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

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COMMISSION ON THE REVIEW OF THE  
NATIONAL POLICY TOWARD GAMBLING

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PUBLIC HEARING

3306 William J. Green Federal Building  
Philadelphia, Pennsylvania

May 28, 1975

9:30 a.m.

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U.S. DEPARTMENT OF COMMERCE  
SPRINGFIELD, VA. 22161

SENATOR HUGH SCOTT  
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1 MR. MORIN: The hearing will please come  
2 to order.

3 This is the second in a series of re-  
4 gional hearings to be conducted by the Commission  
5 On The Review Of The National Policy Toward Gam-  
6 bling. Our first regional hearing was in Boston,  
7 Massachusetts. This, of course, is in Philadelphia.  
8 We will generally consider the topic of law enforce-  
9 ment in a gambling context. I am Mr. Charles Morin,  
10 chairman of the Commission. With us today are  
11 Senator Hugh Scott, Doctor Ethel Allen, Mr. Joseph  
12 Gimma, and Mr. James Coleman.

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

19 SENATOR SCOTT: Thank you very much, Com-  
20 missioner.

21 I will make an opening statement. We will  
22 try to hear some of the witnesses, and around 11:30  
23 I will turn the chair over to Doctor Ethel Allen,  
24 if that's all right with you, sir, and we will con-  
25 tinue from there.

1 Ladies and gentlemen, we seem to be pre-  
2 cluded, like some television programs, by the big  
3 event of the day, which many people thought might  
4 have been a gamble, too, and that was the victory  
5 of the Flyers. I think it ought to be entered in  
6 the record that this is the day we are meeting,  
7 so that the attention to the Commission On Gambling  
8 will be subsidiary, I suspect, to the somewhat  
9 larger expression of exuberance to be heard in  
10 every corner of the City.

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

14 The Gambling Commission was established  
15 by Congress in 1970 to study gambling laws and prac-  
16 tices in the United States. It was also mandated  
17 to make recommendations that will enable the States,  
18 as well as the Federal Government, to formulate  
19 sound gambling policy. These recommendations will  
20 be contained in the Commission's final report, ex-  
21 pected to be issued in October of 1976. The Com-  
22 mission has just published it's First Interim Re-  
23 port, which describes the many gambling issues that  
24 are now being studied as part of the Commission's  
25 comprehensive research efforts.

1                   In the early 1960's legal gambling began  
2                   to reemerge as a potential source of untapped rev-  
3                   enue for ailing State and local governments. Along  
4                   with its reemergence came the reopening of many old  
5                   arguments for and against gambling. And dozens of  
6                   unanswered questions. Among these are:

7                   What is the connection between gambling .  
8                   and organized crime?

9                   How does legal gambling affect law en-  
10                  forcement efforts against the illegal operators?

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

13                  Are these two goals compatible?

14                  To attempt to answer these questions, the  
15                  Commission has engaged in a fact-finding process  
16                  consistent with the mandate given us by the United  
17                  States Congress. The Commission has approached  
18                  this task pragmatically, and under the leadership  
19                  of the Chairman that was kind enough to introduce  
20                  me, over the past year we have developed informa-  
21                  tion through hearings in Washington, D.C. Last  
22                  month in Boston, Massachusetts, where we began that  
23                  phase of our inquiry which will take us to dif-  
24                  ferent areas of the United States, so that we may  
25                  benefit from the perspective of well-informed

1 individuals who have an acute awareness of the na-  
2 ture of gambling in the various parts of the country.

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

14 I may interject here that as one who a  
15 number of years ago tried thousands of cases involv-  
16 ing gambling, the general permissive attitude of  
17 the community has shown really very little change  
18 as regards enforcement and punishment.

19 We understand that there is quite a story  
20 to tell about that here in the Philadelphia area,  
21 and we are anxious to hear it. We were also told  
22 that illegal gambling is, in the final analysis, a  
23 state and local problem which ultimately can only  
24 be resolved by state and local authorities. It is  
25 therefore essential that we learn the details of

1 your efforts to deal with this problem, since this  
2 Commission has the responsibility of providing --  
3 to Congress -- recommendations as to how our ex-  
4 isting patterns of the laws might be changed to  
5 improve their effectiveness against illegal gambling.

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

9 The first lottery drawing in Pennsylvania  
10 was held on March 15, 1973. Over the past two fis-  
11 cal years, the Pennsylvania lottery has grossed  
12 \$260 million and earned approximately \$119 million  
13 in net revenue. These proceeds are devoted entirely  
14 to assisting senior citizens of the State. Speci-  
15 fically, the profits are employed to provide pro-  
16 perty tax assistance, rent assistance, and free  
17 urban mass transit service for the elderly. For  
18 example, for the property tax year of 1973 approx-  
19 imately 388,000 senior citizens of Pennsylvania  
20 received about \$53 million in property tax and/or  
21 rent refunds. For this same period the Pennsylvania  
22 lottery each week made possible over one million  
23 free urban mass transit rides for all senior citi-  
24 zens 65 years or older. Well over 80 percent of  
25 the population of Pennsylvania agree that a public

1 lottery is a good means of raising funds for public  
2 benefit.

3           Pari-mutuel racing in the Commonwealth  
4 provided over 28 million in revenue to the State  
5 in 1974 and a slightly lesser amount in 1973, de-  
6 rived over a period of approximately 900 racing days  
7 each year.

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

20           On the otherside of the revenue issue is  
21 law enforcement. Undisturbed by the expanding legal  
22 gambling market is a flourishing illegal gambling  
23 trade that law enforcement officials, prosecutors,  
24 judges, and the public are either unable or unwill-  
25 ing to eradicate. We find in this country today a

1 climate of benign prohibition of gambling. What  
2 does this mean? It means that official restraints  
3 impose only minimal burdens on gambling operators  
4 and even fewer on the wagering public. Benign pro-  
5 hibition translates into benign law enforcement.

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

14 It is widely believed that gambling is  
15 the largest source of revenue for organized crime,  
16 and that a certain -- perhaps significant -- amount  
17 of the gambling proceeds are used by organized  
18 crime to finance other, more socially harmful oper-  
19 ations, such as loansharking, narcotics, and the  
20 corruption of public officials. The Justice Depart-  
21 ment has estimated that the percentage of illegal  
22 gambling controlled by organized crime ranges from  
23 2 percent in the Southwest to 55.4 percent in the  
24 Northeast, and is approximately 41.8 percent for  
25 the Nation as a whole.

1                   The connection between gambling and organ-  
2                   ized crime has been highly publicized in literature,  
3                   film, and through the efforts of various investiga-  
4                   tive bodies, including the Kefauver Committee in  
5                   1951, the McClellan Committee in 1962, and the Penn-  
6                   sylvania Crime Commission in 1970. But the revela-  
7                   tions produced as a result of these and other inves-  
8                   tigations have not weakened the trend toward legal-  
9                   ization of gambling in the States, a trend based  
10                  primarily on revenue considerations rather than the  
11                  possible effects on organized crime. The response  
12                  on the Federal level, by contrast, has been to in-  
13                  tensify the attack on organized crime. The Justice  
14                  Department is attempting to combat organized crime  
15                  by depriving it of its gambling revenue. Thus, the  
16                  campaign against organized crime is in large measure  
17                  a campaign against illegal gambling. In addition to  
18                  a number of Federal antigambling statutes, the Govern-  
19                  ment has in its arsenal of weapons wiretap authority,  
20                  witness immunity laws, and 17 strike forces consisting  
21                  of high-level representatives from Federal investi-  
22                  gative agencies.

23                         Statistics are not available at this time  
24                         on the percentage of illegal gambling reached through  
25                         the combined efforts of Federal, State, and local

1 governments, but considering current estimates of  
2 the amount of money wagered illegally each year --  
3 as much as \$39 billion according to the Justice  
4 Department -- that percentage would seem to be  
5 considerably lower than is needed to make the haz-  
6 ards of a gambling profession outweigh the advantage.  
7 The problem takes on even greater significance in  
8 view of the trend toward legalization and the po-  
9 tential it creates for a greatly expanded gambling  
10 market.

11 The issues of increased legalization give  
12 rise to several questions:

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

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

21 Can the legal games be kept honest?

22 If governments want to prevent illegal  
23 gamblers from exploiting the market of new gamblers  
24 created by the current legal games, will they be  
25 able to produce the money, manpower, legislation,

1 and the know-how necessary to accomplish the task?

2 We cannot answer these questions yet be-  
3 cause we don't have enough reliable information  
4 about many complex issues surrounding all facets  
5 of gambling. Lacking hard facts and practical ex-  
6 perience on which to base our arguments, many of us  
7 who debate gambling issues are forced to rely heavily  
8 on theories, guesswork, estimates, intuition, and  
9 emotion.

10 On the question of legalization, both  
11 advocates and opponents can present logical and  
12 plausible arguments to support their positions.  
13 Both sides may appear to be right, thereby adding  
14 to the confusion and further delaying affirmative  
15 action in one direction or another. If those of us  
16 who know the most about the subject cannot reach  
17 a consensus, the public can hardly be expected to  
18 do so. This is why no real gambling policy exists  
19 in any state, and why there is danger that every-  
20 thing bad about gambling today -- the corruption it  
21 produces and its link to organized crime -- may be-  
22 come even worse tomorrow. Legalized gambling may  
23 or may not be the answer to revenue problems or to  
24 law enforcement problems, but the time has now come  
25 to take a long, careful look at the issues.

1           The witnesses who are presenting testimony  
2           at this hearing may have a particular position that  
3           they urge the Commission to adopt. The questions  
4           that are posed by the members and staff of this  
5           Commission do not indicate a predisposition about  
6           the subject. As we are in a position where we must  
7           ascertain the arguments in opposition to and in  
8           favor of legalization of various forms of gambling,  
9           our questions, while they may appear at times to be  
10          pointed, are designed to test the factual basis of  
11          statements made by a witness. I ask, therefore,  
12          that you appreciate the purpose of the questioning  
13          and not draw conclusions as to a predisposition on  
14          the part of the questioner.

15                 I may say that we have a number of wit-  
16          nesses at the hearing slated for today and tomorrow.  
17          I would also note that we do have biographical  
18          sketches of the various witnesses scheduled to ap-  
19          pear. They will include the president of the Phila-  
20          delphia City Council, Mr. Schwartz, Mr. George Ray-  
21          born, Executive Director of the Pennsylvania Crime  
22          Commission, or their representatives, Mr. James Bar-  
23          ger, Commissioner of the Pennsylvania State Police,  
24          Walter Phillips, Special Prosecutor. This afternoon,  
25          if possible, we will hear from Judge Glancey of the

1 Municipal Court, Mr. Emmett Fitzpatrick, District  
2 Attorney, Mr. John J. Finley, Jr., President of  
3 Eagle Downs Racing Association, and Doctor Mark  
4 Haller, Professor at Temple University.

5 We will have an additional list of wit-  
6 nesses tomorrow. We hope to begin with Mr. Richard  
7 Thornburgh, appropriately enough, the United States  
8 Attorney for Pittsburgh who has just been nominated  
9 by the President to be Assistant Attorney General  
10 in charge of the Criminal Division.

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

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

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

23 We are not following a procedure requiring  
24 the swearing of witnesses, Mr. Rayborn, and I under-  
25 stand we have your biography. You are Executive

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

8 MR. RAYBORN: I know the Attorney General.

9 SENATOR SCOTT: Go right ahead.

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

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

24 In 1970, the Commission received allega-  
25 tions that a serious condition existed in the

1 Johnstown area with regard to large-scale illegal  
2 gambling operations and their relationship to local  
3 government and law enforcement. The Commission's  
4 investigators gathered information showing that a  
5 number of well organized gambling enterprises were  
6 operating in the city. The principal ones consisted  
7 of numbers banks, sport books, football pools,  
8 treasury-balance tickets, lotteries, raked card  
9 games, and coin-operated gaming devices. The infor-  
10 mation showed that these operations were being con-  
11 ducted with little or no interference from local  
12 authorities, and the Commission's hearings disclosed  
13 a pattern of systematic payment of monies for of-  
14 ficial protection of these operations.

15 In 1973, the Commission completed investi-  
16 gations in Carbondale and Phoenixville. In Carbon-  
17 dale, the Commission found that illegal gambling on a  
18 moderate scale operated openly. Most of the gambling  
19 establishments were located on Carbondale's main  
20 streets and primarily featured regularly conducted  
21 card games. The testimony of the people who ran  
22 these games, the players in the games, and virtually  
23 every police officer, was that they were aware that  
24 the games existed and that they had gone on for a  
25 substantial period of time without interruption.

1 In fact, the testimony established that the former  
2 Chief of Police himself frequented illegal card games  
3 at ten different specific locations. However, no  
4 direct evidence was uncovered in Carbondale that  
5 members of the police department received system-  
6 atic cash payments from gamblers for protection  
7 of the gambling operations.

8 In the Phoenixville investigation, the  
9 Commission received testimony describing Phoenix-  
10 ville as a gambling town. The Commission found  
11 official tolerance of widespread gambling. The  
12 Phoenixville gamblers were so casual about the po-  
13 lice that, according to the testimony of one police  
14 officer, a police officer was able to walk in the  
15 front door of the major gambling establishment and  
16 to enter the back room where a number of persons  
17 were gambling. The Commission discovered that po-  
18 lice officials were apathetic toward gambling and  
19 that there was little police action to discourage  
20 gambling. There was substantial evidence that the  
21 failure of the police to take action against the  
22 gambling could be explained by the fact that the  
23 law enforcement officials profited by the existence  
24 of this gambling through protective payments. The  
25 Commission received testimony that the Chief of

1 Police and the Mayor received protection payments  
2 from gamblers. Other members of the police force  
3 received lesser payments.

4 In 1974, the Commission published the  
5 results of an eighteen month investigation into  
6 corruption in the police department of the City of  
7 Philadelphia. During this investigation, Commis-  
8 sion agents found open and flagrant gambling in  
9 every area of the city. Gamblers plied their trade  
10 in candy stores, variety stores, grocery stores,  
11 restaurants, bars and clubs. These operations con-  
12 tinued uninterrupted day after day with no inter-  
13 ference from the police department. The Commission  
14 discovered that protection payments were being made  
15 to the police on a systematic basis by gamblers  
16 throughout the city. The Commission learned that  
17 the Police Department's policy regarding illegal  
18 gambling reflected the ambiguous attitude of the  
19 public-at-large toward gambling. The clear policy  
20 of the department required that a certain number  
21 of gambling arrests be made; however, the allocation  
22 of resources, both manpower and money, was inadequate  
23 to eradicate the large gambling operations which  
24 thrived in Philadelphia. Even when police officers  
25 made good arrests, it was unlikely that the gambler

1 would be severely punished. A study conducted by  
2 the Crime Commission of 1972 arrest data showed that  
3 arrests for gambling in Philadelphia normally re-  
4 sulted in discharge, regardless of the gambler's  
5 position within the organization. The statistical  
6 results of the gambling arrests were as follows:  
7 91.6 percent of all those arrested were acquitted or  
8 had their cases dismissed; 2.9 percent were given  
9 probation; 4.0 percent were given light fines (never  
10 more than \$500); 1.1 percent were given suspended  
11 sentences; and only 0.4 percent of all those arrested  
12 were sent to jail.

13 In November 1974, the Commission published  
14 its twenty-three month study of patterns of sentencing  
15 in gambling cases in Allegheny County. This study  
16 showed that the vast majority of persons who were  
17 convicted of gambling offenses were never sentenced  
18 to jail. Of 318 defendants who were found guilty in  
19 1972, only one was sentenced to jail. During the  
20 period June 6, 1973, to April 30, 1974, 164 defendants  
21 were found guilty; only three of these persons were  
22 sentenced to jail. As part of this study, the Com-  
23 mission interviewed six judges of the Allegheny County  
24 Court of Common Pleas. The judges were selected for  
25 interview on the basis of their experience with

1 they handled more than 50% of the gambling cases  
2 finally adjudicated by the court in the period  
3 June 6, 1973, through April 30, 1974. According  
4 to the judges interviewed, the factors which most  
5 affect the sentencing decisions for gambling of-  
6 fenses are: (1) the judge's belief that the com-  
7 munity does not regard gambling as the kind of  
8 offense which warrants a jail sentence or a stiff  
9 fine, unless the offender is a significant part of  
10 a crime syndicate; (2) the fact that most of the  
11 convicted gambling violators are housewives, un-  
12 employed war veterans, senior citizens, and disabled  
13 persons from the lower economic strata of society,  
14 without prior histories of violent crimes or felonies;  
15 (3) the lack of a serious, systematic law enforce-  
16 ment and prosecutorial effort to reach the higher  
17 echelon of organized gambling operations; and (4) a  
18 concern for allocating scarce judicial resources  
19 to the handling of offenses which are more dangerous  
20 and harmful to the community.

21 As a result of the Carbondale, Phoenix-  
22 ville and Philadelphia investigations, and the  
23 Allegheny County study, the Commission concluded  
24 that because of the cost of enforcing the gambling  
25 laws, in terms of corruption and the waste of

1 limited law enforcement resources, the State Legis-  
2 lature should re-examine the gambling problem and  
3 consider whether gambling could be more effectively  
4 dealt with through means other than the criminal  
5 laws. The Commission recommended that:

6 "If progress in reducing police corrup-  
7 tion is considered a primary goal by the General  
8 Assembly, the present policy of regulating gambling  
9 through the criminal laws and the police should be  
10 re-evaluated and revised. Gambling should be reg-  
11 ulated by the state. Fraudulent gambling practices  
12 should be criminal, and disobeying the appropriate  
13 state regulations should also be punishable. The  
14 state regulation should consist, however, primarily  
15 of taxing gambling proceeds, so that organized  
16 crime's greatest source of revenue will be signifi-  
17 cantly reduced, if not eliminated. Gambling profits  
18 should be utilized for the benefit of society as a  
19 whole. Police should not be involved in the enforce-  
20 ment of the state civil regulation of gambling."

21 Since the publication of the above-men-  
22 tioned reports, the Commission has continued to  
23 investigate certain aspects of the illegal gambling  
24 business. Our preliminary information indicates  
25 that the situation has not changed. For example,

1 in 1973, the Commission learned that illegal gam-  
2 bling paraphernalia in the form of punchboards and  
3 lottery tickets was being shipped into Pennsylvania.  
4 This information was referred to the Pennsylvania  
5 State Police and in July and September, 1973, the  
6 State Police seized gambling material which would  
7 have had a street value estimated at over \$500,000.  
8 On April 15, 1975, the State Police, acting, in  
9 part, upon information furnished by Commission  
10 agents, seized 34 cases of punchboards, Lucky Seven  
11 tickets and other illegal gambling material which  
12 had been shipped into Pennsylvania. The estimated  
13 street value of those materials was \$325,000.

14 In another investigation, Commission  
15 agents have encountered the kind of problems that  
16 have made the gambling laws inherently difficult  
17 to enforce. Commission agents received information  
18 that high-stake illegal poker games were being held  
19 at a particular establishment. The establishment  
20 was eventually raided by the local authorities.  
21 However, the authorities were thwarted in their ef-  
22 fort to make a sudden entry into the establishment  
23 by the existence of a series of three doors. The  
24 third door was made of reinforced steel. In addition,  
25 there was an elaborate electronic buzzer system

1 running from the first door to the inner room. No  
2 evidence of illegal gambling was discovered.

3 Since 1970, the Commission has spent con-  
4 siderable time and money investigating and studying  
5 the effects of illegal gambling and the ability of  
6 the criminal justice system in Pennsylvania to cope  
7 with this activity. Based upon our best information,  
8 illegal gambling still exists and flourishes in  
9 many parts of the Commonwealth. The attempts to  
10 regulate illegal gambling through the criminal laws  
11 have failed in the past and appear to be failing at  
12 this time.

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

22 At some point, society must make a judge-  
23 ment whether it will continue incurring substantial  
24 moral, political, and social costs or turn to alter-  
25 native approaches to the problem. It must debate,

1 and then decide, whether it should react with  
2 tighter criminal prohibitions or shift to control  
3 through civil regulation.

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

17 The Commission recognizes that a recom-  
18 mendation to legalize gambling may be unacceptable  
19 to many concerned and knowledgeable persons. In  
20 fairness to their position, the Commission acknow-  
21 ledges that only infrequently have potentially ef-  
22 fective methods of enforcing the gambling laws been  
23 applied. It is evident that, in many areas, dis-  
24 trict attorneys have rarely worked closely with  
25 local law enforcement officials in a conscientious

1 and determined effort to arrest and prosecute the  
2 higher echelon members of organized gambling syndi-  
3 cates. Probative evidence regarding particular  
4 defendants' relationships to criminal syndicates is  
5 seldom presented to the courts. In many instances,  
6 district attorneys have failed to utilize the pro-  
7 cedure of a special grand jury to investigate organ-  
8 ized gambling syndicates, nor have they sought  
9 grants of immunity for, and provided protection to,  
10 lower echelon criminal figures to encourage their  
11 testimony. Some federal prosecutors have effectively  
12 used these methods. It is quite possible that state  
13 and municipal prosecutors could achieve similar  
14 successes.

15 It would also be imperative for effective  
16 gambling enforcement that the courts responsible  
17 for hearing gambling cases adopt and apply consis-  
18 tent sentencing practices designed to achieve  
19 rational goals. At present, the judicial process  
20 is merely an administrative burden to illegal gam-  
21 bling operations.

22 The matter of the continued existence of  
23 large-scale illegal gambling must be brought to a  
24 conclusion. Society, principally through its  
25 legislators, must debate whether it should react

1 to the present abysmal state of the gambling laws  
2 with tighter criminal prohibitions and law enforce-  
3 ment procedures, or shift to control through civil  
4 regulations. It is absolutely essential that one  
5 of these two positions be adopted. To take no  
6 action is to make a decision to accept the present  
7 conditions. The only beneficiaries of this reaction  
8 would be the gambling syndicates throughout the  
9 country. The damage to society continues to be  
10 too fundamental and too great to accept the status  
11 quo.

12 That concludes my prepared statement.

13 BY SENATOR SCOTT:

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

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

24 Q Generally speaking, in your opinion, what is the  
25 effect of gambling-related corruption on the ability of

1 the police department to perform its duties?

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

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

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

20 A Well, I think what the Commission has done is taken  
21 a very limited position. The Commission has recognized  
22 and has stated in its report that, in its opinion, the  
23 present system of gambling laws is not operating. The  
24 Commission has further called on the State Legislature  
25 to study the problem and to come up with some

1 recommendations. The Commission, I think, has been  
2 fairly limited in its recommendation as to what the  
3 State Legislature ought to do. We have been most insis-  
4 tent on calling on the State Legislature to do something.  
5 We are not confident that we have the hard data to tell  
6 the State Legislature what to do.

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

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

25 Q Do you think the Legislature ought to at least give

1 the most serious consideration to the possible legisla-  
2 tion to permit wiretapping under controlled conditions?

3 A. I think if you are going to make a policy that you  
4 are going to try to strictly enforce gambling laws, then  
5 the Legislature should take a strong look at whether or  
6 not wiretap laws are not one of the things that you need  
7 to do that. I think if you do decide to enforce gambling  
8 laws that you ought to look at the wiretap laws as being  
9 one of the elements you might need to do that.

