewalks public" prompted Nevada Attorney General Frankie Sue Del Papa to order Mr. Gardner terminated after seven years of public service. ("Keep me out of this until November.") He has since been in private practice primarily in the field of eminent domain. In 1995 he successfully fought the attempt by the City of Las Vegas to take small business property by eminent domain for the expansion of Las Vegas casinos. In 1998 he ran for the Democratic nomination for a seat on the Nevada State Assembly, but lost by 39 votes. Immediately after the election, local columnist Jon Ralston gave casino owners the "no fingerprints award" for "assassinating Chuck Gardner and leaving no fingerprints." Mr. Gardner feels blessed to have had the rare opportunity to read about his assassination.