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

15 Would you go ahead, Doctor?

16 DOCTOR ALLEN: Thank you very much,  
17 Senator Scott.

18 BY DOCTOR ALLEN:

19 A. I only have one question. I noticed in your testi-  
20 mony where you say you recommended that it might be pos-  
21 sible in answer to the problem to legalize gambling, and  
22 that you recommended a tax on gambling enterprises as  
23 normal businesses and a vigorous audit of the operations.  
24 Why do you not recommend the alleviation of tax upon  
25 the winnings as a possible edge on that whole system?

1 A. Doctor Allen, I don't know if the Commission con-  
2 sidered that when it made this recommendation that you  
3 should go perhaps further to compete with illegal gam-  
4 bling and eliminate the taxing of winnings. Many author-  
5 ities have recommended that. The Commission did not  
6 deal with that, and we have not had an occasion to deal  
7 with whether we should do that since the publication of  
8 the report that I referred to.

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

12 DOCTOR ALLEN: Thank you very much.  
13 Thank you, Senator.

14 SENATOR SCOTT: Thank you, Doctor Allen.  
15 Chairman Morin?

16 BY MR. MORIN:

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

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

25 Q How are you going to get that data?

1 A. Very difficult. I don't know.

2 Q. Did your Commission make any effort to get it?

3 A. Not as far as I know.

4 Q. Do you have subpoena power?

5 A. We do have subpoena power. Yet the only hard data  
6 that the Commission has had that we published is the  
7 1970 report on organized crime. In the 1970 report I  
8 believe we cited the figure of \$240 million involved  
9 yearly in Pennsylvania in the number scheme.

10 Q. What else would you need?

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

13 Q. Well, would you require data, for example, on what  
14 makes people gamble?

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

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

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

25 Q. Do the reports reflect why they would conclude

1 that gambling should be State regulated but that the  
2 regulation should be primarily to tax the proceeds  
3 and thereby drive organized crime out of its revenues?  
4 What justification would there be for that conclusion?

5 A Would you restate that? Let me see if I can under-  
6 stand.

7 Q Perhaps, I didn't state it properly. I am quoting  
8 from the report on page 6 of your statement, "Gambling  
9 should be regulated by the state. The state regula-  
10 tion should consist, however, primarily of taxing  
11 gambling proceeds, so that organized crime's greatest  
12 source of revenue will be significantly reduced."

13 Why did they conclude that taxing the  
14 proceeds would reduce the revenues? Do you think  
15 that organized crime is going to pay the tax?

16 A I am not sure that I can answer that. Let me give  
17 you an alternative that might have prompted that con-  
18 clusion.

19 One alternative that you could consider  
20 would be licensing individuals. If you licensed in-  
21 dividuals, it might be that you would end up licensing  
22 organized crime to carry on the gambling action. If you  
23 did that, you might end up in the position that you  
24 would simply transfer illegal organized crime gambling  
25 to legal organized crime gambling.

1 Q My question really is to the point though -- if  
2 you know or if the report shows -- if you knew why the  
3 Commission would conclude that taxing gambling proceeds  
4 would result in depriving organized crime of its great-  
5 est source of revenue. The Commission is clear that  
6 they think that organized crime is apparently going to  
7 pay the tax.

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

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

15 A I believe that was the intent of the quotation  
16 itself. I can't give you a more detailed explanation  
17 of it. I don't think there is a more detailed explan-  
18 ation.

19 MR. MORIN: I yield.

20 Thank you Senator.

21 SENATOR SCOTT: Commissioner Coleman?

22 MR. COLEMAN: Thank you, Senator.

23 BY MR. COLEMAN:

24 Q Mr. Rayborn, in the recommendation that Mr. Morin  
25 just referred to which your Commission recommended, of

1 course, to the Legislature, there is some ifs in that,  
2 but in your statement you refer on several occasions  
3 that society must decide whether they want strict en-  
4 forcement or they want civil regulation. Which is it  
5 from your own personal standpoint? Which do you prefer?  
6 Which would you recommend, I should say, to this Com-  
7 mission? Stricter prohibition or civil regulation,  
8 despite what your Commission's recommendation may be?

9 A. I don't know that I can make a recommendation like  
10 that. The Commission has not done that. Personally,  
11 I don't think that it would be appropriate for me as  
12 Executive Director to make a recommendation that the  
13 Commission has not made.

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

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

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

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

24 Q. This recommendation says that gambling should be  
25 regulated by the states. I assume, going with that,

1 you mean for strict enforcement.

2 A. That's certainly what this recommendation implies.

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

9 A. We would.

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

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

22 Q. In the early part of your written statement you  
23 talked about a study showing that protection money was  
24 paid in at least two towns on a systematic basis, and I  
25 believe one of those places was Philadelphia, but there

1 has been no follow-up on this. In other words, your  
2 Commission doesn't --

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

7 Q. Is it your understanding that these protection pay-  
8 ments were to avoid any type of enforcement, or was it  
9 to be token enforcement? I notice the 91 percent figure  
10 which either were acquitted or dismissed. Was that, as  
11 you understood it, part of the protection; that there  
12 would have to be some token arrests to settle the pro-  
13 blem in court, or was it to be completely looking away?

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

18 MR. COLEMAN: Thank you very much.

19 SENATOR SCOTT: Commissioner Gimma.

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

22 SENATOR SCOTT: Mr. Tom Farrell for the  
23 staff.

24 Mr. Farrell?  
25

1 BY MR. FARRELL:

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

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

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

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

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

24 A Mr. Neiman was one of the attorneys responsible  
25 for the Allegheny study which involved the City of

1 Pittsburgh and others, and I would like to refer that  
2 question to him. They dealt with that question. They  
3 talked to judges about that. I would like to refer that  
4 question to Mr. Neiman.

5 MR. NEIMAN: As part of the study of  
6 sentencing participants in gambling cases in Al-  
7 legheny County, interviews were conducted with a  
8 number of the judges responsible for sentencing.  
9 One of the principal concerns of the Chief Judge  
10 of the Criminal Division of the Common Pleas Cour-  
11 was that the present criminal laws on gambling do  
12 create a great burden for the courts. One of the  
13 most significant concerns was that harsher enforce-  
14 ment, whereby persons would be sentenced to jail or  
15 greater fines, would be a more considerable burden  
16 on the courts. He felt this would create a demand  
17 for jury trials and would lessen the number of pleas  
18 of guilty, and would greatly tax the existing re-  
19 sources. Basically, he felt -- and other members  
20 of the judiciary felt -- that presently the gambling  
21 cases occupied a considerable portion of the courts'  
22 agenda and that harsher enforcement of the gambling  
23 laws would occupy even a greater proportion, and  
24 this was his concern presently. This was one of  
25 the reasons that he felt there is not a thorough

1 dealing with gambling cases under the present sys-  
2 tem. There is not a utilization of pre-sentence  
3 reports. There is not a conscious effort to link  
4 the persons who are arrested to the higher echelons  
5 of organized crime. He was considerably concerned  
6 with the waste of resources under the present sys-  
7 tem.

8 Similarly, we found that the prosecutorial  
9 officials, law enforcement officials, were also con-  
10 cerned that under the present system much of their  
11 resources were utilized for gambling-related cases  
12 and this was a burden on them in dealing with pro-  
13 blems that society considered with more concern,  
14 the actual street crimes.

15 BY MR. FARRELL:

16 Q I have one final question. Has your Commission  
17 been given sufficient funds required to fulfill its man-  
18 date? If not, what kind of money would a state have to  
19 invest to fund the kind of studies and research needed  
20 to come up with a resolution to solve some of your pro-  
21 blems?

22 A I think that we probably have sufficient funds to  
23 do the job we are mandated to do. You have to realize  
24 we are not a prosecutorial agency. When you talk about  
25 a thorough job, you might have to consider whether an

1 agency should be a prosecutorial agency. Recognizing  
2 that we are not, I think we probably have sufficient  
3 funds to do the research and investigation that we are  
4 mandated to do.

5 MR. FARRELL: Thank you very much.

6 BY SENATOR SCOTT:

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

15 A Senator Scott, I don't know the answer to that.  
16 This is a legal problem in Pennsylvania with using im-  
17 munity statutes. Where it is now, there is a case on ap-  
18 peal before the Supreme Court which holds that the immunity  
19 statute is limited to persons involved in organized crime.  
20 So if a small gambler was not a member of organized  
21 crime, he might be able to, at least right now, success-  
22 fully argue that the immunity statute was invalid and  
23 did not reach him. Why the district attorneys have not  
24 used it more often, however, I don't know.

25 SENATOR SCOTT: Any other questions?

Statement of George Rayborn  
Executive Director  
Pennsylvania Crime Commission

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

In 1970, the Commission received allegations that a serious condition existed in the Johnstown area with regard to large-scale illegal gambling operations and their relationship to local government and law enforcement. The Commission's investigators gathered information showing that a number of well organized gambling enterprises were operating in the city. The principal ones consisted of numbers banks, sport books, football pools, treasury-balance tickets, lotteries, raked card games, and coin-operated gaming devices. The information showed that these operations were being conducted with little or no interference from local authorities and the Commission's hearings disclosed a pattern of systematic payment of monies for official protection of these operations.<sup>1</sup>

In 1973, the Commission completed investigations in Carbondale and Phoenixville. In Carbondale, the Commission found that illegal gambling on a moderate scale operated openly. Most of the gambling establishments were located on Carbondale's main streets and primarily featured regularly conducted card games. The testimony of the people who ran these games, the players in the games, and virtually every police officer, was that they were aware that the games existed and that they had gone on for a substantial period of time without interruption. In fact, the testimony established that the former Chief of Police himself frequented illegal card games at ten different specific locations. However, no direct evidence was uncovered in Carbondale that members of the police department received systematic cash payments from gamblers for protection of the gambling operations.<sup>2</sup>

In the Phoenixville investigation, the Commission received testimony describing Phoenixville as a gambling town. The Commission found official tolerance of widespread gambling. The Phoenixville gamblers were so casual about the police that, according to the testimony of one police officer, a police officer was able to walk in the front door of the major gambling establishment and to enter the back room where a number of persons were gambling. The Commission discovered that police officials were apathetic toward gambling and that there

was little police action to discourage gambling. There was substantial evidence that the failure of the police to take action against the gambling could be explained by the fact that the law enforcement officials profited by the existence of this gambling through protective payments. The Commission received testimony that the Chief of Police and the Mayor received protection payments from gamblers. Other members of the police force received lesser payments.<sup>3</sup>

In 1974, the Commission published the results of an eighteen month investigation into corruption in the police department of the City of Philadelphia. During this investigation, Commission agents found open and flagrant gambling in every area of the city. Gamblers plied their trade in candy stores, variety stores, groceries, restaurants, bars and clubs. These operations continued uninterrupted day after day with no interference from the police department. The Commission discovered that protection payments were being made to the police on a systematic basis by gamblers throughout the city.<sup>4</sup> The Commission learned that the Police Department's policy regarding illegal gambling reflected the ambiguous attitude of the public-at-large toward gambling. The clear policy of the department required that a certain number of gambling arrests be made; however, the allocation of resources, both manpower and money, was inadequate to eradicate the large gambling operations which thrived in Philadelphia. Even when police officers

made good arrests, it was unlikely that the gambler would be severely punished. A study conducted by the Crime Commission of 1972 arrest data showed that arrests for gambling in Philadelphia normally resulted in discharge, regardless of the gambler's position within the organization. The statistical results of the gambling arrests were as follows: 91.6% of all those arrested were acquitted or had their cases dismissed; 2.9% were given probation; 4.0% were given light fines (never more than \$500); 1.1% were given suspended sentences; and only 0.4% of all those arrested were sent to jail.<sup>5</sup>

In November 1974, the Commission published its twenty-three month study of patterns of sentencing in gambling cases in Allegheny County. This study showed that the vast majority of persons who were convicted of gambling offenses were never sentenced to jail. Of 318 defendants who were found guilty in 1972, only one was sentenced to jail.<sup>6</sup> During the period June 6, 1973, to April 30, 1974, 164 defendants were found guilty; only three of these persons were sentenced to jail.<sup>7</sup> As part of this study, the Commission interviewed six judges of the Allegheny County Court of Common Pleas. The judges were selected for interview on the basis of their experience with gambling cases. Collectively, they handled more than 50% of the gambling cases finally adjudicated by the court in the period June 6, 1973,

through April 30, 1974. According to the judges interviewed, the factors which most affect the sentencing decisions for gambling offenses are: (1) the judge's belief that the community does not regard gambling as the kind of offense which warrants a jail sentence or a stiff fine, unless the offender is a significant part of a crime syndicate; (2) the fact that most of the convicted gambling violators are housewives, unemployed war veterans, senior citizens, and disabled persons from the lower economic strata of society, without prior histories of violent crimes or felonies; (3) the lack of a serious, systematic law enforcement and prosecutorial effort to reach the higher echelon of organized gambling operations; and (4) a concern for allocating scarce judicial resources to the handling of offenses which are more dangerous and harmful to the community.<sup>8</sup>

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

If progress in reducing police corruption is considered a primary goal by the General Assembly, the present policy of regulating gambling through the criminal laws and the police should be re-evaluated and revised. Gambling should be regulated by the state. Fraudulent gambling practices should be criminal, and disobeying the appropriate state regulations should also be punishable. The state regulation should consist, however, primarily of taxing gambling proceeds, so that organized crime's greatest source of revenue will be significantly reduced, if not eliminated. Gambling profits should be utilized for the benefit of society as a whole. Police should not be involved in the enforcement of the state civil regulation of gambling.<sup>9</sup>

Since the publication of the above-mentioned reports, the Commission has continued to investigate certain aspects of the illegal gambling business. Our preliminary information indicates that the situation has not changed. For example, in 1973, the Commission learned that illegal gambling paraphernalia in the form of punchboards and lottery tickets was being shipped into Pennsylvania. This information was referred to the Pennsylvania State Police and in July and September, 1973, the State Police seized gambling material which would have had a street value estimated at over \$500,000.<sup>10</sup> On April 15, 1975, the State Police, acting, in part, upon information furnished by Commission agents, seized 34 cases of punchboards, Lucky Seven tickets and other illegal gambling material which had been shipped into Pennsylvania. The estimated street value of those materials was \$325,000.<sup>11</sup>

In another investigation, Commission agents have encountered the kind of problems that have made the gambling laws inherently difficult to enforce. Commission agents received information that high-stake illegal poker games were being held at a particular establishment. The establishment was eventually raided by the local authorities. However, the authorities were thwarted in their effort to make a sudden entry into the establishment by the existence of a series of three doors. The third door was made of reinforced steel. In addition, there was an elaborate electronic buzzer system running from the first door to the inner room. No evidence of illegal gambling was discovered.<sup>12</sup>

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

The present system of gambling laws provides us with the worst of all worlds: thriving illegal gambling operations netting organized crime millions of dollars weekly in Pennsylvania alone; tremendous waste of law enforcement and judicial

resources futilely attempting to enforce the laws; and widespread corruption and an undermining of the integrity of the police and public officials resulting from bribes to prevent enforcement of the laws.

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

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

The Commission recognizes that a recommendation to legalize gambling may be unacceptable to many concerned and knowledgeable persons. In fairness to their position, the Commission

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

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

The matter of the continued existence of large-scale illegal gambling must be brought to a conclusion. Society, principally through its legislators, must debate whether it should react to the present abysmal state of the gambling laws with tighter

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criminal prohibitions and law enforcement procedures or shift to control through civil regulations. It is absolutely essential that one of these two positions be adopted. To take no action is to make a decision to accept the present conditions. The only beneficiaries of this reaction would be the gambling syndicates throughout the country. The damage to society continues to be too fundamental and too great to accept the status quo.

FOOTNOTES

1. Report on the Conditions of Organized Gambling and the Administration of Criminal Justice in Johnstown, Pennsylvania: 1970-1971. Printed in the 1971-72 Report, Pennsylvania Crime Commission, pp. 29-31.
2. Report on Gambling and Corruption in Carbondale. Printed in the 1973-74 Report, Pennsylvania Crime Commission, pp. 123-128.
3. Report on Gambling and Corruption in Phoenixville. Printed in the 1973-74 Report, Pennsylvania Crime Commission, pp. 139-148.
4. Report on Police Corruption and the Quality of Law Enforcement in Philadelphia. Printed by the Pennsylvania Crime Commission as a separate volume, March, 1974, p. 168.
5. Id. at 191-193.
6. Report on Patterns of Sentencing In Allegheny County Gambling Cases. Issued by the Pennsylvania Crime Commission, November, 1974, p. 27.
7. Id. at 41.
8. Id. at 22-23.
9. Id. at 1-2, and 79-81.
10. Printed in the 1973-74 Report, Pennsylvania Crime Commission, pp. 192-193.
11. The Harrisburg Patriot, April 16, 1975, p. 1, col. 1.
12. Active investigation of organized criminal activity in Bucks County, Pennsylvania.

1 (No response.)

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

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

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

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

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

20 MR. SCHWARTZ: Well, Senator Scott, good  
21 morning, Perhaps, you have a misapprehension of my  
22 presence here. I am not here representing the Gov-  
23 ernor of the Commonwealth. The Governor unfortu-  
24 nately could not come, and the lady to your right  
25 asked whether I couldn't fill in and tell the

1 Commission what my feelings are about gambling and  
2 how I see it. So I want it clearly understood that  
3 I am here as a public citizen. I am here with some  
4 background in government, having been a member of  
5 the Legislature from 1953 to 1960, and having been  
6 a member of the City Council from 1960 to the present  
7 time. I am president of the City Council so I do  
8 have some background. In addition, the City Council  
9 has conducted a very thorough study of the criminal  
10 justice system, back about two or three years ago,  
11 and had every facet of the criminal justice system  
12 in the City of Philadelphia involved in that in-  
13 vestigation. We did attain a great degree of testi-  
14 mony from the various component factors of the  
15 criminal justice system.

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

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

23 In that connection the Commission had  
24 hoped to ask the Governor some questions, and I am  
25 going to ask the staff to prepare for the approval

1 of the Chairman of The Commission a list of questions  
2 to be submitted to Governor Shapp since we do want  
3 his views as to how he thinks the State lottery  
4 laws are working, how important its contributions  
5 have been, what limit the State should impose on  
6 gambling operations, the procedures regarding the  
7 awarding of racing dates, particularly the compe-  
8 tition between New Jersey, Delaware, and Pennsylvania;  
9 what was his rational behind the signing of an anti-  
10 eavesdropping law, and whether he thinks Pennsyl-  
11 vania has a serious crime problem, whether he sup-  
12 ports the special prosecutor in his efforts to ob-  
13 tain more funds from the State Legislature, does he  
14 have any plans for the extension of legalized gam-  
15 bling in its many forms, and various other questions.  
16 I know the Governor cannot be here, but I think he  
17 could help us if he would be willing to answer some  
18 of these interesting and pressing questions. Thank  
19 you, Mr. Schwartz.

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

25 If I may begin, sir, first of all, I

1 think we all recognize, and historically, that we  
2 had lotteries in this country even before the  
3 country was formed. Now, I believe that gambling  
4 should be licensed, or, even better, should be  
5 conducted by the Government itself. When I say,  
6 "the Government", I mean either the Federal Govern-  
7 ment, State Government, or municipal government, or  
8 a combination. I think that that would be best. I  
9 think it ought to be an absolute monopoly by the  
10 Government.

11 Now, through an investigation by the  
12 Council we discovered that there is an inordinate  
13 cost to the City of Philadelphia by the jam-up of  
14 the courts, court system, by what mostly are numbers  
15 cases. This is the lottery game where they pay  
16 600 to 1, where people bet 5¢, 10¢, a quarter. The  
17 number writer is on the corner, and this is a rather  
18 large operation in the City of Philadelphia. They  
19 are arrested by the police. They go through the  
20 regular system of arrest and trial, and usually are  
21 fined \$25 or \$50 or discharged. This does clog up  
22 our court system and prevent the crimes that are  
23 more heinous, -- rapes, robberies, burglaries, arsons,  
24 assaults, -- from coming to trial as quickly as they  
25 should. It costs an awful lot of money. You may

1 not believe this, but the City of Philadelphia pays  
2 for all of the court costs in the criminal courts  
3 with the exception of the judges' salaries. They  
4 are paid by the Commonwealth. Everything else is  
5 paid by the City of Philadelphia, so that it is a  
6 burden upon the City. My recollection is that that  
7 budget in the City of Philadelphia is somewhere  
8 around \$40 million. In addition to which, we give  
9 them free space in our City Hall, and those in  
10 charge, all of the court employees, are paid by  
11 the City of Philadelphia. All of the supplies, the  
12 material, the equipment, anything that is used. So  
13 that it is not only a burden on the Commonwealth;  
14 it is a burden on the City of Philadelphia.

15 Now, we have been trying to get the Com-  
16 monwealth of Pennsylvania to pick up those court  
17 costs, because in each instance it is the Common-  
18 wealth versus, Commonwealth versus, yet the burden  
19 is placed upon the taxpayers of the City of Phila-  
20 delphia.

21 I say to you that if we legalize gambling  
22 and don't have to make these arrests, and don't have  
23 to file them through our criminal justice system,  
24 through the courts, the cost of criminal justice  
25 will drop. Justice will be speedier on the more

1 heinous and serious crimes that we are interested  
2 in.

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

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

25 SENATOR SCOTT: On the day on which the

1 Volstead Act was abolished, as a district attorney  
2 I quashed about 10,000 indictments.

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

20 I think one important thing that must be  
21 done, you must not tax the winnings, because that's  
22 the one advantage that the government would have.  
23 That's one danger that we have at the present time,  
24 because it is an illegal act that is taking place,  
25 and because it is illegal, the winner does not have

1 to pay a tax on it. In most instances he doesn't  
2 pay a tax on it. Now, I would like to see the pro-  
3 ceeds go to such things as schools, senior citizens,  
4 or youth, and not go generally into the treasury  
5 of municipal or state or the Federal Government.  
6 I think it ought to be used for a specific purpose,  
7 the profits that are derived from the gambling in-  
8 dustry which will be run by the municipality, or  
9 Commonwealth, or by the Federal Government.

10 That's about my statement, sir.

11 SENATOR SCOTT: It seems to me for a  
12 specific purpose, itemization to increase the general  
13 revenue, as such, so that there would be a gradual low-  
14 ering of the return benefits to the winner and de-  
15 vices entered into to find more profit to the gen-  
16 eral revenue; whereas if it is clearly earmarked,  
17 it does not seem to have been the progression in  
18 states that have done it.

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

24 SENATOR SCOTT: Parcheesi was named for  
25 the Persians, and the dice have been found in

1 prehistoric locations.

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

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

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

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

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

21 BY DOCTOR ALLEN:

22 Q Do you feel that there should be specifically man-  
23 dated sentences for gambling offenses, or do you feel the  
24 discretion of the judge should be utilized in that  
25 direction?

1     A.     Well, I am suggesting that you would have a dif-  
2     ferent kind of criminal sentencing. I am suggesting  
3     that if you legalize gambling, the type of sentencing  
4     we have now will no longer exist. You would then have  
5     a punishment of some kind for violating the law. It  
6     would be a different law. It would be a law, just like  
7     the lottery today, where somebody would try to compete  
8     with the lottery. Now, it did happen, by the way, over  
9     in New Jersey. This is very interesting. You may or  
10    may not know about this. The gambling syndicate over  
11    there came over to Pennsylvania and bought up our lot-  
12    tery tickets at 50 cents a piece and sold them for a  
13    dollar, and then doubled the prize that the person would  
14    get. Now, this was ingenious on their part, and, of  
15    course, they had no overhead of any kind. I don't know  
16    what would happen if one of those tickets would have  
17    won, how they would have paid off, but it did occur.

18                    However, Doctor, I don't think we have  
19    to worry too much. I think that there would be some  
20    kind of a criminal code required for violation, just as  
21    you do for our liquor laws today in the Commonwealth,  
22    or cigarette tax. However, it wouldn't be the same as  
23    you have at the present time. I think the penalties  
24    should be very heavy, especially monetarywise, and I  
25    think there should be an imprisonment. I don't think

1 it is going to occur, however. I think that many of  
2 these people that are engaged, the small people engaged,  
3 in selling these numbers would probably be hired by the  
4 Commonwealth or by the municipalities to do the very  
5 same thing that they are doing now, but then they would  
6 do it legally and they would be paying taxes on their  
7 earnings. This is true of many of those grocery stores,  
8 mom and pop stores, who were taking numbers before, I  
9 am sure, and today are selling lottery tickets on behalf  
10 of the Commonwealth of Pennsylvania and conducting what  
11 is now a legal business.

12 DOCTOR ALLEN: Thank you, Mr. President.  
13 Thank you, Senator.

14 SENATOR SCOTT: Thank you, Doctor Allen.  
15 Mr. Chairman?

16 BY MR. MORIN:

17 Q I take it what you are advocating when you say it  
18 should be legalized is you are talking in terms of a  
19 state legalization procedure.

20 A Basically, I don't know whether the Federal Govern-  
21 ment would want to get into gambling as such. I don't  
22 know. It would basically be the State Legislature  
23 throughout this Commonwealth. You might need some kind  
24 of Federal Legislation or changes in your current Federal  
25 Legislation, because you do have the requirement, as I

1 recall, of a \$50 gambling stamp and some other things  
2 that might require changing. However, I would like to  
3 see a sharing not only by the Commonwealth but by the  
4 municipalities in the revenues.

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

7 A No, sir.

8 Q Or that sort of thing?

9 A No, sir.

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

12 A Yes, sir.

13 MR. MORIN: Thank you.

14 SENATOR SCOTT: Commissioner Gimma.

15 BY MR. GIMMA:

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

20 A No, I have no statistics, but I will suggest that  
21 it's probably lessened to some degree. Because we don't  
22 have off-track betting, you still have the bookies, and  
23 you still have the phone calls to the bookies that are  
24 placing bets on horseracing, even though you do have  
25 pari-mutuel wagers, because people will very often want

1 to bet and don't have time to go to the track. So that  
2 I would certainly advocate off-track betting such as  
3 they have in New York, or some similar system. The  
4 numbers game is flourishing openly in Philadelphia even  
5 though we have a lottery. These people still like the  
6 odds of 600 to 1 and it is easy for them; they walk  
7 right down the corner and bet their dime or quarter.

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

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

17 BY MR. MORIN:

18 Q Including Federal Taxes?

19 A Yes, sir.

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

25 A (Continued) I agree, sir.

1                   SENATOR SCOTT: It is so open and so much  
2 supported by society there. It is an accepted thing  
3 over there. Here you have everybody putting down  
4 a quarter or half dollar, and then if they win,  
5 they just have to find the local banker.

6                   DOCTOR ALLEN: Not in my neighborhood.

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

16                   Commissioner Coleman?

17                   DOCTOR ALLEN: Senator, if I may?

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

23                   MR. MORIN: Undistinguished.

24                   DOCTOR ALLEN: He is a distinguished at-  
25 torney from Washington, a member of the firm of

1 Dickstein, Shapiro and Morin.

2 THE WITNESS: I don't know whether the  
3 Chairman has handled any number of cases. I happen  
4 to be an attorney -- well, I haven't practiced since  
5 I became president of City Council -- but many years  
6 ago I did represent a few defendants, so that I  
7 know just what it is like, and it is what I would  
8 term a bumpership business at best. They are very  
9 difficult cases to get convictions on, and, as Sen-  
10 ator Scott put it so well, there is sort of a  
11 laissez faire atmosphere that pervades, everybody,  
12 the police, the judges, the court personnel. That  
13 is what is so terrible about it, what is so bad  
14 about it. As a result, you have violators who have  
15 been arrested 18, 19, 20 times and no conviction,  
16 or if they have a conviction, it was a \$25 or \$50  
17 fine. The system is just clogged with this, and  
18 the paperwork is just insurmountable.

19 SENATOR SCOTT: It has so many evils. I  
20 speak as one who prosecuted many of those cases.  
21 The district attorney didn't believe there was very  
22 much wrong in numbers writing. The judge didn't  
23 believe it. The police, the arresting officers,  
24 didn't believe it. The jury, if there was a jury  
25 trial, didn't believe it. As a result, everybody

1 had to go through a charade with great cost to the  
2 county, the city, and the state, and without any  
3 lawful revenues emanating from it. There was a  
4 hypocritical charade involved, and still is in the  
5 whole business. Therefore I say it is a search  
6 for alternatives that engages us rather than sug-  
7 gesting any conclusions for this Commission.

8 Mr. Coleman?

9 MR. COLEMAN: Thank you, Senator.

10 BY MR. COLEMAN:

11 Q I just have two questions, Mr. Schwartz. Would you  
12 also advocate along with the elimination of taxing on  
13 winnings that there would be a system where credit could  
14 be extended to the better to compete favorably with il-  
15 legal operations?

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

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

21 A Well, you have Shylocking, and so forth. I assume  
22 that's what you are talking about more than extension of  
23 credit, because when they extend credit, there is usually  
24 an additional charge made in the gambling industry any-  
25 way.

1 Q I have one other question. You talked about the  
2 numbers business flourishing here. You said, "flourish-  
3 ing."

4 A Yes.

5 Q Is there any question in your mind where the re-  
6 venue goes?

7 A It is a syndicate operation. I believe basically  
8 the number writer gets a certain percentage for all  
9 business that he does and moneys that he turns in, and  
10 then it goes right up the line.

11 Q Does it in your opinion end up perhaps in organized  
12 crime?

13 A I believe so.

14 MR. COLEMAN: Thank you very much.

15 SENATOR SCOTT: Ms. Marshall?

16 MS. MARSHALL: Thank you, Senator.

17 BY MS. MARSHALL:

18 Q Mr. President, what is your opinion regarding the  
19 propriety of Government promotion of legal gambling  
20 such as advertising of the Pennsylvania State Lottery?

21 A I think it is necessary that it be done in order  
22 that the lottery be successful, and I have no objection  
23 to it, any more than the advertising that takes place  
24 on other products that are commercially sold. I see no  
25 distinction or difference.

1 Q Senator Scott earlier made reference to the English  
2 system, and that's a system which has, in a sense, re-  
3 garded gambling as a vice, but nevertheless is publicly  
4 indulged, and therefore, legalization to them represented  
5 a form of control. Their system contemplates that there  
6 shall be no advertising, that there shall be no stimu-  
7 lation of a demand. Would you agree with that theory?

8 A I think that in order to have this be successful,  
9 you have to advertise. You are not trying to eliminate  
10 it. You will never eliminate it. Perhaps, the British  
11 system is a little different because of the way its been  
12 approached over the years. Perhaps, they don't have the  
13 syndication that we have. They don't have the crime  
14 element that we have and haven't had this kind of a pro-  
15 blem because of their approach toward gambling over the  
16 years, and I think that it has to be promoted here. We  
17 have to let people know that they can buy a 50 cent in-  
18 stant lottery, for instance. I notice the lottery now  
19 has a system where, as I understand it, you buy a 50 cent  
20 lottery, and you scrape at the number, and it tells you  
21 whether you are an instant winner or not an instant win-  
22 ner. I have been to some of the drawings that have taken  
23 place on the original lottery, and they must be adver-  
24 tised, because if you get rid of the pernicious illegal  
25 activities that formerly existed, you can get away from

1 advertising. However, I think at the present time in  
2 order to compete with and in order to stop the illegal  
3 activities, you must compete with it, and you must do  
4 it by advertising.

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

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

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

22 MS. MARSHALL: Thank you, Mr. President.

23 Mr. Chairman, I have no further questions.

24 SENATOR SCOTT: You may remember, Mr.

25 President, with the help of the Attorney General

1 we had some hearings in the judiciary of the House  
2 and the Senate. We changed laws to prevent  
3 Attorneys General having to follow up on what was  
4 a very valid threat, that would move to close down  
5 certain state lotteries because of the violation  
6 of the interstate dissemination of information.

7 MR. SCHWARTZ: That was a real problem.

8 SENATOR SCOTT: We got some legislation  
9 through.

10 Do you have any other questions?

11 BY MR. GIMMA:

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

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

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

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

1 rather than our capital budget.

2 SENATOR SCOTT: You would have to have  
3 an I.R.S. ruling.

4 MR. SCHWARTZ: You would need Federal  
5 Legislation, no question about it.

6 SENATOR SCOTT: And following such ruling,  
7 I am sure you would have to consider legislation  
8 on it.

9 BY MR. MORIN:

10 Q Is the record clear that your recommendation or  
11 your suggestion would include gambling on sports, as  
12 well?

13 A Yes, sir.

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

15 A Absolutely.

16 SENATOR SCOTT: We have been very much  
17 interested in your testimony, Mr. President, and  
18 appreciate your coming down.

19 MR. SCHWARTZ: It has been a pleasure to  
20 be here. Welcome to Philadelphia.

21 (Witness excused.)

22 SENATOR SCOTT: Commissioner James Barger,  
23 Commissioner Of The Pennsylvania State Police.

24 We appreciate your being here. I am sorry  
25 for the little bit of a delay. You may just proceed

1 with your statement.

2 MR. BARGER: Honorable Senator Scott and  
3 honorable members of this Commission, I appreciate  
4 the opportunity of appearing before this Commission.  
5 I have previously forwarded the statement, but sub-  
6 sequent to forwarding that statement to the Commis-  
7 sion, I received from your staff a suggested out-  
8 line. Therefore, rather than dwell on the state-  
9 ment which you already are in possession of, I  
10 would sooner go into the areas of inquiry that were  
11 furnished to me by your staff.

12 MR. MORIN: Go right ahead.

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

24 The types of illegal gambling experienced  
25 in the Commonwealth of Pennsylvania run the gamut

1 of all popular forms: lotteries-numbers or policy  
2 racket, Treasury Balance tickets, Fifty/Fifty Clubs,  
3 Bingo, and vending machines which handle Fortune  
4 Tickets, et cetera ... sports betting on various  
5 sports events, i.e., football, baseball, basket-  
6 ball, and boxing, Casino Games -- Dice or Craps,  
7 Blackjack, Poker, Chuck-a-luck and paddlowheels,  
8 and, lastly, but certainly most important, Book-  
9 making and Poolselling -- the placing of wagers on  
10 horseraces. This last form of gambling, contrary  
11 to public belief differs quite widely from the legal  
12 forms of gambling or horseraces, and is quite com-  
13 plex as to forms of wagers and monetary returns.  
14 The relationship of gambling to organized crime  
15 takes numerous forms, many of which cannot be de-  
16 tailed in an evidentiary manner and, therefore, can  
17 only be characterized as opinion based on "Police  
18 Expertise." The percentage of the total handle  
19 which is controlled by organized crime is extremely  
20 elusive due to the secretive and furtive manner in  
21 which this business is carried out. It can reason-  
22 ably be expected that the Major Crime Figures will  
23 be insulated by several layers of underlinings who  
24 are the only ones visible to the police. Corporate  
25 structures with "Straws" in control offers another

1 method of insulation and, most importantly, the  
2 entire business is handled and operated over tele-  
3 phones which are now secure from police security.  
4 Notwithstanding all these problems, it is estimated  
5 that 53.2 percent of the gambling in the Northeast  
6 States is controlled by organized crime. Equally  
7 important to the financial picture of organized  
8 crime is the number of persons forced into other  
9 criminal activity, e.g., loansharking -- Hi-jacking,  
10 and street crimes, through their gambling losses  
11 and debts.

12 The problem of corruption and its con-  
13 nections with organized crime has always been pre-  
14 sent. The problem is one that is so complex that  
15 there is not sufficient time or space here to ex-  
16 pound to great lengths on this aspect of gambling.  
17 Suffice it to say that the State Police have investi-  
18 gated corruption in its many forms with both posi-  
19 tive and negative results. The inherent danger  
20 which I see in corruption is the subtle forms it  
21 takes which erode public confidence in governmental  
22 agencies and divides the police and the public  
23 which they serve.

24 The apparent weakness in present gambling  
25 statutes from the law enforcement point of view

1 would be inadequate penalties. It is a common  
 2 statement of the gambling fraternity in arrest  
 3 situations, "It is only money." Since the money  
 4 referred to is so easy to acquire, its subsequent  
 5 loss through the arrest process is easily accommo-  
 6 dated. All police authorities know that the "Boss"  
 7 in all gambling investigations is going to foot the  
 8 bill for all legal fees, attorney fees, and fines  
 9 and costs incurred by the subject arrested. The  
 10 only remaining penalty he cannot accomplish for  
 11 his subordinates is the jail sentence. The remedy  
 12 here is obvious, appropriate and mandated jail sen-  
 13 tences of sufficient length to prevent an immediate  
 14 return to gambling activity, and the removal of a  
 15 layer of insulation which will in turn bring the  
 16 major offender within reach of the police.

17 On that subject I would like to relate  
 18 to this Commission a personal situation. Back more  
 19 than 20 years ago when I was a Sergeant in the Penn-  
 20 sylvania State Police, myself and a Sergeant of a  
 21 local police department undertook a project to eli-  
 22 minate gambling from a western county in Pennsyl-  
 23 vania. We worked at this for months, and we made  
 24 no arrests until we had all of our evidence compiled,  
 25 and through the courts, with whom we had full

1 cooperation, and with the district attorney we  
2 arrested every known writer, bookmaker, runner,  
3 banker in the county. They all appeared before the  
4 judge. Some stood trial. Some entered pleas of  
5 guilty. At that time in Western Pennsylvania there  
6 was an institution known as the Allegheny County  
7 Workhouse. Everyone of those convicted or who  
8 pled guilty were sentenced to a term of 6 months  
9 in the Allegheny County Workhouse, and needless to  
10 say, we stopped the rackets in that particular  
11 county.

12 However, there is an ironic twist to that,  
13 and I think one of our most important problems in  
14 our Commonwealth, one of those we arrested and who  
15 served 6 months was a physically-handicapped gentle-  
16 man who later, I learned, was back in the business  
17 again of writing numbers. I went to him and talked  
18 to him to find out why, and he said because of the  
19 business people in the various cities; they kept  
20 hammering, asking him, begging him to start running  
21 the numbers again. The business people I am talking  
22 about, not the lower class. I am talking about  
23 middle class. Then he went back and reverted to  
24 writing numbers again. We also found as a result  
25 of that investigation that the largest bookmaker in

1 that county, all of his largest bets came from  
2 business people, businessmen.

3 One of the things that I would like to  
4 state my personal opinion on is that when we are  
5 talking about legalizing gambling, whether we should  
6 or whether we shouldn't, my personal feeling is that  
7 those who place bets should be penalized, and I  
8 think if we can stop the individual businessman  
9 from placing a bet by realizing that he would also  
10 be subjected to a penalty and possibly a jail sen-  
11 tence, I feel that this would curtail gambling con-  
12 siderably.

13 Continuing with my prepared statement  
14 here, an apathetic public hinder police operations  
15 involving gambling through a lack of proper cooper-  
16 ation which is an essential ingredient to successful  
17 police operations of all types. The cooperation of  
18 the public in these instances is lacking primarily  
19 because those who possess the information are nec-  
20 essarily the same group who are the clientele of the  
21 gambling operators, reside in the areas wherein the  
22 gambling operations are located or are the recip-  
23 ients of benefits which spin off from these oper-  
24 ations. A sizeable portion of the public is not  
25 aware of the operations and does not have the

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interest or the inclination to get involved.

With regard to the resources committed to the gambling effort by law enforcement, it would appear to be adequate considering the severity of the problem, the amount of resources available, and the impact on the resources of other more critical problems. All too many times police administrators are faced with the question -- why waste time on gambling when there are rapes, robberies, burglaries, and murders being committed? This is a legitimate question and one which should be answered. The answer, in turn, lies in the proper administration of the Department's resources in accordance with the priorities of the myriad of problems confronted. Certainly the more serious felony crimes deserve attention and a greater share of the available resources, but the gambling problem cannot be neglected or disregarded, or its devisive and corrosive effect will further complicate an already intricate balance of responsibilities. The attitude of the Judiciary towards the gambling problem runs the gamut from total indifference to scrupulous attention to duty. Attitude in this instance cannot be imparted to a single answer for all individuals and situations involved. I believe

1 that the only proper way to assess this segment of  
2 the problem would be to say that each and every  
3 member of the Judiciary is obligated to set aside  
4 all personal and political expediencies in favor of  
5 the proper administration of the law in accordance  
6 with the Rules Of Criminal Procedure and the precedents  
7 of the Appellate Courts. There can be no  
8 argument on the merits of who did what to whom over  
9 what question of the law, as this results only in  
10 a confrontation which can only serve to drive  
11 wedges between the various segments of the judicial  
12 system. Certainly with the context of the times  
13 there is a need to align the system in a complimentary  
14 manner so as to operate in the orderly  
15 fashion for which it was designed, with all checks  
16 and balances working to provide good social order.

17 Probation and parole practices are practically  
18 nonexistent in the area of gambling. The  
19 usual sentence involves the payment of a fine and  
20 the costs of prosecution. Sentences, if any, are  
21 either suspended or not followed up by the probation  
22 and parole staffs. This is not intended to be critical  
23 of the probation or parole personnel. They,  
24 too, have their priorities, and available information  
25 indicates the extent to which their caseloads

1 extend beyond their means. Any evaluation of the  
2 impact of probation or parole in their clientele  
3 involved in gambling situations would better come  
4 from those agencies, as the problems encountered  
5 and the information needed would be more accurate.

6 Corruption of law enforcement and public  
7 officials has a long history in the area of gam-  
8 bling, the mechanics of which are complex, to say  
9 the least, and vary from city to city, and some-  
10 times from the various districts within a given  
11 city. I need not go into the various techniques,  
12 as these are aptly described in the various reports  
13 available, such as, the Knapp Commission Report  
14 involving New York City and the McClellan Committee  
15 Reports. I would, however, make one brief comment  
16 on what I consider to be the major concern of law  
17 enforcement administrators regarding corruption.  
18 It has long been recognized that money paid to pro-  
19 tect gambling operations will alternately provide  
20 sanctuary for other and more vicious criminal acts.  
21 Any police officer or public official who has a  
22 stake in preserving a corrupt gambling arrangement  
23 will also ignore other activities or gambling fra-  
24 ternities and locations which involve, but are not  
25 limited to, vice activities, narcotic traffic,

1 loansharking, labor racketeering, extortion, et  
2 cetera, et cetera. The social costs emanating from  
3 gambling is enormous to say the least.

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

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

14 Failure of prosecutors to continue in-  
15 vestigation after arrest, I see no problem here.  
16 The investigative function is the prerogative of  
17 the police. The question of whether it is pursued  
18 is realistically demonstrated by the amount of  
19 recidivism among gamblers. It is not uncommon at  
20 all for gamblers to face several prosecutions during  
21 one term of court, all involving the same or related  
22 gambling charges. On legalized gambling, the ques-  
23 tion of legalized gambling is not the prerogative  
24 of the police. Therefore, the police input to an  
25 inquiry regarding this subject would be improper

1 and therefore reserved for a review of police ac-  
2 tivity regarding enforcement of the illegal lottery  
3 statutes, which indicate that the state lottery  
4 has had little, if any, impact on the illegal gam-  
5 bling in Pennsylvania. Arrests for these type of-  
6 fenses occur on a daily basis, and there is no in-  
7 dication that the trend will decline.

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

15 The areas covered in Sections C, D, and  
16 E do not encompass situations within the purview  
17 of the police and would be more properly the prerog-  
18 atives of the law-making bodies of Government. Not  
19 withstanding this position, it would be in order to  
20 say here that the police experience indicates that  
21 the legalization of gambling is no panacea for the  
22 control of gambling or the corruption that subse-  
23 quently arises. When legalization occurs, the only  
24 thing that changes are the stakes. Human frailties  
25 being what they are, it is difficult to perceive

1 that corruption arising out of gambling, legal or  
2 illegal, will ever be controlled without proper and  
3 decisive policing. In support of this position,  
4 we only have to consider the present concern of  
5 professional sport administrators and league of-  
6 ficials who have expressed the belief that the  
7 legalization of sports betting would increase the  
8 temptation to rig games, fix point totals, and bribe  
9 athletes.

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

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

20 SENATOR SCOTT: I wish you would, Com-  
21 missioner.

22 BY SENATOR SCOTT:

23 Q I noticed in your original prepared statement that  
24 you speak of the frustration of the law enforcement of-  
25 ficers because of the fact that the public does not take

1 gambling laws seriously and by the courts through plea  
2 bargains, low fines, and only rare jail sentences, and  
3 your recommendation, Commissioner, considers whether  
4 there ought to be a distinct separation between legal  
5 and illegal aspects of gambling to destroy the double  
6 standards existing. You are not advocating legalization  
7 of gambling per se, but you are suggesting, as I read  
8 this, drawing a distinction between what might be called  
9 social gambling and the kind of gambling which is corrupt  
10 and which in fact actually leads to corruption. Is this  
11 a fair statement of your recommendation?

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

20 SENATOR SCOTT: Doctor Allen?

21 DOCTOR ALLEN: Thank you, Senator.

22 BY DOCTOR ALLEN:

23 Q You say that those who place bets should be penalized  
24 as well as those who take them, and under those circum-  
25 stances you realize that adultery and fornication are

1 still crimes under the laws of Pennsylvania and in most  
2 states?

3 A. Not in Pennsylvania, Doctor.

4 Q. Adultery is no longer a crime in Pennsylvania?

5 A. Not under the new crimes code.

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

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

8 Under the circumstances taking into con-  
9 sideration your statement that those who place bets  
10 should be penalized as well as those who take them, in  
11 light of the present problem that confronts the law en-  
12 forcement agencies by the complexity of dealing with  
13 gambling statutes, et cetera, I would wonder about en-  
14 forcing the laws on that premise if they are not capable  
15 of enforcing them on the current premise?

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

23 Q. Let me give you an example. In Philadelphia, for  
24 example, we spend approximately 2 million dollars in law  
25 enforcement. Just on our gambling vice squad, which

1 had to do with numbers betting, bookies, et cetera, et  
2 cetera, we had a total of approximately 4,000 arrests.  
3 Of the 4,000 arrests, we only had four convictions. If  
4 you divide four convictions into 2 million dollars, it  
5 costs us approximately a half a million dollars per con-  
6 viction. Do you think that in the current light of the  
7 financial situation of the nation per se, as well as  
8 the cities, that it is beneficial to spend that kind of  
9 money on that kind of a situation?

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

14 Q President Schwartz went into that when he stated  
15 that we have any number of arrests in Philadelphia during  
16 the week, at which time people are either discharged,  
17 placed on probation, or the case is completely thrown  
18 out, or they are remanded with a fine of \$25 or \$50 and  
19 they walk out of the doors. Under the circumstances, we  
20 are spending moneys getting them into the courtroom,  
21 getting police into the courtroom to testify as to the  
22 arrest procedures, finding them, getting the applications,  
23 the court process per se, all of which runs into \$100  
24 per individual who appears before the court. If under  
25 this premise we legalize gambling, which you object to,

1 I assume from the statement that you made, we would save  
2 these kinds of moneys, and the men who are now currently  
3 working in the vice field could better serve the purpose  
4 of working in the field of drug addiction, narcotics,  
5 all this type of thing, as opposed to arresting a little  
6 80-year old lady on Medicare. I have one constituent  
7 who has been arrested for the eighth time in the last  
8 two months, who never wrote a number and is totally  
9 sanctified as the expression goes, but they keep getting  
10 her mixed up with another lady two years younger who  
11 does write numbers. I think under the circumstances,  
12 the police wouldn't be troubling the little old lady,  
13 and the other lady who is doing it would be doing some-  
14 thing legal.

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

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

18 A This is what they usually characterize as numbers,  
19 some poor old lady who plays a penny a day. However,  
20 there are individuals who play up as high as \$25 a day  
21 on numbers, and who ruin families, and end up in corruption.  
22 A percentage of it goes for corruption of police officials.  
23 My personal opinion is that any person in government who  
24 condones this -- I mean accepting payoffs and protection  
25 money -- does not belong in any phase of our government,

1 be it a police officer, whoever he may be.

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

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

19 Q I can't agree with you, Commissioner, based on ar-  
20 rest alone, because if a person is arrested and not  
21 brought to court, found guilty, and then sentenced, penal-  
22 ized for his activity, if you merely arrest and you have  
23 a revolving door where he just goes in the jailhouse and  
24 then comes out when his attorney shows up, we haven't  
25 abated anything under those circumstances, and this is

1 what I think we are getting into at the present time.  
2 We are spending large sums of money without accomplishing  
3 any purpose.

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

11 DOCTOR ALLEN: Thank you very much, Com-  
12 missioner.

13 Thank you, Senator.

14 SENATOR SCOTT: Chairman Morin?

15 BY MR. MORIN:

16 Q I am wondering about your own experience here in  
17 Pennsylvania. I am curious that you withdrew the State  
18 Police apparently from investigations of the local po-  
19 lice department. You say you think it is the job of the  
20 Attorney General?

21 A. Justice Department, yes, sir.

22 Q. United States Justice Department?

23 A. No, no, I am talking --

24 Q. Your own Justice Department?

25 A. Yes, sir.

1 Q Who would they use?

2 A They have investigative bodies, and they are con-  
3 ducting investigations. The thing is, Mr. Chairman,  
4 there is no question our most heinous crime is the big-  
5 gest problem of law enforcement agencies. Many times  
6 crimes occur in areas that we police which subsequently  
7 end up in Philadelphia or another large city. We must  
8 work and cooperate with those police departments in those  
9 types of crimes, heinous crimes. If we are going to  
10 break down our cooperation and correlation of information  
11 by investigating one another, we are never going to be  
12 able to accomplish the job.

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

15 A Not to our knowledge at this time. There has not  
16 been, but on that subject, you know, we talk about legal-  
17 izing lotteries, and I think if we go back through our  
18 history, so many articles have been written on that. In  
19 fact, I had a project that I prepared when I was a mem-  
20 ber attending the F.B.I. Academy in Washington, D. C. in  
21 1965, 10 years ago, and I find the same information in  
22 that context that I find today. There doesn't seem to  
23 be any change. We have constant studies, reports, many  
24 good reports, written about what has happened in history  
25 as far as gambling is concerned, but we never do anything

1 about it. I hope that this Commission here will do some-  
2 thing about it, will put some teeth into this one way or  
3 another so we do not have these double standards of gam-  
4 bling and so the patrolman knows where he is going.

5 MR. MORIN: I have no further questions.

6 SENATOR SCOTT: Commissioner Coleman?

7 MR. COLEMAN: I have no questions.

8 SENATOR SCOTT: Commissioner Gimma?

9 MR. GIMMA: Thank you, Senator.

10 BY MR. GIMMA:

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

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

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

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

22 Q You do?

23 A Yes, sir.

24 Q If you know, since the lottery and pari-mutuel bet-  
25 ting became legal in Pennsylvania, do you know whether

1 illegal gambling has lessened or diminished any?

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

14 MR. GIMMA: I have no further questions.

15 BY DOCTOR ALLEN:

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

20 A Yes, we do. We have what we call a Background  
21 Verification Report. We have two different types; it all  
22 depends upon the position the individual is applying for.  
23 We get requests from the Governor's office, and we do  
24 make a background investigation report on all of them.  
25 I know we must fingerprint members of the Racing

1 Commission. I know it was at one time, and I think that  
2 is still in effect.

3 Q You are just an information-gathering agency then  
4 for the Governor's appointees?

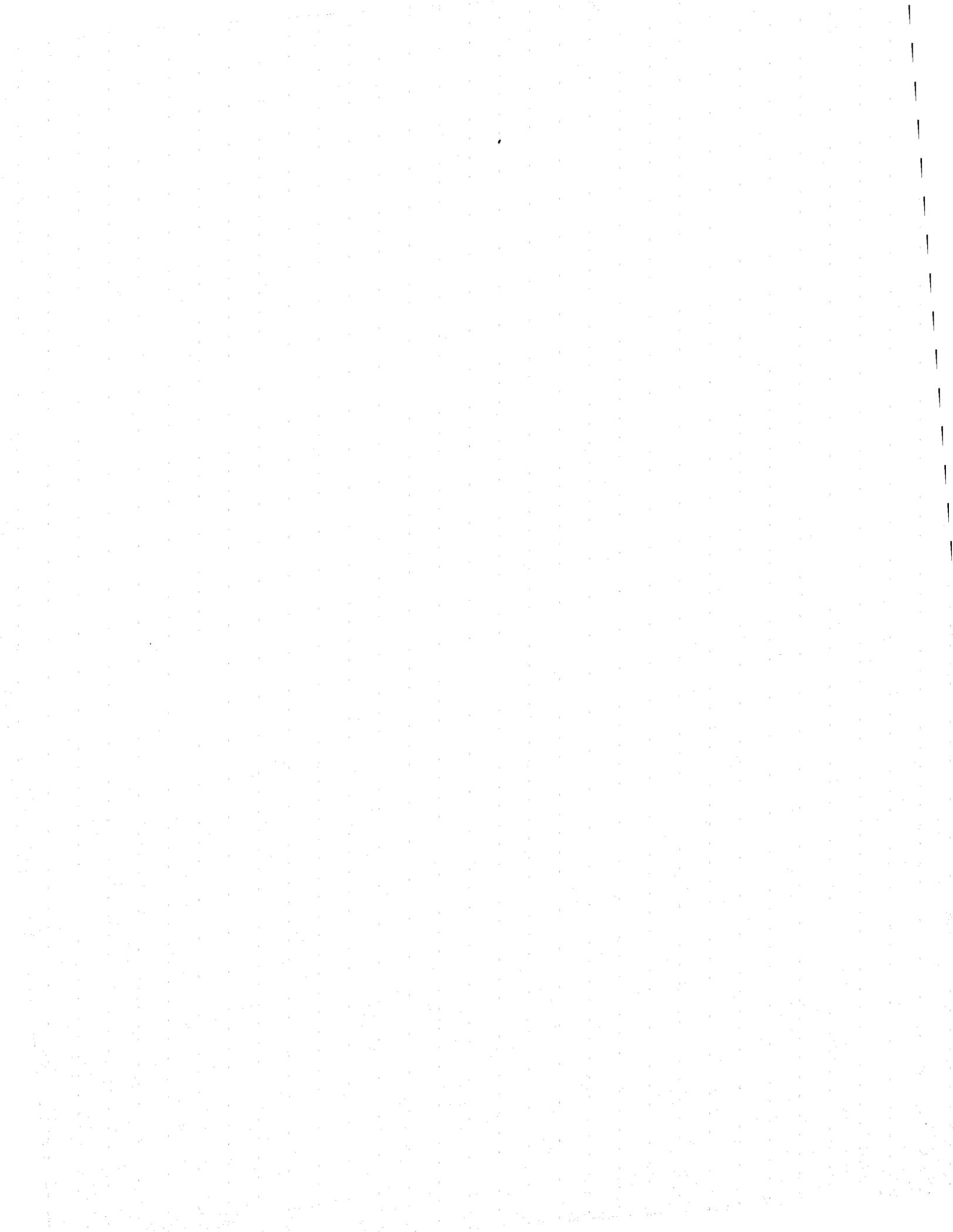
5 A That's all.

6 Q Do you know of any rules in the State of Pennsylvania  
7 that would prohibit a convicted felon from serving as  
8 a member of any of the commissions, the Lottery Commis-  
9 sion, Racing Commission, or anything of that nature?

10 A I know of no administrative code, and that's pro-  
11 bably what would have to cover that.

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

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



**CONTINUED**

**1 OF 7**

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

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

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

12 Q When you say, "criminal record," does arrest con-  
13 stitute a criminal record in the State of Pennsylvania?

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

15 BY SENATOR SCOTT:

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

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

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

23 A I don't know it.

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

25 A Not here.

1 Q Would you go back and find it and furnish it to  
2 the Commission?

3 A Definitely, Senator.

4 Q Your report on Mr. Corletto would have shown his  
5 record of conviction and having been placed on probation  
6 when you submitted that report?

7 A Only if we investigated him. Senator, at this  
8 point until I check our records, I do not know. We do  
9 not investigate all of them.

10 Q Would you please furnish the information as to  
11 whether you investigated the record of Mr. Corletto and  
12 whether that criminal investigation was included in the  
13 report which you furnished?

14 A Most happy to, Senator.

15 DCCTOR ALLEN: Thank you very much, Mr.  
16 Barger.

17 SENATOR SCOTT: Mr. Farrell or Ms. Mar-  
18 shall?

19 MR. FARRELL: I have no questions.

20 SENATOR SCOTT: Thank you, Mr. Barger.

21 (Witness excused.)

22 SENATOR SCOTT: Good morning, Mr. Phillips.  
23 It is very good to have you here, and I want to  
24 congratulate you on the kind of work you are doing  
25 as the special prosecutor, and, for the record,

Additional Statement of James D. Barger

84a

AREAS OF INQUIRY

I. General Statement of Illegal Gambling Problem

- A. The magnitude and degree of the gambling problem in Pennsylvania is aptly manifested in statistics which indicate that 34.9% per 100,000 population of the citizens of Pennsylvania are involved in illegal gambling operations. Of this group, 2.7% per 100,000 are involved in incidents of Bookmaking and Poolselling, 23.1% per 100,000 are involved in Lottery operations and the remaining 9.1% per 100,000 are involved in miscellaneous forms of gambling such as cards, dice, and others.
- B. The types of illegal gambling experienced in the Commonwealth of Pennsylvania run the gamut of all popular forms: Lotteries - numbers or policy racket, Treasury Balance tickets, Fifty/Fifty Clubs, Bingo, and vending machines which handle Fortune tickets, etc... Sports Betting on various sports events, i.e., football, baseball, basketball and boxing, Casino Games - Dice or Craps, Blackjack, Poker, Chuck-a-luck and paddle wheels, and lastly, but certainly most important, Bookmaking and Poolselling - the placing of wagers on horse races. This last form of gambling contrary to public belief, differs quite widely from the legal forms of gambling on horse races, and is quite complex as to forms of wagers and monetary returns.
- C. The relationship of Gambling to Organized crime takes numerous forms, many of which cannot be detailed in an evidentiary manner and therefore can only be characterized as opinion based on "Police Expertise". The percentage of the total handle which is controlled by organized crime is extremely elusive due to the secretive and furtive manner in which this type of business is carried out. It can reasonably be expected that the Major Crime Figures will be insulated by several layers of underlinings who are the only ones visible to the police. Corporate structures with "Straws" in control offers another method of insulation and most importantly, the entire business is handled and operated over telephones which are now secure from police scrutiny. Notwithstanding all these problems, it is estimated that 53.2% of the gambling in the Northeast States is controlled by Organized Crime. Equally important to the financial picture of Organized Crime is the number of persons forced into other criminal activity, e.g., Loansharking - Hi-jacking and street crimes, through their gambling losses and debts.
- D. The problem of corruption and its connections with Organized Crime has always been present. The problem is one that is so complex that there is not sufficient time or space here to expound to great length on this aspect of Gambling. Suffice to say that the State Police have investigated corruption in its many forms with both positive and negative results. The inherent danger which I see in corruption is the subtle forms it takes which erode public confidence in governmental agencies and divides the Police and the Public which they serve.

II. Agency Opinion as to Problems

- A. The apparent weakness in present Gambling Statutes from the Law Enforcement point of view would be inadequate penalties. It is a common statement of the gambling fraternity in arrest situations, "It's only money". Since the money

referred to is so easy to acquire its subsequent loss through the arrest process is easily accomodated. All police authorities know that the "Boss" in all Gambling investigations is going to foot the bill for all legal fees, Attorney fees and fines & costs incurred by the subject arrested. The only remaining penalty he cannot accomplish for his subordinates is the jail sentence. The remedy here is obvious, appropriate and mandated jail sentences of sufficient length to prevent an immediate return to gambling activity, and the removal of a layer of insulation which will in turn bring the major offender within reach of the police.

- B. An apathetic public hinder police operations involving gambling through a lack of proper cooperation which is an essential ingredient to successful police operations of all types. The cooperation of the public in these instances is lacking primarily because those who possess the information are necessarily the same group who are the clientele of the gambling operators, reside in the areas wherein the gambling operations are located or are the recipient of benefits which spin off from these operations. A sizable portion of the public is not aware of the operations and does not have the interest or the inclination to get involved.
- C. With regard to the resources committed to the gambling effort by Law Enforcement, it would appear to be adequate considering the severity of the problem, the amount of resources available and the impact on the resources of other more critical problems. All too many times, police administrators are faced with the question - Why waste time on gambling when there are rapes, robberies, burglaries and murders being committed? This is a legitimate question and one which should be answered. The answer, in turn, lies in the proper administration of the Department's resources in accordance with the priorities of the myriad of problems confronted. Certainly the more serious felony crimes deserve attention and a greater share of the available resources, but the gambling problem cannot be neglected or disregarded, or its devisive and corrosive effect will further complicate an already intricate balance of responsibilities.
- D. The attitude of the Judiciary towards the gambling problem runs the gamut from total indifference to scrupulous attention to duty. Attitude in this instance cannot be imparted to a single answer for all individuals and situations involved. I believe that the only proper way to assess this segment of the problem would be to say that each and every member of the Judiciary is obligated to set aside all personal and political expediences in favor of the proper administration of the law in accordance with the Rules of Criminal Procedure and the precedents of the Appellate Courts. There can be no argument on the merits of who did what to whom over what question of the law as this results only in a confrontation which can only serve to drive wedges between the various segments of the judicial system. Certainly with the context of the times, there is a need to align the system in a complimentary manner so as to operate in the orderly fashion for which it was designed, with all checks and balances working to provide good social order.
- E. Probation and Parole practices are practically non-existent in the area of Gambling. The usual sentence involves the payment of a fine and the costs of prosecution. Sentences, if any, either suspended or not followed up by the probation and parole staffs. This is not intended to be critical of the probation or parole personnel. They too have their priorities and available information indicates the extent to which their caseloads extend beyond their means. Any evaluation of the impact of probation or parole in their clientele involved in gambling situations would better come from those agencies, as the

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problems encountered and the information needed would be more accurate.

- F. Corruption of Law Enforcement and Public Officials has a long history in the area of Gambling, the mechanics of which are complex to say the least and vary from City to City and sometimes from the various districts within a given city. I need not go into the various techniques as these are aptly described in the various Reports available such as the Knapp Commission Report involving New York City and the McClellan Committee Reports. I would, however, make one brief comment on what I consider to be the major concern of Law Enforcement Administrators regarding corruption. It has long been recognized that money paid to protect gambling operations will ultimately provide sanctuary for other and more vicious criminal acts. Any police officer or public official who has a stake in preserving a corrupt gambling arrangement will also ignore other activities of gambling fraternities and locations which involve, but are not limited to, vice activities, narcotic traffic, loan sharking, Labor Racketeering, extortion, etc., etc. The social costs emanating from gambling is enormous to say the least.
- G. Court backlogs - no comment. Not a problem of major concern. Recent amendments to Rules of Criminal Procedure, (Rule 1100) appear to be adequate at this time.
- H. Sentences which do not deter recidivists - Historically, arrested gamblers have been recidivists of great magnitude. Previous remarks (II. -A) would be appropriate here. The problem with recidivism arises from inadequate penalties as now provided by law.
- I. Failure of prosecutors to continue investigation after arrest - I see no problem here. The investigative function is the prerogative of the police. The question of whether it is pursued is realistically demonstrated by the amount of recidivism among gamblers. It is not uncommon at all for gamblers to face several prosecutions during one term of court, all involving the same or related gambling charges.

### III. Legalized Gambling

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

- A. A review of Police activity regarding enforcement of the Illegal Lottery statutes indicates that the State Lottery has had little, if any, impact on the illegal gambling in Pennsylvania. Arrests for these type offenses occur on a daily basis and there is no indication that the trend will decline.
- B. Holders of Out-of-State Lottery tickets are not subject to prosecution as they are exempted under Section 5512, Paragraph C, which states: The purchaser of any ticket or device shall not be liable to any prosecution or penalty arising out of this crime and shall in all respects be a competent witness to prove the offense.

The areas covered in Sections C, D, and E do not encompass situations within the purview of the Police and would be more properly the prerogatives of the law-making

bodies of Government. Notwithstanding this position, it would be in order to say here that the police experience indicates that the legalization of Gambling is no panacea for the control of Gambling or the Corruption that subsequently arises. When legalization occurs, the only thing that changes are the stakes. Human frailties being what they are, it is difficult to perceive that corruption arising out of gambling, legal or illegal, will ever be controlled without proper and decisive policing. In support of this position, we only have to consider the present concern of professional sport administrators and league officials who have expressed the belief that the legalization of sports betting would increase the temptation to rig games, fix point totals and bribe athletes.

#### IV. Recommendations.

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



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COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA STATE POLICE  
HARRISBURG

COLONEL JAMES D. BARGER  
COMMISSIONER

May 29, 1975

Honorable Hugh Scott  
United States Senator, Pennsylvania  
Commission on Review of the National  
Policy Towards Gambling  
200 M Street, N.W.  
Washington, D. C. 20036

Dear Senator Scott:

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

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

The investigative report which contains this information is currently being processed through the Bureau of Criminal Investigation and will be returned to the requesting agency, the State

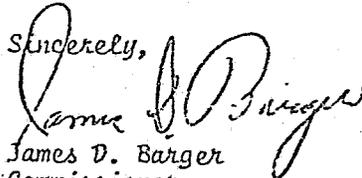
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Honorable Hugh Scott  
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Harness Racing Commission, within the next few days for their further consideration. As I previously stated, this Department makes no recommendation as to the propriety of making such appointments but merely furnishes complete and factual investigative data.

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

Sincerely,

  
James D. Barger  
Commissioner

Mr. Charles H. Morin, Chairman  
Commission on the Review of the  
National Policy Toward Gambling  
2000 H Street, N.W.  
Washington, D.C. 20036

I. Statement of Colonel James D. Barger, Commissioner, Pennsylvania State Police, Prepared for Commission on the Review of National Policy Toward Gambling Hearings, May 28-30, 1975, Philadelphia, Pennsylvania.

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

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

I - Private Gambling - does not impact greatly and usually exists in the form of small private card parties and crap games in the privacy of a home with no commercial aspects. Law Enforcement does not usually hear of such isolated instances of gambling, which could be technical violations of the law, and are even less likely to produce willing witnesses. Such forms of gambling can be considered as minimal and can be controlled by proper police action.

II - Legal Gambling - consists of legalized forms of gambling which have been sanctioned by Legislative Action. While not a violation of the law and of primary concern to law enforcement, it must be strictly controlled and policed to protect it from subversion by organized crime and corrupt influences.

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

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

The situation portrayed here is complex and confusing. Frustrated law enforcement officials feel that efforts at enforcement of Gambling Laws are compromised by a public who does not take the gambling laws seriously and by the courts through plea bargains, low fines, and only rare jail sentences.

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To place the problem in its proper perspective, I believe there should be an adequate study toward the legalization of the social gambling by the various religious, civil, and service agencies so that there would be a distinct separation of the legal and illegal aspects of gambling and thereby destroy the double standard which has so effectively thwarted legitimate law enforcement efforts. We, in Law Enforcement, can no longer be satisfied with the give and take of the double standard of enforcement and ask only that there be conformity to an acceptable law by all.

Lest my motives and aim here be misunderstood, let me say in closing that I am not advocating the legalization of gambling per se; History has adequately demonstrated the falsity of this remedy and the numerous aspects of the problem, which are too numerous to relate here. I ask only that the law, which is not enforcement's prerogative, be one that can be adequately enforced, realistically prosecuted, and uniformly punished.

1 state that you were formerly a U. S. Attorney,  
2 Chief Of The Narcotics Unit in the Southern Dis-  
3 trict of New York. I will shortly have to leave  
4 for another engagement for which I apologize, but  
5 before I do and before you go into your statement,  
6 would you mind commenting on a matter which is of  
7 great concern to me, and, I expect, to the Commis-  
8 sion? By way of history, let me say that I was  
9 a prosecutor for 15 years prior to the enactment  
10 of the 1975 wiretap legislation and the subsequent  
11 wire tap legislation signed by the Governor, which  
12 is also a matter of considerable concern to us.  
13 Would you be willing to discuss that before you go  
14 into the rest of your testimony, and then, if you  
15 would excuse me, I am going to ask at that time for  
16 Doctor Allen to take over.

17 MR. PHILLIPS: Certainly, sir.

18 SENATOR SCOTT: And I hope no discourtesy  
19 intended, but I didn't want to leave until we got  
20 your discussion on the impact of those two wire tap-  
21 ping acts on the prosecution of crime, and the move-  
22 ment to eradicate or reduce corruption of public  
23 officials.

24 MR. PHILLIPS: Well, as you know, there  
25 are really two aspects to that law. There is the

1 law that was passed in 1957, which prohibits any type of  
2 telephonic wiretapping, and now there is the amendment  
3 that was just passed last fall which prohibits even one-  
4 party consensual monitoring.

5 SENATOR SCOTT: Body bugs?

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

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

21 SENATOR SCOTT: My observation of how these  
22 things happen in the Legislature is that there come per-  
23 iods of highly permissive climates from time to time re-  
24 garding criminals. It may or may not be justified, but  
25 one feels that there are many lawyers in the Legislature,  
many of whom are engaged actively in the defense of

1 persons accused of crimes. At times there are  
2 legislations passed which greatly increase the  
3 difficulty of staying convictions.

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

24 MR. PHILLIPS: Corruption cases I have  
25 found in my experience to be the most difficult

1 cases to get convictions. They require a great  
2 burden of proof for a jury to be convinced beyond  
3 a reasonable doubt to convict a defendant, and that  
4 is not surprising in light of the fact that cor-  
5 ruption cases involve defendants with completely  
6 unblemished records, be they police officers or  
7 public officials, and you have got to have some  
8 type of corroboration. Your main testimony in a  
9 corruption case is generally going to come from  
10 somebody, an accomplice who was involved in a cor-  
11 rupt act with the public official or with the police  
12 officer, and his testimony is going to be tainted  
13 by virtue of the fact that he himself was involved  
14 in a criminal act, not to mention the fact that he  
15 probably -- particularly in police corruption cases  
16 -- has a prior criminal record anyway. So to be  
17 able to convict, you have to have some type of  
18 corroboration, and the best type of corroboration  
19 is a tape recording of conversations between the  
20 defendant and the individual testifying during the  
21 commission of the crime. You should have it right  
22 there for the jury to listen to as it unfolds. And  
23 no more classic a case can be the Watergate case  
24 in Washington where the jury foreman the day after  
25 the verdict said that the strongest evidence in the

1 case, despite how much they believed John Dean and  
2 the other witnesses, was the tape recordings intro-  
3 duced in that trial, because they showed the defen-  
4 dants engaged in the very action for which they  
5 were charged.

6 SENATOR SCOTT: No question about that.

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

25 SENATOR SCOTT: Therefore, the Federal

1 Courts, applying the Federal system, require the  
2 concerns of a Federal judge before the wiretapping  
3 except in that one curious gray area not yet decided,  
4 but in domestic and foreign espionage matters, the  
5 ability to marshall the evidence is very much  
6 greater than it is in the courts of the Common-  
7 wealth of Pennsylvania in view of the 1957 wire-  
8 tapping statute; is that not so?

9 MR. PHILLIPS: That's correct.

10 SENATOR SCOTT: How are prosecutors im-  
11 peded in the State Courts as against the Federal  
12 Courts by virtue of the new anti-wiretapping sta-  
13 tute recently signed by the Governor, which I per-  
14 haps shouldn't characterize, but seems to me to be  
15 a warranty for the same continuance of corruption  
16 in certain quarters in the State. Compare it with  
17 the Federal Courts and point out how the marshalling  
18 of evidence differs now in view of that new law.

19 MR. PHILLIPS: Of course, the wiretapping  
20 statute goes directly and prohibits the intervention  
21 of telephonic communications. The new amendment  
22 that you refer to that you say has just gone into  
23 effect in Pennsylvania prohibits one party consen-  
24 tual wire or body bug, which means, for example,  
25 if a gambler comes to you and says, "I am being

1 shaker down by a police officer," and you want to  
2 wire him up, you simply can't do that in Pennsyl-  
3 vania, whereas on the Federal level you don't even  
4 have to go get a court order. In Pennsylvania you  
5 couldn't do it at all except in the very limited  
6 situation as I set forth in my statement where a law  
7 enforcement officer involved believes his life to  
8 be in danger, the Attorney General or district  
9 attorney can get a court order upon application, but  
10 then the tape isn't admissible in the criminal trial.  
11 The anomaly of this law is that it allows the tele-  
12 phone company to intercept telephonic communications  
13 of completely innocent calls between individuals,  
14 and at the same time law enforcement cannot even  
15 get a court order to wire up where one party is  
16 going to consent to having him wired.

17 When the Legislature passed this amend-  
18 ment in November and the Governor signed it at the  
19 end of December, there was a lack of understanding  
20 that the public had for this situation as to what  
21 the law enforcement was being presented with by  
22 virtue of this restrictive bill, and I think it  
23 was a result of the post Watergate era, where the  
24 Watergate case started with people bugging an  
25 office, and a lot of revelations about the F.B.I.

1 conducting illegal wiretapping; but what the public  
2 didn't understand, it involved wiretapping, a bla-  
3 tant and flagrant violation of the law that didn't  
4 involve a law enforcement officer or somebody acting  
5 pursuant to his direction to be wired up for the  
6 purpose of gaining evidence against a criminal to  
7 be presented in court later on.

8 SENATOR SCOTT: Isn't it a fact, as far  
9 as you know, that there have been no charges in-  
10 volving legal wiretapping where a court order was  
11 obtained?

12 MR. PHILLIPS: That's right.

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

23 MR. PHILLIPS: I do, and I think it is  
24 unfortunate, too, when I hear on the radio, for  
25 example, that yesterday the New Jersey Legislature

1 has passed a bill to keep or continue the wiretap-  
2 ping statute on the books in New Jersey, which is  
3 much broader. In New Jersey you can actually wire-  
4 tap, no problem whatsoever, with the one-party con-  
5 sentual thing, and the same thing in New York. I  
6 think it conveys almost an invitation to organized  
7 crime to leave New Jersey if the pressure gets too  
8 hot and to come to Pennsylvania.

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

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

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

1 this subject than I am, so Chairman Morin will take  
2 over.

3 I thank the rest of the Commission for  
4 coming to Philadelphia.

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

10 (Recess.)

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

17 Is that correct, Mr. Phillips?

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

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

22 MR. PHILLIPS: I am state Special Prose-  
23 cutor for the City of Philadelphia.

24 The Office of the Special Prosecutor was  
25 established by the Attorney General to investigate

1 and prosecute corrupt police and public officials  
2 in Philadelphia. It was created after the Pennsyl-  
3 vania Crime Commission conducted an eighteen month  
4 investigation into police corruption in the Phila-  
5 delphia Police Department, and recommended that an  
6 office independent of the local District Attorney's  
7 Office be set up to investigate and prosecute po-  
8 lice corruption. Shortly after we started in April  
9 1974, our jurisdiction was broadened to include the  
10 investigation and prosecution of municipal and state  
11 corruption within Philadelphia. In addition to fol-  
12 lowing up the investigations initiated by the Crime  
13 Commission, we have conducted investigations of  
14 our own. I would like today to discuss the rela-  
15 tionship of gambling to police corruption and the  
16 problems inherent both in enforcing the gambling  
17 laws and in prosecuting police corruption.

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

25 The most common form of illegal gambling

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

18 Almost all arrests by the police involve  
19 numbers writers, and are almost always based on  
20 their possession of numbers slips, that is, pieces  
21 of paper used by the writer to record bets he has  
22 taken. The strength of the case against the num-  
23 bers writer thus will depend on the quantity of  
24 numbers slips, more specifically on how many bets  
25 are recorded in Pennsylvania. The argument often

1 made to the court on behalf of a numbers writer is  
2 that the relatively few bets written on the slips  
3 indicates he is a bettor, not a writer. The num-  
4 bers writer represents the lowest echelon of a  
5 numbers operation, and since his crime is viewed as  
6 a victimless one -- indeed, his activity provides  
7 a source of recreation to a large segment of the  
8 population -- very few numbers writers are ever  
9 convicted, and those that are virtually never re-  
10 ceive prison sentences. The statistics compiled  
11 by the Pennsylvania Crime Commission in its investi-  
12 gation of police corruption for the year 1972 with  
13 respect to the disposition of gambling cases are  
14 rather startling. During that year, 91.6 percent  
15 of all gambling arrests in the City of Philadelphia  
16 resulted in either dismissals or acquittals, and  
17 only .4 percent of those arrested for gambling vio-  
18 lations ever received a jail sentence.

19 The leniency shown toward violators of  
20 the gambling laws by the judiciary is, to a certain  
21 extent, the result of the police department's poli-  
22 cies. For example, the performance of an individual  
23 police officer as well as his whole unit is measured  
24 by the quantity and not the quality of gambling  
25 arrests. No effort has been made to infiltrate a

1 numbers operation with a police officer acting in  
2 an undercover capacity with the purpose of gather-  
3 ing evidence against higher-ups. Thus, practically  
4 all the defendants who are brought into court re-  
5 present the lowest and least important members of  
6 a numbers operation -- the writers who can easily  
7 be apprehended. In addition, pressure on police  
8 officers to make gambling arrests causes them to  
9 resort to unconstitutional means, such as perjured  
10 search warrants to gather evidence of illegal gam-  
11 bling.

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

1 cases.

2           The real evil that illegal gambling poses  
3 is that it constitutes the greatest source of police  
4 corruption. The payoff rate on winning the full  
5 number bet is 400 to 1 in Philadelphia, whereas  
6 in New York the payoff rate is 600 to 1, the dif-  
7 ference being due to a greater amount of money  
8 being paid by the bankers for police protection.  
9 As the above statistics would indicate, protection  
10 is not sought for the purpose of staying out of  
11 jail, but rather to prevent disruption of the num-  
12 bers operation. A numbers banker stands to lose  
13 a tremendous amount if he has to destroy his paper  
14 work in order to avoid arrest upon a raid, because  
15 once the bettors find out that the paperwork for  
16 the day is destroyed, there will be a flood of  
17 claims for winning numbers, claims which the banker  
18 will be unable to refute without his paper work.  
19 The corrupt plainclothesman, aware of this dilemma  
20 for the numbers banker, can make a quick profit  
21 for himself by selling a numbers banker the paper  
22 work that has just been seized in a raid. It thus  
23 takes only one or two well-timed raids before a  
24 numbers banker becomes willing to make payoffs, and  
25 because numbers betting is widespread, gambling

1 related police corruption in Philadelphia is common-  
2 place. Thus, gambling, unlike isolated instances  
3 of payoffs by drug pushers, can involve entire units  
4 within the police department. Gambling payoffs are  
5 generally received by one police officer, known as  
6 the "bagman", who distributes the money to others  
7 within the unit, thereby keeping to a minimum con-  
8 tact between the banker and the corrupt police  
9 officials.

10 I believe that one cause of gambling re-  
11 lated police corruption is the general attitude,  
12 shared by the judiciary, that gambling is a victim-  
13 less crime which provides harmless recreation for  
14 many individuals. Thus, allowing a numbers writer  
15 to ply his trade does not have the same stigma at-  
16 tached to it as does, for example, permitting a  
17 narcotics trafficker to engage in his criminal ac-  
18 tivity, which has a far more injurious impact,  
19 directly and indirectly, on the community. A law  
20 enforcement officer's mission is to see that persons  
21 who violate the law are apprehended and punished.  
22 Yet in Philadelphia the police know that most gam-  
23 bling arrests will be thrown out for one reason or  
24 another, and this generates an attitude that rather  
25 than waste time arresting gamblers, it benefits the

1 policeman to simply "go along with the system" and  
2 at the same time realize some pecuniary benefit.

3 Even assuming the police department were  
4 to concentrate its efforts on going after the major  
5 figures of a gambling operation, any success is  
6 highly unlikely in light of Pennsylvania's Right  
7 to Privacy Law. In this state, since 1957 wiretap-  
8 ping in any form, even by a law enforcement agency  
9 pursuant to a court order, is forbidden by statute.  
10 This in itself creates a tremendous obstacle to law  
11 enforcement in any efforts at enforcing the gambling  
12 laws, since any major gambling operation, whether  
13 it's a numbers bank or a sports betting operation,  
14 uses the telephone extensively, in fact, depends on  
15 the telephone to conduct its daily business. Con-  
16 tact between the major figures of the operation and  
17 their writers, the placing of bets by established  
18 and well paying customers, as well as the "laying  
19 off" of bets, are all done exclusively by telephone.  
20 Without being able to intercept these telephone  
21 calls, the apprehension of the top members of any  
22 gambling operation is virtually impossible. Oc-  
23 casionally, a raid may result in discovering a  
24 major figure on the premises, but as shown by the  
25 case I referred to earlier, a judge can point to

1 the circumstantial nature of the evidence and throw  
2 out the case. If the judge were confronted with  
3 recordings of the defendant as he was in the pro-  
4 cess of committing the crime, it might be a differ-  
5 ent story. In Pennsylvania, however, while the  
6 telephone company may lawfully intercept and over-  
7 hear perfectly innocent telephone conversations in  
8 order to prevent cheating by customers on long dis-  
9 tance toll calls, law enforcement authorities, even  
10 with a court order, are not allowed to record  
11 criminal conversations.

12 While the anti-wiretapping statute has  
13 been in effect since 1957, a more recent amendment  
14 to the right to privacy law has been enacted that  
15 has an even more crippling effect on law enforce-  
16 ment, particularly in gambling related police cor-  
17 ruption. Last fall, the Pennsylvania Legislature  
18 passed a bill banning any type of recording of  
19 another's voice unless the individual whose voice  
20 is being recorded consents to having it recorded.  
21 This bill, which was signed into law by the governor  
22 and has taken effect, thus prohibits what is com-  
23 monly known as a body bug. The particularly un-  
24 fortunate aspect of this law is that its only ex-  
25 ception for law enforcement is useless: when a law

1 enforcement officer believes his safety to be in  
2 danger the Attorney General or local district at-  
3 torney may apply for a court order to allow a tape  
4 recorder to be worn by the officer, but the recording  
5 is inadmissible in a subsequent court proceeding.  
6 The entire Right to Privacy Law, as it is called,  
7 is now the strictest of its kind in the country.

8 The impact of this law on anti-corruption  
9 efforts is substantial. Corruption cases are dif-  
10 ficult, if not the most difficult, cases for a pro-  
11 secutor to prove. Not surprisingly, juries require  
12 overwhelming proof of guilt before they will convict  
13 policemen and public officials. Also, those who  
14 are witnesses to police corruption, that is, per-  
15 sons who are paying off for protection or are being  
16 shaken down, are generally criminals themselves and  
17 require extensive corroboration before their testi-  
18 mony will be accepted by a jury. From my experience  
19 as a prosecutor in federal courts where tapes derived  
20 from both court authorized wiretapping and one party  
21 consensual recording are admissible, I have found  
22 that there exists no stronger evidence than tape  
23 recordings of the defendant as he is committing the  
24 crime. This is particularly so in corruption cases  
25 where the defendant's impeccable reputation becomes

1 his strongest defense when presented through char-  
2 acter witnesses as well as his own testimony and  
3 general appearance. Being able to bring to the  
4 jury's attention the defendant's other personality  
5 by playing tapes of his criminal conversations can  
6 thus become critical to the prosecution's case.  
7 This kind of evidence can no longer be gathered in  
8 Pennsylvania.

9 Prosecution of gambling related corruption  
10 is especially affected by the new Pennsylvania anti-  
11 eavesdropping law. As I've already mentioned, it  
12 is not uncommon for a numbers bank to be paying off  
13 an entire plainclothes unit or district usually  
14 through a bagman. Assume for the moment that the  
15 corrupt bagman, for whatever reason, decides to  
16 cooperate with a prosecutor to gather evidence of  
17 corruption by the police officers for whom he's been  
18 collecting payoffs. Since conversations between the  
19 reformed bagman, even with his consent, and the cor-  
20 rupt police officers is illegal, and since physical  
21 surveillance can probably do no more than establish  
22 that certain officers met with the bagman, which  
23 doesn't prove anything since they work together,  
24 the only available alternative for corroboration is  
25 to use marked money and arrest a police officer

1 immediately after a payoff. Of course, this would  
2 "surface" the cooperating bagman and thereby ter-  
3 minate the investigation, since no other police  
4 officer would ever deal corruptly with him again.  
5 The results would be one prosecution of one police  
6 officer, and subsequent sworn testimony by the bag-  
7 man that an entire unit was on the take would be  
8 viewed with great scepticism, not to mention that  
9 without prosecuting any of the other officers no  
10 dent whatsoever would have been made on the serious  
11 corruption problem. The police department and the  
12 public could well view the situation as one rotten  
13 apple when in fact the true picture is that the  
14 entire barrel is infected.

15 In light of the courts' and society's  
16 attitude that illegal gambling is a victimless crime  
17 and the unavailability in Pennsylvania of the neces-  
18 sary resources to investigate both it and the police  
19 corruption it generates, I am in favor of considering  
20 some form of legalized gambling. I would not be  
21 in favor of legalized gambling controlled by pri-  
22 vate interests, because I think such a situation  
23 would be controlled by organized criminal syndi-  
24 cates. In addition, legalized gambling in the form  
25 of private casinos would require licenses to be

1 issued, zoning changes to be made, all of which  
2 could give rise to another form of corruption --  
3 payoffs to public officials for favorable rulings,  
4 licenses, and the like. Accordingly, if any type  
5 of legalized gambling is to be considered in Penn-  
6 sylvania, it should be run by the state government  
7 as is the state lottery. Thus, I think it would  
8 be worthwhile for Pennsylvania to consider establish-  
9 ing something akin to New York's Off Track Betting  
10 Corporation. One factor that leads me to conclude  
11 that such an operation might be worthwhile is that  
12 it would generate a tremendous amount of revenue  
13 for the state, a consideration that should not be  
14 taken lightly.

15 In conclusion, I would like to emphasize  
16 that my attitude toward legalized gambling is en-  
17 tirely the result of my belief that the gambling  
18 laws of Pennsylvania are simply unenforceable. They  
19 are unenforceable because our law enforcement agen-  
20 cies have neither the resources nor the desire to  
21 enforce the laws, and the judiciary, joined by the  
22 public, views gambling as a victimless crime which  
23 should not be punished. Finally, the legalization  
24 of gambling should be given serious consideration  
25 because illegal gambling nourishes police corruption

1 and, with it, a disrespect for all laws and our  
2 system of government.

3 BY DOCTOR ALLEN:

4 Q Thank you very much, Mr. Phillips. We note that  
5 you are in the Office of the Special Prosecutor under  
6 the Pennsylvania State Attorney General, which was cre-  
7 ated after the studies that the Pennsylvania Crime Com-  
8 mission recommended an establishment of an independent  
9 prosecutor to investigate charges of corruption in the  
10 Philadelphia Police Department. Illegal gambling was  
11 specified by the Commission for this corruption. Mr.  
12 Phillips, you are, therefore, in a good position to  
13 evaluate what changes, if any, have taken place in the  
14 Police Department with respect to corrupt charges. We  
15 also know from your statement that you are a proponent  
16 of the enactment of a wiretapping statute relative to  
17 organized crime.

18 The question that I would like to ask,  
19 the creation of your office and an independent prosecu-  
20 tor have, of course, in some circles become a political  
21 football, which is not the problem of the Commission  
22 here per se. However, even if you were to get the en-  
23 actment of a wiretapping statute to aid in your inves-  
24 tigatory processes, wouldn't you still be subject to  
25 the whims and fancies of the State Legislature relative

1 to your funding sources, and wouldn't political aspects  
2 of that premise create some difficulties for you in fol-  
3 lowing up on corruption in either the police department  
4 or municipal government?

5 A I think there is no question but that our office  
6 has become a political issue in the State Legislature,  
7 if not one of the hottest political issues in the State  
8 Legislature, and until we get the funding and image of  
9 permanence that we need, it is going to be very difficult  
10 for us to do the job that we were asked to do, specifi-  
11 cally, investigate corruption, and particularly police  
12 corruption, because in the City of Philadelphia to come  
13 forward and testify against a corrupt cop is really put-  
14 ting your neck on the line, to say the least, when the  
15 Mayor of Philadelphia is the former Police Commissioner.  
16 And you don't put your neck on a line with an institu-  
17 tion that looks like it is going to go out of business  
18 in the near future and, therefore, cannot protect your  
19 interest down the road, and I think that this is unfor-  
20 tunate. I think, also, that the anti-eavesdropping bill  
21 that was passed by the Legislature last fall was in many  
22 respects an anti-special prosecutor bill and a vote of  
23 affirmance by the Legislature of its feeling against the  
24 Special Prosecutor's Office. Again, I think that this  
25 is unfortunate, and I think it would be very difficult,

1 particularly if our office were to be behind it, to get  
2 any type of change in the Right to Privacy Law.

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

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

1 the corroboration that you need to hold up in court.

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

9 A Well, I am not sure.

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

18 A Yes.

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

22 A Well, I don't know that you necessarily have to.  
23 My recommendation is that at least there ought to be a  
24 study done of the experience in New York of the Off-Track  
25 Betting Corporation to determine the extent to which,

1 and I believe that the results would show that illegal  
2 gambling in New York has been substantially diminished  
3 as a result of the Off-Track Betting Corporation and the  
4 ability to be able to make legal bets. I agree that you  
5 cannot check up on off-track betting situations, at  
6 least check up the way you would like to be able to  
7 check up, if you haven't got a wiretapping statute.  
8 However, I don't think that ought to be a roadblock to  
9 consideration of such an operation.

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

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

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

19 A I don't think that the legalization of gambling  
20 should have any particular effect on the permanence of  
21 the office of the Special Prosecutor. There are a lot  
22 of other forms of corruption that we are mandated to in-  
23 vestigate, and, I think, there is a real need for the  
24 Special Prosecutor in Philadelphia besides for gambling-  
25 related corruption. The question of whether there ought

1 to be a permanent Special Prosecutor or not is a very  
2 difficult one to answer, because there are very good  
3 arguments both pro and con with respect to that, and it  
4 is something I think cannot be answered at this time,  
5 and perhaps couldn't be answered for another year or  
6 two.

7 DOCTOR ALLEN: Thank you, Mr. Phillips.  
8 Chairman Morin?

9 BY MR. MORIN:

10 Q I think that you perhaps just answered my question.  
11 I take it your funding is related specifically to cor-  
12 ruption?

13 A Exclusively.

14 Q I am reading from your statement where you say, "I  
15 would not be in favor of legalized gambling controlled  
16 by private interests, because I think such a situation  
17 would be controlled by organized criminal syndicates."  
18 I take it what you mean is you don't favor just an out-  
19 right legalizat'ion of gambling, an announcement to the  
20 public, "Go ahead. You are all on your own," but rather  
21 some form of state-licensed gambling of private interests.

22 A Well, I was thinking more along the lines of state  
23 control of gambling, legalized gambling. Again, to get  
24 back to the O.T.B. in New York, this is entirely run by  
25 the state so that you don't have private interests

1 benefiting economically from it. My problem is that if  
2 you do have private interests involved in legalized gam-  
3 bling, it is going to be an invitation to organized cri-  
4 minal syndicates to set up shop and run casinos. Cer-  
5 tainly this is going to put more money into their coffers  
6 from which they can finance other illegal activities,  
7 such as, manipulation of the stock market.

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

10 A Yes.

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

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

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

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

22 MR. GIMMA: We had testimony before our  
23 Commission in Washington from the F.B.I. Head of  
24 the Crime Task Force for the Eastern Division. I  
25 asked him pointedly the question -- although I come

1 from New York, and I am chairman of the Racing Com-  
2 mission -- if the establishment of O.T.B. in his  
3 opinion had diminished illegal betting, and his  
4 answer was that it had increased it, if my recol-  
5 lection is correct. Also, in talking to people,  
6 knowledgeable people, in New York that are investi-  
7 gators, and so forth, they feel the same, that it  
8 has created an environment, has created an interest  
9 with usually a new group of nonbetting people.  
10 They run out of case, and then they run to the  
11 bookmaker.

12 A. I have heard that position, too, and I want to en-  
13 phasize again what my position is based on, and that is,  
14 as you can see from my statement, you really have a  
15 vicious cycle going on here in Pennsylvania. You have  
16 simply the general attitude that gambling is a victim-  
17 less crime, which is an attitude, I think, that prevails  
18 in a lot of places in this country; but, more importantly,  
19 you have the attitude of the police departments where  
20 they don't have the resources, and not having the  
21 resources to go after major gamblers, and not having the  
22 desire to go after major gamblers, they bring into the  
23 courts before the Judiciary the most minor individuals  
24 or participants in the gambling operation, as a result  
25 of which, the judges do not send them to jail.

1 So it has become, in effect, a vicious cycle, and you can-  
2 not really blame the Judiciary for not sending them to  
3 jail. So there is an awful lot of resources that are  
4 devoted, both from the police department standpoint and  
5 from the Judiciary's standpoint, towards trying to en-  
6 force gambling laws and not getting anywhere. As a re-  
7 sult, you are not devoting as much resources as you  
8 should, perhaps, on the part of the police department  
9 to solving other crimes, and the crime rate is going  
10 up in Philadelphia, and the crime rate is going up all  
11 over. We are not devoting enough of the resources, it  
12 seems to me, to get rid of the backlog of cases, which  
13 is one of the biggest problems that the judicial system  
14 faces. If they could get rid of these types of cases,  
15 maybe they could get on and reduce the backlog, because,  
16 I think, this is very important if you are going to have  
17 any type of respect for the law. If you reduce the back-  
18 log of cases, the defendant knows if he gets arrested  
19 on January 1 he is going to go to trial in February or  
20 March, and the effect of swift justice has a great ef-  
21 fect, deterrent effect, than does severe penalties in  
22 many instances. So what I am saying, from a negative  
23 standpoint you are simply not getting back what you are  
24 putting into it.

25 Q It sounds that you are almost saying the police

1 are getting paid off for not enforcing laws that they  
2 won't enforce anyway. That makes it perhaps easier to  
3 take.

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

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

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

13 Q. By far?

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

20 Q. You could not hazard a guess?

21 A. No, I couldn't.

22 MR. MORIN: Thank you.

23 DOCTOR ALLEN: Commissioner Gimma?

24 BY MR. GIMMA:

25 Q. Mr. Attorney General, you made a statement before

1 that betting in New York has lessened since the establish-  
2 ment of the O.T.B. Do you have any basis for that state-  
3 ment? Do you have any facts or figures?

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

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

9 A. I left New York April 1, 1974.

10 Q. Was Paul Curran the United States Attorney then?

11 A. Yes. I served under Paul Curran.

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

15 A. I mean state run.

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

19 A. That's a problem, and I think that's one of the  
20 biggest problems, because illegal gambling is run on  
21 credit. This, of course, invites loansharking, but I  
22 would be the first to admit that that would be one of  
23 the problems with establishing it because you have the  
24 credit situation involved in illegal gambling. I don't  
25 know what the solution to that is.

1 MR. GIMMA: I don't have any further  
2 questions.

3 DOCTOR ALLEN: Thank you, Commissioner  
4 Gimma.

5 Commissioner Coleman?

6 BY MR. COLEMAN:

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

11 A No, I don't.

12 Q What about sports betting? Is that, in your opin-  
13 ion, prevalent in this area, also?

14 A Yes, I think it is.

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

19 A I think it does, but not as much as numbers, be-  
20 cause I think numbers is much more widespread in Phila-  
21 delphia.

22 MR. COLEMAN: I have no further questions.

23 DOCTOR ALLEN: Thank you, Commissioner  
24 Coleman.

25 Staff questioning will be conducted by

1 Mr. Ritchie first.

2 BY MR. RITCHIE:

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

24 A I think that would be an excellent idea. I think  
25 anything that could somehow persuade the Legislature to

1 somehow amend the last amendment to the Right to Privacy  
2 Law so as to allow at least with a court order one-party  
3 consensual monitoring.

4 Q Laying aside the fact that I am confident that the  
5 wiretapping commission will deal with this issue, the  
6 next recommendation that was made to us is that you need  
7 to have special prosecutors, such as the counterpart of  
8 your narcotics unit in the Southern District or strike  
9 forces that concentrate on gambling in different parts  
10 of the Government, as a Federal counterpart. You are a  
11 special prosecutor, and I know that gambling is not your  
12 primary objective, but it certainly is an integral part  
13 of your work. You as a special prosecutor are recom-  
14 mending some form of legalization. Is that because you  
15 have been frustrated as a special prosecutor and you  
16 would not think that this is a solution that has merit  
17 nationally from this Commission's standpoint?

18 A. No. My basis for advocating that some form of legal-  
19 ized gambling at least be considered or studied or looked  
20 into, and, perhaps, even come about in Pennsylvania, is  
21 based not on frustrations on the part of me or the of-  
22 fice, but based on what I indicated, that the Commonwealth  
23 is devoting an awful lot of resources to the enforcement  
24 of gambling laws and not getting anything in return.

25 Q I suppose my question is: Assuming that this

1 Commission should make an advisory recommendation to  
2 the States but it is up to them to decide whether or not  
3 they wish to allow or prohibit gambling, but if they  
4 wish to prohibit it they must have certain tools, and  
5 let's assume that the Commission would recommend that  
6 wiretapping for this type of offense was one of the  
7 tools, would you also endorse special prosecutors being  
8 part of that recommendation to deal with it?

9 A. To deal with the corruption problem, yes.

10 Q. What about the gambling problem?

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

15 Q. Do you have any evidence that any of them have?  
16 The instances of arrests and the instances of convictions  
17 and jail sentences are a little discouraging.

18 A. I don't think you can blame this on the district  
19 attorney except to the extent to which he is abdicating  
20 his responsibilities to investigate as opposed to just  
21 prosecute. I think the D.A. ought to be part and parcel  
22 of the investigative process, in which case he does be-  
23 come very important in terms of what the overall picture  
24 is going to be. But right now the situation in Phila-  
25 delphia at least is that the police department goes out

1 and makes its cases, which are voluminous to say the  
2 least, and hands them over to the D.A. to prosecute, and  
3 they get search warrants, have to try to hold it up in  
4 court, and many times it is thrown out. So I think right  
5 now the D.A., given the police department attitude and  
6 the Judiciary's attitude, is probably doing the best  
7 that he can probably do with the situation.

8 Q On the issue of gambling and corruption and the il-  
9 legal gambling operations, when Patrick Murphy was Com-  
10 missioner of the New York Police Department, it is  
11 rumored rather authoritatively that he imposed a policy  
12 of nonenforcement against certain types of gambling,  
13 that is, low-level enforcement, as a measure to decrease  
14 the opportunities for corruption from that type of gam-  
15 bling. Do you have any comments on those phenomenon,  
16 perhaps as you observed in New York, and whether or not  
17 you have considered that as an effective measure here in  
18 Philadelphia?

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

1 of corruption going on in the police department.

2 Q That seems to be a little inconsistent, but that's  
3 the Police Commissioner who did that, and I think that's  
4 an unfortunate problem in Philadelphia, the police de-  
5 partment attitude in this respect. Would you recommend  
6 that the police department attitude be mandated by some  
7 particular state statute that would institute a nonen-  
8 forcement as to certain levels, that is, a decriminali-  
9 zation?

10 A Well, yes. I don't know that a state statute is  
11 necessarily the answer. I do think, however, that the  
12 police department ought to change its policies rather  
13 drastically with respect to its enforcement of the gam-  
14 bling laws and not go after these low-level writers but  
15 go after the high-level people. Now, there they have  
16 a real problem because to go after high-level people,  
17 as I have indicated, you have to have some type of wire-  
18 tapping laws on the books, which is simply not on the  
19 books. It seems to me if you are going to go after high-  
20 level people, you also have to consider undercover oper-  
21 ations, and here I think is where the district attorney  
22 ought to take the initiative and sit down with the com-  
23 missioners and discuss with them their attitudes towards  
24 gambling and why aren't they going after the high-level  
25 people.

1 MR. FITCHIE: Thank you.

2 DOCTOR ALLEN: Mr. Farrell?

3 BY MR. FARRELL:

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

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

13 Q You have had to have considerable litigation be-  
14 tween your staff and the Department?

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

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

24 A No, or any other type of corruption.

25 Q We have talked about so much police corruption.

1 What is the effect of gambling-related corruption on the  
2 ability of a police department to perform its duties to  
3 arrest major criminals and to protect citizens? Does  
4 that gambling-related corruption really affect a police  
5 force?

6 A. I think it does. I think that its one of the most  
7 significant things. There was recently an L.E.A.A.  
8 study which was done about a year ago, which showed  
9 Philadelphia ranked highest in the country in terms of  
10 ratio between crimes committed and crimes reported, be-  
11 tween something like 5 to 1, whereas the National was  
12 somewhere between 2 and 3 to 1. The primary cause of  
13 that was that the citizens have such a low regard for the  
14 police department that they simply didn't report crimes  
15 because they didn't think anything would come about as  
16 a result, and I think this is unfortunate. What happens  
17 is that corruption, be it gambling related or otherwise,  
18 breeds a tremendous disrespect for the law, not only on  
19 the part of the victims who are victimized by the crimes  
20 that are committed, but also on the part of individuals  
21 who are considering engaging in any type of illegal ac-  
22 tivity if they think they can pay off police to be suc-  
23 cessful.

24 MR. FARRELL: Thank you.

25 DOCTOR ALLEN: Are there any further

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questions by members of the staff? Any further questions by the Commissioners?

Thank you very much, Mr. Phillips.

(Witness excused.)

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

(Luncheon recess.)

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STATEMENT OF

WALTER M. PHILLIPS, JR.

DEPUTY ATTORNEY GENERAL  
OFFICE OF THE SPECIAL PROSECUTOR  
COMMONWEALTH OF PENNSYLVANIA

May 28, 1975

STATEMENT OF WALTER M. PHILLIPS, JR.

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

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

Police Department.

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

Almost all arrests by the police involve numbers writers, and are almost always based on their possession of numbers slips, that is, pieces of paper used by the writer to record bets he has taken. The strength of the case against the numbers writer thus will depend on the quantity of numbers slips, more specifically on how many bets are recorded on the numbers slips. Since placing a bet is not illegal in Pennsylvania, the argument often made to the court

on behalf of a numbers writer is that the relatively few bets written on the slips indicates he is a bettor, not a writer. The numbers writer represents the lowest echelon of a numbers operation, and since his crime is viewed as a victimless one -- indeed, his activity provides a source of recreation to a large segment of the population -- very few numbers writers are ever convicted, and those that are virtually never receive prison sentences. The statistics compiled by the Pennsylvania Crime Commission in its investigation of police corruption for the year 1972 with respect to the disposition of gambling cases are rather startling. During that year, 91.6% of all gambling arrests in the City of Philadelphia resulted in either dismissals or acquittals, and only .4% of those arrested for gambling violations ever received a jail sentence.

The leniency shown toward violators of the gambling laws by the judiciary is, to a certain extent, the result of the police department's policies. For example, the performance of an individual police officer as well as his whole unit is measured by the quantity and not the quality of gambling arrests. No effort has been made to infiltrate a numbers operation with a police officer acting in an undercover capacity with the purpose of gathering evidence against higher-ups. Thus, practically all the defendants who are brought into

court represent the lowest and least important members of a numbers operation -- the writers who can easily be apprehended. In addition, pressure on police officers to make gambling arrests causes them to resort to unconstitutional means, such as perjured search warrants to gather evidence of illegal gambling.

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

The real evil that illegal gambling poses is that it constitutes the greatest source of police corruption. The payoff rate on winning the full number bet is 400 to 1 in Philadelphia, whereas in New York the payoff rate is 600 to 1, the difference being due to a greater amount of money being paid by the bankers for police protection. As the above sta-

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

I believe that one cause of gambling related police corruption is the general attitude, shared by the judiciary,

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

Even assuming the police department were to concentrate its efforts on going after the major figures of a gambling operation, any success is highly unlikely in light of Pennsylvania's right to privacy law. In this state, since 1957, wiretapping in any form, even by a law enforcement agency pursuant to a court order, is forbidden by statute. This in itself creates a tremendous obstacle to law enforcement in any efforts at enforcing the gambling laws, since any major gambling operation, whether it's a numbers bank or a sports betting operation, uses the telephone extensively, in fact

depends on the telephone to conduct its daily business. Contact between the major figures of the operation and their writers, the placing of bets by established and well paying customers, as well as the "laying off" of bets, are all done exclusively by telephone. Without being able to intercept these telephone calls, the apprehension of the top members of any gambling operation is virtually impossible. Occasionally, a raid may result in discovering a major figure on the premises, but as shown by the case I referred to earlier, a judge can point to the circumstantial nature of the evidence and throw out the case. If the judge were confronted with recordings of the defendant as he was in the process of committing the crime, it might be a different story. In Pennsylvania, however, while the telephone company may lawfully intercept and overhear perfectly innocent telephone conversations in order to prevent cheating by customers on long distance toll calls, law enforcement authorities, even with a court order, are not allowed to record criminal conversations.

While the anti-wiretapping statute has been in effect since 1957, a more recent amendment to the right to privacy law has been enacted that has an even more crippling effect on law enforcement, particularly in gambling related police corruption. Last fall, the Pennsylvania legislature passed a bill banning any type of recording of another's voice unless the individual whose voice is being recorded consents

to having it recorded. This bill, which was signed into law by the governor and has taken effect, thus prohibits what is commonly known as a body bug. The particularly unfortunate aspect of this law is that its only exception for law enforcement is useless: when a law enforcement officer believes his safety to be in danger the Attorney General or local district attorney may apply for a court order to allow a tape recorder to be worn by the officer, but the recording is inadmissible in a subsequent court proceeding. The entire right to privacy law, as it is called, is now the strictest of its kind in the country.

The impact of this law on anti-corruption efforts is substantial. Corruption cases are difficult, if not the most difficult, cases for a prosecutor to prove. Not surprisingly, juries require overwhelming proof of guilt before they will convict policemen and public officials. Also, those who are witnesses to police corruption, that is, persons who are paying off for protection or are being shaken down, are generally criminals themselves and require extensive corroboration before their testimony will be accepted by a jury. From my experience as a prosecutor in federal courts where tapes derived from both court authorized wiretapping and one party consensual recording are admissible, I have found that there exists no stronger evidence than tape re-

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cordings of the defendant as he is committing the crime. This is particularly so in corruption cases where the defendant's impeccable reputation becomes his strongest defense when presented through character witnesses as well as his own testimony and general appearance. Being able to bring to the jury's attention the defendant's other personality by playing tapes of his criminal conversations can thus become critical to the prosecution's case. This kind of evidence can no longer be gathered in Pennsylvania.

Prosecution of gambling related corruption is especially affected by the new Pennsylvania anti-eavesdropping law. As I've already mentioned, it is not uncommon for a numbers bank to be paying off an entire plainclothes unit or district usually through a bagman. Assume for the moment that the corrupt bagman, for whatever reason, decides to cooperate with a prosecutor to gather evidence of corruption by the police officers for whom he's been collecting payoffs. Since conversations between the reformed bagman, even with his consent, and the corrupt police officers is illegal, and since physical surveillance can probably do no more than establish that certain officers met with the bagman, which doesn't prove anything since they work together, the only available alternative for corroboration is to use marked money and arrest a police officer immediately after a payoff. Of

course, this would "surface" the cooperating bagman and thereby terminate the investigation, since no other police officer would ever deal corruptly with him again. The results would be one prosecution of one police officer, and subsequent sworn testimony by the bagman that an entire unit was on the take would be viewed with great scepticism, not to mention that without prosecuting any of the other officers no dent whatsoever would have been made on the serious corruption problem. The police department and the public could well view the situation as one rotten apple when in fact the true picture is that the entire barrel is infected.

In light of the courts' and society's attitude that illegal gambling is a victimless crime and the unavailability in Pennsylvania of the necessary resources to investigate both it and the police corruption it generates, I am in favor of considering some form of legalized gambling. I would not be in favor of legalized gambling controlled by private interests, because I think such a situation would be controlled by organized criminal syndicates. In addition, legalized gambling in the form of private casinos would require licenses to be issued, zoning changes to be made, all of which could give rise to another form of corruption -- payoffs to public officials for favorable rulings, licenses, and the like. Accordingly, if any type of legalized gambling is to be considered in

Pennsylvania, it should be run by the state government as is the state lottery. Thus, I think it would be worthwhile for Pennsylvania to consider establishing something akin to New York's Off Track Betting Corporation. One factor that leads me to conclude that such an operation might be worthwhile is that it would generate a tremendous amount of revenue for the state, a consideration that should not be taken lightly.

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

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AFTERNOON SESSION

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

Good afternoon, Judge Glancey.

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

DR. ALLEN: As you please.

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

Attached as Exhibit 1 are figures for arrest and conviction in the City of Philadelphia for illegal gambling for the years 1969 through 1974 inclusive. If nothing else, these figures show that we spend a tremendous amount of time and effort dealing with illegal gambling and end up

1 with only 10 percent of the defendants being  
2 found guilty and only one or two defendants ever  
3 going to jail. In our Court last year, for  
4 example, there were almost 3,000 arrests for  
5 illegal gambling with less than 250 found guilty  
6 and three being sentenced to jail. To continue  
7 this does not make any sense at all, and I would  
8 propose the following:

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

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

1 I would ask that the Federal Government  
2 recognize the need for such State-licensed  
3 establishments, and, in order to be competitive,  
4 it is imperative that the Federal Government  
5 exclude winnings from State licensed bookmakers  
6 from Federal income taxation.

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

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

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

1 enforcement officials are correct.

2 In addition, legalizing gambling will  
3 lift from the local communities the tremendous  
4 burden of enforcement, both by the police depart-  
5 ment and through the courts. This cost is  
6 enormous, and if the police and courts did not  
7 have to waste time and money with gambling cases,  
8 their efforts could be directed in more meaning-  
9 ful areas.

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

23 In conclusion, I must reiterate that the  
24 Federal Government, by insisting that organized  
25 crime is behind illegal gambling, is compelling

1 local units of government to carry an inordinate  
2 burden by strict enforcement of so-called  
3 "illegal" gambling, while at the same time the  
4 Federal Government is preventing the local units  
5 of government from legalizing gambling by imposing  
6 a Federal income tax on the winnings of bettors  
7 involved in legalized gambling.

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

13 Thank you.

14 BY DR. ALLEN:

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

21 A. Without looking at the particular cases, I wouldn't  
22 guess. I would assume it was because of prior criminal  
23 records, something else involved in it. It would have  
24 to be something like that. I would say I have been in  
25 the Courts since 1969, and when we talk about

1 organized crime being behind it, our average lottery  
2 defendant is 55 to 60 years old, usually a black male  
3 or female, very poor, and it is hard for us to  
4 visualize them as being a part of organized crime.  
5 Maybe they are. When we are dealing with that person  
6 in the courtroom without any other input, any Federal  
7 law enforcement official, or any other officials, we  
8 deal with it as we see it, and it just seems to me that  
9 the emphasis may be on arrests in these areas but very  
10 little emphasis on conviction.

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

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

22 Q In your judgment, Judge Glancey, do you feel that  
23 if we are to maintain the current system that we have  
24 there should be clearly delineated mandatory specified  
25 sentencing of people brought into Court for gambling

1 offenses, or should we still continue to use the hap-  
2 hazard methods that we use? That is no reflection on  
3 the court system, but it is haphazard.

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

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

19 A I don't think the police are serious about getting  
20 the conviction, because they are very difficult cases  
21 to convict. If they find someone with a number slip  
22 in their pocket, you have to prove when the slip was  
23 written, that it was written by that individual, that  
24 he is in the business of writing numbers, not just a  
25 player, et cetera. It is very difficult to prove that,

1 unless somebody actually places a bet. That's usually  
2 the kind that are convicted. The patrolman says,  
3 "I placed 609 today with him," and that kind of testi-  
4 mony. You might get a conviction there, but then it  
5 has to be beyond a reasonable doubt. The defendant  
6 could say, "I didn't do it."

7 DR. ALLEN: Thank you, Judge Glancey.

8 Commissioner Gimma?

9 BY MR. GIMMA:

10 Q Judge, you recommended in your statement here  
11 that winnings should be exempt from income tax and  
12 also to license bookmakers. You didn't mean also to  
13 exempt the bookmaker from normal profit tax?

14 A No, not at all; the winner, the bettor.

15 Q Just the bettor?

16 A That's right.

17 Q Of course, I believe you are trying to relate  
18 this with years back -- and I go that far back, too --  
19 when they said that organized crime ran bootlegging.  
20 When the Volstead Act was killed, there emerged a lot  
21 of fine citizens manufacturing and producing alcohol.  
22 Are you trying to relate that in the same fashion?

23 A Very similar, yes. I think if, in fact, organized  
24 crime moved from bootlegging into numbers and lottery,  
25 therefore, we can move them out. If we moved them out

1 of liquor, we can move them out of numbers by  
2 competing with them. I think there are ways that can  
3 do that.

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

6 DR. ALLEN: Commissioner Coleman.

7 MR. COLEMAN: Thank you.

8 BY MR. COLEMAN:

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

13 A Yes.

14 Q The court where you sit?

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

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

23 A I would probably say up until 1975 most of those  
24 were either tried or dismissed to the Commonwealth,  
25 but the Court found that there was not sufficient

1 evidence in the Commonwealth's testimony to go for-  
2 ward, and they were dismissed. During the past couple  
3 of years the D.A.'s, because of the volume of crime,  
4 have been withdrawing prosecution in these cases, and  
5 a great many of them before trial. In other words, the  
6 D.A. will take a look at the file as it comes in, and  
7 they will say, "Well, it is a numbers case. How many  
8 numbers involved?" and they will write down, "Prosecu-  
9 tion withdrawn," and that's the end of the case. In  
10 our City the D.A. does not approve the issuance of all  
11 warrants. The D.A. doesn't start all criminal prosecu-  
12 tions. The police in this City initiate all criminal  
13 prosecution. Then if the D.A. feels that it shouldn't  
14 go on, he can withdraw it prior to trial. I know in  
15 some cities the D.A. must approve all complaints before  
16 they are issued, but not in Philadelphia.

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

19 A That's right.

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

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

1 illegal lottery arrests are. Most of the arrests are  
2 for illegal lottery in the City.

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

10 A If someone were to tell me these are five slips,  
11 obviously in different handwriting, the obvious ques-  
12 tion is whether the same person could have written  
13 them. Are you asking me to be a handwriting expert  
14 then?

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

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

23 Q Does your court issue such warrants?

24 A Yes.

25 Q Is that exercised at all by the police to any

1 extent?

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

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

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

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

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

18 Q. That's the maximum?

19 A. That's the maximum.

20 Q. What is the minimum?

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

23 Q. Your Honor, in your experience have you recognized  
24 during the course of a year the same person coming back  
25 again?

1 A I have seen a couple of them, yes.

2 Q What happens with that person?

3 A If I recognize them coming in front of me, I  
4 can't try them because then I am prejudiced. I know  
5 he has been convicted, so how can I try him on this  
6 new case?

7 Q Don't you get a pre-sentence report before you  
8 sentence him?

9 A After sentencing, yes, but not before trial. I  
10 thought you meant before trial. After sentencing,  
11 sure.

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

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

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

19 A No rule of thumb on that. Every judge is on his  
20 own. As you can see, most of them just don't give it  
21 that much weight. They think there is so much other  
22 crime in this City, and everybody places numbers, and  
23 so... We do have a State lottery, too, and you can  
24 play that without going to jail. Why can't you play  
25 this lottery, the State lottery?

1 Q That's not part of the judicial sentence procedure.

2 A I am sure it is there though. They live in the  
3 communities and they are certainly community conscious.

4 Q Philosophically, Your Honor, do you feel that the  
5 revenue from numbers goes to some laudatory end or  
6 purpose?

7 A No, I am sure it is not.

8 Q You really think by legalization of some other  
9 form of gambling it would stamp out illegal numbers?

10 A I think it would minimize it. It would never  
11 stamp it out. We have never stamped out bootlegging.  
12 We still have bootleggers in this City, but not nearly  
13 what we had back 40 years ago.

14 MR. CCLEMAN: Thank you.

15 BY DR. ALLEN:

16 Q Judge Glancey, of the 2,813 arrests that were made  
17 in 1974 for illegal lottery, how many had to make a  
18 court appearance?

19 A I would say really, you know, it would be a guess,  
20 Doctor, on that, because 1974 is when the D.A. started  
21 withdrawing a lot of cases. For example, there was  
22 an informal arrangement at the Roundhouse where  
23 defendants were arraigned, and if a defendant had less  
24 than 25 numbers or 50 numbers, the D.A. at the  
25 original preliminary arraignment had the discretion to

1 withdraw prosecution. So I would say most of these,  
2 at least 75 percent, in 1974 were withdrawn prior to  
3 trial. There were the arrests at the Roundhouse and  
4 then the cases were withdrawn. In other words, the  
5 Magistrate sits at the Roundhouse in an adjudication  
6 process. He cannot adjudicate; the only thing happens  
7 down there, the D.A. has to withdraw it if there are  
8 no Commonwealth witnesses, anything like that.

9 Q Are those costs borne by the Common Pleas Court  
10 or Municipal Court or both?

11 A The cost --

12 Q Cost of the hearings.

13 A The cost is borne by the City of Philadelphia.  
14 Everyone but me gets paid by the City, and the City  
15 supports the entire thing.

16 Q Under those circumstances, what type of backlog  
17 does a situation of that type where 2,818 people in one  
18 year must appear before some type of adjudicatory  
19 process in the criminal justice system constitute for  
20 you?

21 A It has very serious repercussions. For example,  
22 because of a case like this going through our Round-  
23 house, which is the Police Administration Building,  
24 where we have a central arraignment court 24 hours 7  
25 days a week, because of cases like this going in there,

1 we have usually a 10 or 12-hour arraignment wait  
2 during the week, and on weekends it sometimes goes to  
3 24 hours with people in there waiting to be arraigned.  
4 Because of that the Supreme Court in Pennsylvania in  
5 the past year has reversed at least five homicide  
6 cases, one involving a patrolman in this area, on the  
7 basis that they did not get arraignment without un-  
8 necessary delay. As a result of that delay, they were  
9 thrown out by the Supreme Court, and very serious cases  
10 are now being discharged or sent back for new trials  
11 by our Supreme Court because of the delay at the  
12 arraignment. Part of the delay are cases like that  
13 which jam up the system down there.

14 Q Would any purpose be served by creating a system  
15 whereby lottery arrests, arrests of gambling offenses  
16 of this minor nature, would be taken care of in the  
17 precinct or district police court as opposed to being  
18 brought to that central area, and thereby you would  
19 free up your system at the Roundhouse to work with the  
20 more serious crimes?

21 A We are moving in that area, yes. During this  
22 past year now we have a citation program for the first  
23 time in Philadelphia where someone arrested for a  
24 summary offense, not a misdemeanor like this, but a  
25 summary, are released on a ticket like a traffic

1 ticket, and they can come back for their hearings.  
2 We have 11 police district hearing areas throughout the  
3 City, other courts other than the Roundhouse. We are pro-  
4 posing that misdemeanors of the third class, which are  
5 those cases where the sentence is one year in jail, that  
6 they be treated the same way. It would be very difficult,  
7 I think, for us to get misdemeanors, which carry a maxi-  
8 mum sentence of one year, on a traffic-ticket basis.  
9 I think there would be a lot of opposition by the  
10 police department and by the other people that think  
11 this is more serious. The Legislature must act because  
12 they made lottery from one year to five years maximum  
13 sentence in the last three years.

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

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

1 in Municipal Court?

2 A It varies. It is approximately 30 to 45 days.  
3 We list cases from the Roundhouse arraignment within  
4 30 to 45 days in Municipal Court for the first trial.  
5 If the case doesn't go the first time, it is extended  
6 for not more than 30 days. In our court right now we  
7 have close to 5,500 cases to be tried, and we try  
8 approximately 2,600 a month, so most of our cases are  
9 tried within a 60 to 70-day period. So this would  
10 take at the most two months before the case is tried.

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

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

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

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

23 A We are paying attorneys' fees for the Common-  
24 wealth, and we are paying the defendants' attorneys'  
25 fees, paying the Court costs, and nobody is going to

1 jail, yet everybody sort of feels better because we  
2 did arrest somebody.

3 Q How many continuances do you usually get for a  
4 numbers case?

5 A They are generally tried within the first or  
6 second time they are listed. Very rarely do numbers  
7 cases go beyond the second listing.

8 DR. ALLEN: Mr. Coleman?

9 BY MR. COLEMAN:

10 Q Your Honor, do you feel, despite the lack of  
11 proof, that the majority of these people being arrested  
12 are numbers players, rather than number runners?

13 A To be honest with you, I think many of them are  
14 number runners, but they are not proved to be guilty  
15 of that charge beyond a reasonable doubt.

16 Q Is your court a jury court or not?

17 A Nonjury, all nonjury cases.

18 MR. COLEMAN: Thank you.

19 BY DR. ALLEN:

20 Q What would you do in a case of a numbers writer  
21 who uses the hand held printout computer, and he writes  
22 all his numbers with a hand held printout computer?

23 A How do you prove it is in his handwriting?

24 Q Right.

25 A You have to prove it. Now, they sometimes don't

1 use numbers; they use letters, and some use different  
2 codes instead of names, instead of amounts. Then the  
3 Commonwealth says, "In our opinion that is a number  
4 writer." Well, how do you know if it is in code?  
5 That's what makes it so difficult to try these kinds  
6 of cases.

7 DR. ALLEN: Mr. Gimma?

8 BY MR. GIMMA:

9 Q You say if you legalize gambling, you will do  
10 away with illegal betting, yet the lottery was  
11 legalized in 1973, and I notice that, since these  
12 arrests represent just lottery arrests, in 1974 you  
13 had almost 500 more arrests than you did in 1973.

14 A Yes. First of all, the lottery in Pennsylvania  
15 is such that you don't pick your own number. In order  
16 to compete with numbers you have to be able to pick your  
17 own three-digit number on a daily basis with daily  
18 payouts. It has to be a minimum of 50 cents to bet and  
19 not be taxable by the Federal Government. If you do  
20 that,, you will compete with the number racket. If  
21 you don't do that, you are not going to compete.

22 Q In other words, these number arrests are not  
23 really lottery per se; they are numbers games?

24 A That's what we call lottery in this State, il-  
25 legal lottery.

1 Another thing, too, I had a little  
2 crusade going in 1973 about all the cases coming in  
3 on numbers, and the police did start to cut down on  
4 the arrests, but then we started back up again, so  
5 it varies. If you are in the vice squad, you stay in  
6 the vice squad as long as you can show some results.

7 BY DR. ALLEN:

8 Q. How about bingo arrests?

9 A. That's funny. In fact, I think it is our high  
10 school -- my high school and your sister high school  
11 -- has been running a big bingo operation in the  
12 high school under the alumni association of the high  
13 school, and it is church related, and there have been  
14 no arrests for bingo.

15 Q. What about the nonchurch-related activities  
16 going on at the Philadelphia hotel that's sponsored  
17 by a group from New Jersey, the Portman Club from  
18 New Jersey?

19 A. Now it is sponsored by our high school.

20 By the way, the proceeds last year,  
21 \$120,000, were given to pay the teachers' salaries  
22 for the high school. That's the result of the  
23 bingo.

24 Q. Under those circumstances, that's an illegal  
25 activity that is an acceptable illegal activity.

1 A Throughout the State we have bingo, in all the  
2 firehouses, and everything. And you have the Puerto  
3 Rican numbers. We have quite a bit of that.

4 Q Bola.

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

7 Q We don't arrest them either.

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

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

13 MS. MARSHALL: Thank you, Madam Chair-  
14 man.

15 BY MS. MARSHALL:

16 Q Judge Glancey, you stated that a very small per-  
17 centage of the arrests involved bookmaking, that the  
18 predominance is the lottery. Is there any differential  
19 in sentencing those arrested for bookmaking and lottery?

20 A Nothing factual. I would think that the book-  
21 maker generally gets heavier sentences than the  
22 illegal lottery.

23 Q What is the reason behind that?

24 A Usually, they feel that they are businessmen, I  
25 imagine -- that's the way the judge feels -- rather

1 than someone 55 years old on Social Security or dis-  
2 ability or Welfare just making a couple of dollars  
3 writing numbers in the block.

4 Q Is the determination then based on the gross  
5 volume handled by the bookmaker vis-a-vis the lottery  
6 person?

7 A That's part of it.

8 Q If your recommendations were to be followed by  
9 the Commonwealth and if additional legal games were to  
10 be instituted, such as a numbers game, off-track betting,  
11 sports betting, et cetera, what would your sentencing  
12 policies be with reference to those who would continue  
13 to be arrested for illegal gambling?

14 A I think most judges' sentencing policy would be  
15 much more severe, because now we are taking that --  
16 just like in the liquor cases; we have a legalized  
17 system of distribution of liquor in the Commonwealth,  
18 and if you do it illegally, then you get a heavier  
19 sentence.

20 By the way, we handle liquor cases in  
21 this City, too, and our sentences are much more severe,  
22 for example, for a person operating a bootlegging opera-  
23 tion than numbers.

24 Q Although you did not make reference to it in the  
25 statement, could you give us your opinion as to the

1 relationship between illegal gambling and police  
2 corruption in the City of Philadelphia?

3 A I think as long as you give the police the  
4 authority or discretion in this area there is a  
5 possibility of corruption. Not only a possibility.  
6 About two years ago I had a case involving the 17th  
7 Police District, which is in South Philadelphia, sort  
8 of southwest Philadelphia, where a police officer  
9 testified in my court that his job every week was to  
10 pick up the money from the number writer and he dis-  
11 tributed it to the lieutenant, to the sergeant, and  
12 everybody had so much to get, and he did it for a  
13 period of a year and a half, and someone else did it  
14 on the other shift. This was a continual thing. Men  
15 did go to jail in this State for that. That patrolman  
16 did. I thought, "Well, I guess he could be on the  
17 take if that's available and the patrolman wanted to  
18 do it," but what really hurt me is the fact that these are  
19 men who come into the Court and testify in other cases  
20 in our courtroom, and I don't know whether to believe  
21 them. They may be bringing people in on number cases  
22 who are not paying off, and if they are doing that in  
23 this area, what are they doing in the narcotics area?  
24 What are they doing in the aggravated assault area?  
25 What are they doing in burglaries? It creates a cloud

1 over the entire police force in other areas.

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

4 A It would help, sure.

5 DR. ALLEN: Mr. Farrell?

6 BY MR. FARRELL:

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

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

17 Q Did that generate public pressure?

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

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

22 A As long as it is on the books, I think the police  
23 department has to protect themselves. They have to  
24 prosecute as long as that law is there. Otherwise,  
25 they are criticized for not enforcing the law, and they

1 are in a bad position on this.

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

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

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

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

25 Q If you had a license system and there were some

1 corruption of public officials because of the licensing  
2 process, would that still be preferred to the police  
3 corruption?

4 A Better to have the public officials than the  
5 patrolmen corrupt if you are going to choose. I can't  
6 say one is better than the other. However, I would  
7 rather see the law enforcement officer not be  
8 corrupt than someone sitting in Harrisburg giving out  
9 the licenses, yes.

10 DR. ALLEN: Executive Director Mr.  
11 Ritchie.

12 BY MR. RITCHIE:

13 Q Your Honor, since 90 percent of the experience  
14 that you are basing your opinion on involves the  
15 illegal lottery or numbers operation, would it be fair  
16 to state that the Commission should accept your testi-  
17 mony and your recommendations more towards the  
18 particular illegal operation than, say, legalizing  
19 wagerings on sporting events, or institution of  
20 casinos within the Commonwealth?

21 A Well, I think as far as wagering on sporting  
22 events, we do have that. We do have track betting.  
23 We just don't have off-track betting in Pennsylvania.  
24 I think the logical extension would be licensed off-  
25 track betting. I see no problem there. I would

1 hesitate as to casinos, because we don't compete.  
2 There was no illegal casino operation in this State  
3 that we would have to compete against.

4 Q Are you sure of that?

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

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

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

24 Q Currently there was, at least on one of the major  
25 networks, a program on the district attorney, and there

1 was some question raised regarding policies that were  
2 instituted. Would it be your recommendation that there  
3 be a statement by the prosecutor to not prosecute  
4 cases that have less than 50 slips so that the police  
5 will not bother bringing those types of arrests to any  
6 particular process?

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

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

17 A. Yes, the Legislature says that, but it also gives  
18 discretion to district attorneys whether or not they  
19 want to bring action if they feel that they can't  
20 prove a case beyond a reasonable doubt. If you look at  
21 the records on the lottery, our district attorneys  
22 could say to the police department, "Since our track  
23 record for years has been 90 percent nonconviction, I  
24 am going to screen out 90 percent of these cases or 80  
25 percent, because there is no sense in my sending them in

1 because you are not going to prove the man guilty."

2 Q Isn't that an evidentiary difficulty as opposed  
3 to a statutory difficulty?

4 A Right. However, I don't think that would be  
5 conflicting with the Legislature. The Legislature  
6 said it is a crime to do this, but also the D.A. has a  
7 right to say whether the case should go to trial. The  
8 track records being so bad, he can say, "Nine out of  
9 ten cases go down the drain. Therefore, I am going to  
10 pull all but the very best ones to go into court."

11 Q You indicated approximately 30 percent of those  
12 cases that were arrested were made on the basis of  
13 warrants issued pursuant to probable cause. Would that  
14 30 percent be the majority of the 25 percent that was  
15 retained for trial? The cases that are based upon  
16 search warrants, do most of them go to trial as opposed  
17 to --

18 A I couldn't say, because many cases with warrants  
19 end up with very little information, very little  
20 paraphernalia. I don't think there is any difference,  
21 whether it is with a warrant or without a warrant.

22 Q It appears that you believe that a legal counter-  
23 part can be set up to offset the illegal numbers  
24 operation, but that legal counterpart is not the State-  
25 conducted lottery?

1 A That's right. I think the State should license  
2 but not conduct it.

3 Q The terms of the legal counterpart --

4 A I am sorry. The State lottery, yes, of course.  
5 I imagine that's the only way we can probably do it  
6 to compete with the organized crime in the lottery  
7 itself.

8 Q Assuming that they become competitive by allowing  
9 the player to pick a three-digit number and they are  
10 even so sophisticated as to have their computers able  
11 to conduct it on a daily basis, as long as the Federal  
12 income tax and the State income tax on the winnings are  
13 imposed, in your judgment, will those measures be  
14 doomed to fail as competition to the illegal operation?

15 A Since the illegal operation is tax free, it will  
16 always survive.

17 Q Then would it be your recommendation to the  
18 Commission that the issue of Federal taxation is basic  
19 to the judgment of legalization as opposed to the  
20 current process of prohibition; that unless the Federal  
21 Congress should enact a change in that particular  
22 statute that no form of legalization should ever be  
23 considered?

24 A I am saying that unless the Federal Government  
25 does away with Federal income taxation on legal



**CONTINUED**

**2 OF 7**

1 gambling earnings, we are never going to effectively  
2 compete with the organized crime in gambling. Now,  
3 you may have some success, but you are not going to  
4 compete with them. They are still going to survive.  
5 If in fact that is where the money is going, to buy  
6 narcotics and loansharking, that will survive, too.

7 Q Assuming for the moment that the Congress does  
8 not choose to change their particular tax treatment on  
9 gambling winnings, would it then be your recommendation  
10 that this Commission should recommend that no form of  
11 gambling be legal in the United States and that strict  
12 enforcement measures be enacted because there would be  
13 no competition?

14 A I think we would take the second choice you men-  
15 tioned earlier. Strict enforcement, as you can see,  
16 leads to nothing, so why should we stay with that?  
17 Unless the Federal Government gets rid of the Federal  
18 income taxation on earnings, we should take other  
19 steps. If the legislature cannot legalize it, then  
20 things that our D.A. is doing in exercising his  
21 discretion and not sending these cases into court are  
22 the things we should move into. I think the courts and  
23 the D.A. have to do what they have to do. If 90 percent  
24 of gambling cases are going to be found not guilty,  
25 it is senseless for us to prosecute them.

1 Q If we cannot legalize, then we should decriminal-  
2 ize it by nonenforcement?

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

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

19 A We are facing up to reality. In a five-year  
20 period, as we show here, nine out of ten gambling cases  
21 are found not guilty. It doesn't make sense to keep  
22 bringing into our court system 5,000 cases a year.  
23 What the D.A. is doing is eliminating the cases before  
24 they are brought into the courtroom on the basis there  
25 is not sufficient evidence.

1 Q What if the district attorney should decide in  
2 his discretion that no numbers arrests would be the  
3 best possible answer as far as eliminating 90 percent  
4 of your problem in terms of your background?

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

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

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

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

20 A I can't visualize that happening.

21 MR. RITCHIE: Thank you.

22 DR. ALLEN: Any further questions of the  
23 Commissioners?

24 Thank you very much, Judge Glancey.

25 (Witness excused.)

159a

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

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

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

That the States authorize the local communities by local

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

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

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

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



PHILADELPHIA MUNICIPAL COURT

IR	ARRESTS	GUILTY AS CHARGED	SENTENCE 2 YRS. OR LESS	SENTENCE 2 YRS. OR MORE	SENTENCE SUSP.	PROB.	FINES & COSTS
'9	3446	309	14	0	67	36	195
'0	3592	482	5	0	90	34	358
'1	3743	309	4	0	70	33	207
'2	3313	294	12	0	40	100	148
'3	2392	370	4	0	64	93	217
'4	2818	241	3	0	29	70	142

PHILADELPHIA COURT OF COMMON PLEAS (APPEALS)

'9	468	155	8	0	64	45	39
'0	204	78	1	0	10	30	38
'1	73	23	2	2	6	6	9
'2	87	20	1	0	4	10	5
'3	65	15	0	0	4	7	7
'4	81	16	1	0	2	7	7

Exhibit I

1 DR. ALLEN: Let the record reflect that  
2 Mr. F. Emmett Fitzpatrick was elected District  
3 Attorney of Philadelphia in November of 1973.  
4 He has previously been an assistant district  
5 attorney and was admitted to the Bar of Pennsyl-  
6 vania in 1955. Mr. Fitzpatrick is also a member  
7 of the Pennsylvania and American Bar Association  
8 and member of the National Pennsylvania District  
9 Attorneys Association.

10 Mr. Fitzpatrick?

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

19 I am somewhat unaware as to the nature  
20 and purpose of this Commission, and I am testifying  
21 here today primarily from my results as having  
22 been District Attorney of the City of Philadelphia  
23 for a year and a half. My testimony, except for  
24 whatever questions I can respond to, will be  
25 limited to my experience both as District Attorney

1 for a year and a half, and as someone who has tried  
2 cases in the criminal court system on both sides  
3 for about 20 years.

4 When I first came to office, I think  
5 the record should reflect there were unusual  
6 restrictions placed upon me that had never before  
7 been placed on any district attorney in Phila-  
8 delphia, but which I suspect might be represented  
9 in other sections of the Country. So it must be  
10 germane here, germane in establishing the pa-  
11 rameters of the problems I was faced with. I was  
12 faced with an overwhelming backlog of untried  
13 criminal cases. The Supreme Court of Pennsylvania,  
14 effective the 1st day of April, said that all  
15 criminal matters had to be brought to trial within  
16 270 days. Effective the 1st day of July, all  
17 criminal matters had to be brought to trial within  
18 180 days. It was physically impossible for me to  
19 have brought to trial all of the cases that com-  
20 prised the criminal backlog when I became District  
21 Attorney. It, therefore, became necessary for me  
22 to do what, unfortunately, I think not enough  
23 prosecutors are doing across the country, and that  
24 is to establish priorities of those cases with  
25 which we were going to deal.

1                   In so doing, we tried to weed out the  
2                   lame cases, those which had infirmities and had  
3                   been continued for some period of time, and they  
4                   are generally not in the category that you are  
5                   interested in. I resolved that. While we were  
6                   weeding out those cases which won't come to trial,  
7                   we also had to keep the backlog from growing by  
8                   eliminating the input of criminal cases into the  
9                   judicial system in Philadelphia.

10                   I regard my function in Government as  
11                   being one of managing the assets which are sup-  
12                   plied to me by the City Council. Dr. Allen can  
13                   tell you well about that -- and I hope you voted  
14                   for the extra money I wanted -- it is impossible  
15                   in any jurisdiction, in my humble opinion, for  
16                   any court system to try each and every case that  
17                   somebody wants to put into it. In Pennsylvania  
18                   they have weeded out most of the civil litigation  
19                   and placed it in something called arbitration,  
20                   which takes it out of the court system. On the  
21                   criminal side, unfortunately, the practice for  
22                   eight years was almost anything that got into the  
23                   system had to go into a courtroom because there  
24                   was a great deal of reluctance to dispose of it  
25                   noncourtroomwise, either offer it for nolle prosequere

1 or withdraw prosecution. I bit the bullet and  
2 decided I was going to do that, and I have done  
3 so.

4 In that regard we did a study of what  
5 took place in the Philadelphia court system con-  
6 cerning gambling cases for the years 1970, 1971,  
7 1972, and 1973. We found that in the year 1970  
8 of a total disposition of guilty cases of 4,720,  
9 five prison sentences were imposed. In 1971 there  
10 were 500 total dispositions and there were four  
11 prison sentences. In 1972 there were 4,059 total  
12 gambling dispositions, which resulted in 12  
13 prison sentences. In 1973 there were 2,878 total  
14 convictions, which resulted again in four prison  
15 sentences. These figures were drawn from the  
16 annual report of the Municipal Court of Phila-  
17 delphia, and they indicate that .00153 of the  
18 gambling arrests disposed of in court resulted in  
19 a prison sentence.

20 I might note that in my experience of  
21 10 years as an assistant district attorney  
22 assigned to courtrooms trying, among other things,  
23 gambling cases, I found a great deal of reluctance  
24 on the part of the judiciary to impose prison  
25 sentences or even to find them guilty if they

1           could find an excuse not to. I, therefore, con-  
2           cluded that the public and the Judiciary in the  
3           City of Philadelphia was not concerned with the  
4           prosecution of gambling cases, and I think that  
5           proposition stands valid today. I decided that  
6           we would withdraw prosecution in as many of those  
7           cases as possible, because I believe that the  
8           discretion of the prosecutor not to prosecute  
9           should be based upon conditions they comprise in  
10          local communities. If your court system, which  
11          includes your judges who are elected by the  
12          people in some instances, your juries, who are the  
13          people, and your law enforcement authorities are  
14          not concerned with the particular problem, and if  
15          you have to exercise discretion because of  
16          limitations imposed upon you, the place to do it  
17          is in those kinds of areas, and gambling was a  
18          primary in that regard.

19                   I note in the year 1974, which is my  
20          first full year -- although I did not start to  
21          screen and divert cases at all until April 1 and  
22          as a practical matter had no real effect for the  
23          first six months -- there were total dispositions  
24          of 3,225 cases and only five prison sentences  
25          were imposed. It stands as axiomatic that the

1 court is not going to send these individuals to  
2 jail. What they do with them is put them on  
3 probation, which overloads the probation depart-  
4 ment, and I might add, reaching into my hip  
5 pocket and shooting, that I have yet to see in my  
6 experience an individual sent back to jail for  
7 violation of probation which was imposed on  
8 gambling offenses. Or they impose a fine and  
9 costs, which, while it is usually paid, comes no-  
10 where near compensating for the amount of time  
11 and effort which goes into the arrest of gambling  
12 figures. I have, therefore, concluded it will be  
13 the policy of my office not to examine each and  
14 every arrest, and this goes beyond the gambling  
15 field, and to place into the court system only  
16 those cases which have significance in the court  
17 system.

18 I apologize for not being able to define  
19 that any more clearly or definitely than it is.  
20 However, I can tell you only it is something that  
21 is recognized by an individual who has tried cases  
22 and who knows if you find a 67-year-old woman with  
23 two prior arrests from years ago with five numbers,  
24 there is not a judge on the bench in Philadelphia  
25 that is going to send her to jail. If he imposes

1 a fine, it is probably going to be paid by someone  
2 else. There is little we can do to rehabilitate  
3 that person under those circumstances, and we  
4 can no longer afford the luxury of having that  
5 person in the court system. We divert them.

6 I do not necessarily stand for the  
7 proposition that there should be no laws against  
8 gambling. I do think that may very well come.  
9 Offenses which are serious in nature and that  
10 would have a significance in the court system I  
11 reserve the right to examine in advance and try  
12 to place those within the court system. This  
13 discretion has been exercised largely by my office  
14 independent of the police department. The police  
15 department continues to make its gambling arrests  
16 as it sees fit in certain areas for its purposes,  
17 and I exercise my judgment in the area which cases  
18 I will prosecute. I don't necessarily think that  
19 this is an unhealthy dichotomy. As a matter of  
20 fact, I think the opposite is true. The functions  
21 of both offices are somewhat different. The police  
22 department, unfortunately, is governed by standards  
23 which deal more with statistics than anything else,  
24 and those which show a vast decline could very  
25 well be unfairly commented upon as regards the

1 efficiency or integrity of a police department,  
2 if suddenly the number of gambling arrests were  
3 going down. By the same token, I don't feel  
4 hemmed in by any of those standards. I have set  
5 my own standards in the operation of my office,  
6 and they do not depend on statistical analyses of  
7 what is being done. I think what I am doing in  
8 Philadelphia today is in accordance with the  
9 decisions that have been set and established by  
10 the courts, the judicial officials, and really the  
11 law enforcement officials in the City of Phila-  
12 delphia, and I would be happy to answer any ques-  
13 tions you might have.

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

16 BY DR. ALLEN:

17 Q In the latter part of your statement you addressed  
18 yourself to something that was crossing my mind at that  
19 particular moment, which goes to show you what close  
20 communication we have. I noticed that your figures  
21 went from 4,700 to 500 to 4,059. How would you account  
22 for the wide degree of disparity between the 1972  
23 arrest figure of 4,059 and your 1973 arrest figure of  
24 2,878?

25 A. These are not our figures, Doctor, and I have no

1 way of accounting for that.

2 Q What figures are these then?

3 A These are dispositions, court dispositions. These  
4 come from the Municipal Court. It may very well be  
5 that 1973, being an election year for the incumbent  
6 district attorney, was not necessarily the most  
7 efficient period of time. I do know when I took over  
8 in January of 1974 I heard a lot of what we refer to  
9 in the general public as "cats and dogs," and many of  
10 these might have been gambling arrests. Some of the  
11 1973 arrest figures might have found their way into  
12 1974. As far as the 2,878 in 1973, I can't give you  
13 any reason for that. To the best of my knowledge,  
14 there did not exist in 1973 a policy of screening and  
15 diversion such as we now have.

16 Q Can you delineate how many cases, or what per-  
17 centage of the general backlog of cases, were what you  
18 might consider hardcore gambling cases like those which  
19 were alleged to or which were thought to have a very  
20 distinct connection with organized crime?

21 A Doctor, I have never been able to, in 20 years,  
22 find a connection between gambling and organized crime.  
23 Most of the causal connection that has been drawn  
24 between gambling and organized crime is not drawn on  
25 individual arrests by the police department; but drawn

1 on a general conceptual basis and philosophic terms,  
2 and it is based in the best estimate that I have seen  
3 nothing more than someone's estimate. I cannot tell  
4 whether a 67-year-old black numbers writer from North  
5 Philadelphia is a tool of organized crime or is carrying  
6 on something that her husband may have started a year  
7 or so prior, or is operating entirely on her own. And  
8 I don't know that any police department has any way  
9 of figuring that out either. I don know that I have  
10 heard judges complain over the years that unfortu-  
11 nately they only get underlings in the gambling racket  
12 and never get the kingpins. That means that some-  
13 thing is wrong on the enforcement part or perhaps  
14 there are not as many kingpins as the public would  
15 like to imagine.

16                   I have seen nothing which would justify  
17 any theory in my mind that gambling in Philadelphia is  
18 some form of organized tentacle that is conducted by  
19 one or two or three people. As a matter of fact, I  
20 have seen exactly the opposite where individuals would  
21 appear to me -- without being able to further delve  
22 into their background or their lives -- would appear  
23 to me to be operating independently themselves or per-  
24 haps with a couple of people in the neighborhood. So  
25 there is no way that I have of telling you that those

1 crimes which resulted in going to court had some  
2 connection with organized crime.

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

10 A I don't mind coming down here and testifying on  
11 the day when the Flyers are having a big celebration  
12 on behalf of my office, but no way are you going to get  
13 me to testify on behalf of the Mayor or police depart-  
14 ment. I have absolutely no idea of knowing what they  
15 would tolerate. I do know it was very easy for me to  
16 discover what the courts were doing with gambling  
17 cases, but I read the readily available figures that  
18 came from the courts issued mainly from the police  
19 department, read those same figures, and they would  
20 have the same basis for curtailing arrest that you seem  
21 to be pointing to. I am not too sure that would be a  
22 bad thing, but I have no control over it. The Police  
23 Commissioner has said to me on occasion, "If you will  
24 write me a letter and tell me what kind of gambling  
25 cases you want me to arrest and what kind you don't

1 want me to arrest, I will do it." The unfortunate  
2 thing has been the composition of that letter, because  
3 once again, I cannot tell you in a given instance  
4 whether this case has or has not any significance in  
5 the court system. I am inclined to think there must  
6 be some circumstances in the police department that  
7 could reach a judgment similar to that at the time of  
8 arrest, but it would appear that their judgment, if it  
9 exists, is not being exercised and that we are being  
10 fed the same number of gambling arrests every year.  
11 I think it would take a major policy change at the top  
12 enforcement level for that in any way to be curtailed  
13 or changed. While I am in a position of cooperating  
14 with that, and I would develop men like Mike Byrne,  
15 and my people would have to read fewer files, for which  
16 we would be everlasting thankful, I am not in a posi-  
17 tion to dictate that. It has to be dictated by the  
18 executive. And my prosecutorial branch will continue  
19 to do so. You have to remember, also, that I have no  
20 enforcement policy in that area and that I take as  
21 input only that which is given to me by the police  
22 department. I take their reports, and that is what I  
23 operate on when we decide whether we will or whether  
24 we will not enforce gambling laws in that particular  
25 case.

1 Q In light of your statement, Mr. Fitzpatrick, do  
2 you or do you not favor legalized gambling? If you  
3 do, to what degree?

4 A That is a very good question, Doctor. I frankly  
5 don't know, to be perfectly honest with you. I don't  
6 think that we are at the stage now where we are setting  
7 up a new society and you are going to determine for  
8 the first time whether you are going to have gambling  
9 or not. If we were, the basis of our thinking would  
10 be on why we should ban it, and I can't think of any  
11 reason in the world why gambling should be legal  
12 except the people that receive the bets and don't pay  
13 off, or laws against gambling which undoubtedly have  
14 come out of religious belief that some people in our  
15 society have shared and some haven't, and today I  
16 think the nonsharers may be in some form of majority  
17 in that regard. Nevertheless, we have been subjected  
18 to a tradition of gambling arrests and gambling  
19 prosecutions. While no one can explain it, it's been  
20 around so long that gambling is wrong. I do not. In  
21 my own life I have seen an awful lot of gambling. I  
22 do know that most probably in one form or another  
23 gambling is almost by nature instinct. I think that  
24 one of those neglected forms of criminal prosecution  
25 is in the gambling area. We don't even come close to

1 arresting people who are charged with gambling. We  
2 have allowed so much of it in our society today with  
3 state lotteries, with racetracks, with Bingo, that we  
4 are really picking and choosing among those who are  
5 good gamblers and those who are bad gamblers, and how  
6 long we will continue to do that I don't know. I  
7 certainly wouldn't be upset to see all the gambling  
8 removed from the criminal law field and regulated in  
9 some sort of regulative office, perhaps as we do with  
10 our State Stores today, although I have no knowledge  
11 as to whether we should have it State operated, or it  
12 should be done in grocery stores. I have no way of  
13 knowing that. I do think if you are studying the basic  
14 theory of gambling, somebody ought to come up with a  
15 reason why it is wrong other than the fact that it  
16 funds organized crime. If it indeed does, I am sure  
17 organized crime, as it has been described to me, will  
18 find other things to finance it.

19 DR. ALLEN: Thank you.

20 Any questions, Mr. Coleman?

21 BY MR. COLEMAN:

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

24 A We have, sir, detectives and investigators who are  
25 supplied to us under Civil Service regulation. They do

1 have little investigation in this particular area.  
2 Unlike other prosecuting offices, my investigators  
3 operate more in a secondary fashion. They assist the  
4 assistant D.A.'s in preparing, for example, an im-  
5 portant felony case, things which are overlooked, or  
6 witnesses turn up, and these investigators go out and  
7 do that. I do not have a task force within my office  
8 to enforce gambling laws. I think to do so is  
9 redundant. They are in force in sufficient number with  
10 the police department. I might add I do not have any  
11 task force in my office to investigate the commission  
12 of any other kinds of crime. We do not do it in  
13 burglary. We do not have special squads that talk to  
14 people. We take the input given to us by the police  
15 department and prepare those cases for trial.

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

19 MR. FITZPATRICK: Congratulations, sir.

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

24 A No, sir. We assume that the opinion of the  
25 arresting officer is sufficiently set out in his summary

1 sheet, and I would, frankly, be rather burdened myself  
2 with the opinion of an arresting officer. A police  
3 department officer, to begin with, he wouldn't, if he  
4 made a bad arrest, come in and tell me so, because if  
5 I told his superior, he would probably get in trouble.  
6 So I see no reason to discuss it with the arresting  
7 officer, although there may be indicated in the police  
8 report that this is a very important gambling figure,  
9 and I think we might in those cases call in the police  
10 department and discuss it with them. More than likely,  
11 if there were no reasons to substantiate it, the case  
12 will go to court.

13 Q. The ones that you divert, or whatever the term is,  
14 are those that you feel are a waste of time and the  
15 cases where you cannot get a conviction?

16 A. Not in Philadelphia today.

17 MR. COLEMAN: Thank you.

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

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

24 MR. FITZPATRICK: Thank you, Mr. Chair-  
25 man.

1 DR. ALLEN: Mr. James Ritchie, executive  
2 director of the Commission.

3 BY MR. RITCHIE:

4 Q Mr. Fitzpatrick, the criteria that you have  
5 created for significance to the court system, is it not  
6 based solely upon whether or not a prison sentence  
7 would be imposed, is it?

8 A No, sir. If it were, I would divert far more.

9 Q What else do you consider in fashioning the  
10 significance? What are the other indicia?

11 A We consider, first of all, the background of the  
12 defendant insofar as it is described to us.

13 Q By assuming that he has a prior gambling arrest  
14 but not conviction?

15 A Arrests are not an indication of anything to me;  
16 conviction is. 15 arrests and no convictions indicate  
17 that someone in the court system thought that he  
18 shouldn't have been arrested 15 times, there was not  
19 enough there, so that individual is approached in my  
20 opinion as a first offender. Prior convictions are  
21 one thing that enter into it. Do you want me to go  
22 down the line?

23 Q On the prior convictions, how current must they  
24 be?

25 A You see, what you are asking me to do is what I

1 told you already I can't do, because I have tried for  
2 18 months to do it, and I have studied the diversion  
3 programs of almost every prosecutor's office in the  
4 United States of America that has one today. I have  
5 sent my people as far as I can -- and Dr. Allen will  
6 tell you I have been criticized for doing it -- but I  
7 have read almost every diversion study that has been  
8 put together, and I found the more specific they are  
9 with criteria the less they work.

10 Let me give you a for instance that's  
11 outside of this field. I have a diversion on drunken  
12 drivers, and one of our cardinal rules that we feel  
13 free to violate, if necessary, but I am the only one  
14 that can violate it, is we don't take people who are on  
15 active probation. We ran into a fellow who back in ..  
16 1952 killed his wife or some friend and did his time  
17 in prison and was released on a lifetime probation,  
18 and he was picked up and charged with drunken driving,  
19 and he is still on parole in my opinion. I violated  
20 my rule. I didn't see any reason in the world why this  
21 man shouldn't receive the benefit of the diversionary  
22 program for drunken driving because of that instance.  
23 So we can't put down any years. When you put down  
24 years, you end up arguing.

25 You get a feel for them, and you get a

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

19 Q Who besides yourself makes these deity-like  
20 judgments?

21 A Not really deity-like judgments, sir. It is the  
22 function of a prosecutor in my opinion. A deity-like  
23 judgment presumes, first of all, a great deal more  
24 wisdom than I have. A prosecutor does not decide  
25 whether a man is guilty or not. That is done by a

1 deity-like group called a jury or deity-like person  
2 called a judge. I decide whether or not to prosecute  
3 or not.

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

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

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

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

15 A No, no, I didn't say that. I said that the  
16 prosecutors are the persons who are empowered to make  
17 that judgment besides me. There may, on occasion, in  
18 my absence from the office and because of the number  
19 of cases that we handle be other persons assigned to  
20 that unit. Moreover, each and every member of my  
21 staff who attends preliminary arraignments is  
22 encouraged to exercise that kind of judgment where they  
23 see cases that obviously do not belong in the system.  
24 Those cases are once again reviewed by Mr. Byrne or  
25 Mr. Gilson, or whoever is there at the time. The

1 operation in my office is somewhat of a team effort.  
2 We try to preserve uniformity by keeping those deci-  
3 sions in a limited area of people who consult with  
4 each other, but really in a very large area each  
5 assistant in the courtroom, if he discovers one of  
6 these cases that has crept in and feels that it  
7 shouldn't be, has the power to withdraw prosecution.

8 Q Without any prior authorization from either your-  
9 self, Mr. Byrne, or the other member of your staff?

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

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

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

24 Q Mr. Fitzpatrick, can you share with me for a  
25 moment some of the trauma I am sure that you have

1 experienced in trying to create this diversion program?  
2 Is it not necessary for such a program where really  
3 the tail is wagging the dog? Aren't you forced into  
4 this by policies that have been instituted by the  
5 police department in terms of what they will authorize  
6 an arrest for, as opposed to what you would have  
7 authorized an arrest for?

8 A. Are you limiting that to the gambling field?

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

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

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

23 I am only talking about gambling.

24 A. My problem goes beyond that, and I don't think I  
25 can have one set of rules for gambling and one for

1 other offenses. I have seen prosecutors' offices  
2 across the country where the police department must  
3 obtain prior approval of the prosecutor before an  
4 arrest is made. I do know that in some instances it  
5 works. In most instances it deters -- not deters;  
6 but delays the institution of process for a period of  
7 time, and I am not too sure that any better justice  
8 results from delay in that area unless you can set up  
9 a review system and screening system which is going to  
10 work with far more people; we are not talking about  
11 one shift of 8 hours, but 3 shifts, and you are talk-  
12 ing about multiplying almost everything that we have  
13 by 3.

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

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

25 Q Let's assume for the moment that a significant

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

12 A That is an unusual case in Philadelphia. That is  
13 an assumption that I can't make. You see, it happens  
14 even by accident sometimes that a police officer with  
15 otherwise proper authorization might stop a car and  
16 find it to contain a great deal of gambling parapher-  
17 nalia. I would not want in that instance to delay the  
18 institution of process, because that runs contrary to  
19 the State of Pennsylvania, to several outstanding rules  
20 from the Supreme Court. One is the 180-day trial rule.  
21 You would have to immediately take them before somebody  
22 and tell them what they are charged with. The next  
23 day might be too late to do something, because he might  
24 never find him. I believe the alternative of having  
25 prosecutor authorization is not necessary and won't work

1 as well as the system that we now have, although I  
2 don't recommend that this is the perfect system for  
3 everybody. I can tell you for me it works.

4 Q I don't want to be argumentative with you, but I  
5 would only point out that there are any number of  
6 statutes that contain --

7 A I take it, sir, that you think prior approval  
8 might be a benefit, and I take it that I think it  
9 would not, so perhaps we have reached at least a  
10 culmination. I certainly respect your opinion. There  
11 are certain jurisdictions where it works, but for the  
12 volume of cases that are handled in the fashion they  
13 are handled here in Philadelphia today, I do not think  
14 requiring prior approval would add anything.

15 Q I don't want you to believe that I have reached  
16 any conclusion at all. As Senator Scott said in his  
17 opening statement, you shouldn't prejudge by any tone  
18 of my questions or by other members of the Commission  
19 staff.

20 A I am sorry.

21 Q Regarding the question of the uniform standards  
22 which you are trying to employ in your office by the  
23 compilation of this manual, is that something that  
24 will be an inter-office document that would not be  
25 allowed to be given to this Commission for whatever

1 benefit we might be able to derive from your experience?

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

3 Q. We will be on record as requesting that.

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

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

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

20 A. I am not quite sure that I understand.

21 Q. Let's assume there is a great deal of intelligence  
22 that Joe Bananas is running organized gambling in this  
23 City, but Joe Bananas is clipping coupons on the west  
24 side or east side or south side, wherever your well-to-  
25 do area is, and that all you have is criminal

1 intelligence. Do you seek to go against that gambler  
2 as opposed to catching what possibly might be 14 layers  
3 removed from Joe Bananas?

4 A. Were I to receive the information that you have  
5 hypothecated, I would go against that level. I would  
6 mobilize my people, and I would perform an investiga-  
7 tion to see whether or not that information was  
8 reliable. But I don't do this as a practical matter.  
9 I have to get some sort of information, as you have  
10 hypothecated, because the assets of my office do not  
11 allow me at this point to run an enforcement branch.  
12 I don't have police officers out looking for Joe  
13 Bananas. That kind of intelligence information does  
14 occasionally come to all law enforcement people, and I  
15 would, as you have hypothecated, follow it through  
16 immediately and as strongly as I could. However, I  
17 can't say that I have done it in the last year and a  
18 half, because I haven't gotten information. The  
19 arrests that have been given to me have come from the  
20 police department.

21 Q. Assuming that your diversion program becomes more  
22 and more sophisticated where only the most significant  
23 cases that go to the court system are those which your  
24 office processes, and assuming that Dr. Allen and the  
25 other members of the City Council continue to support

1 you through additional resources, would you not feel  
2 that that type of capability is something that you  
3 should have?

4 A. Are you talking "should" now, sir, as opposed to  
5 if I were setting up a perfect prosecutor's office for  
6 Philadelphia?

7 Q Well, I suppose I was using them synonymously.  
8 Tell me the difference.

9 A. The difference might be in our jurisdiction.  
10 There is, I think, a responsibility upon the prosecutor  
11 to apply that which is not necessarily in existence.  
12 For example, if you have a large prosecutor's office  
13 in a place like Cook County where many of the local  
14 police departments are one-man or part-time organiza-  
15 tions, there is certainly placed upon the prosecutor  
16 an obligation to see that crimes are investigated in  
17 the very beginning. The prosecutor's office in many  
18 of those cities has, for instance, a homicide squad  
19 that goes out every time there is a killing. They take  
20 the photographs which are used in court; they dust for  
21 fingerprints; conduct the laboratory tests. Now, here  
22 in Philadelphia those functions have traditionally been  
23 performed by the Philadelphia Police Department, which  
24 has taken those assets from the City Council and has  
25 given them directly to the police department. My

1 function has traditionally been broken down to a  
2 trial-attorney function, and it is only when the  
3 prosecutor's office has gone outside that function and  
4 made some sort of raid or some sort of publicity-  
5 related kind of thing that really the balance between  
6 the two departments has been destroyed. If people  
7 come to me with information that there does exist a  
8 large gambling organization and I knew that the police  
9 department would not properly conduct that investiga-  
10 tion, I would do it. However, if you leave the second  
11 hypothetical out, that is, that I have full reason to  
12 know that the police department would properly conduct  
13 that raid, I would give them the information and let  
14 them do it, and I would feel in doing so I am fulfilling  
15 my responsibility as a prosecutor here in Philadelphia.  
16 At this point in time I don't think you can hypothecate  
17 the duties for prosecutors across the nation in general.  
18 You can probably hypothecate, for instance, the U.S.  
19 Attorney's Office, an assistant in charge of the  
20 F.B.I. that he wasn't very much confident in, and he  
21 might want to send out some other people; or you can  
22 have special squads, or strike forces. They are all  
23 problems that originate within certain units. I regard  
24 enforcement of the law, investigation of it, as being  
25 the primary duty of the police department, and I think

1 they do an excellent job in this area. I am resolved  
2 to the fact that I am not going to compete with them  
3 for the purpose of competing. However, were I to find  
4 reason to believe they were not doing a good job, I  
5 would go out and do it.

6 MR. RITCHIE: Thank you.

7 DR. ALLEN: Mr. Farrell?

8 BY MR. FARRELL:

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

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

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

21 A My compliments to Congress and the Senate upon  
22 their propensity and wisdom in passing the particular  
23 Act, and I am not saying whether it was needed or not  
24 needed on a nationwide basis. You have asked my  
25 opinion in Philadelphia, and my opinion remains unchanged

1 in light of the fact that the Federal Government has  
2 passed legislature creating your Commission. I  
3 assume they have created your Commission to find out  
4 whether indeed there is a connection. You asked  
5 me my opinion, and my opinion is the same, and it  
6 remains unchanged in light of the passing of that  
7 legislation which could very well be appealed tomorrow.

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

16 A. Would I welcome one?

17 Q. Would you support it?

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

25 Q. You said before your resources have no enforcement

1 control. If a wiretapping statute were passed, would  
2 you be able to undertake investigations into organized  
3 crime in Philadelphia, or --

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

24 Q Is there a problem with your policy of, say,  
25 having any less than 50 number slips? Does this create

1 problems where, for example, the arresting officer  
2 could negotiate with the person he is arresting to  
3 determine how many number slips he reports, and that  
4 way he has his arrest and he thinks you are not going  
5 to prosecute?

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

22 Q Would it be appropriate or helpful or necessary  
23 for you to announce publicly a policy of not  
24 prosecuting gambling offenses, say, for instance, 50/50,  
25 or whatever number? Would it be appropriate or

1 possible in your position as district attorney to  
2 perhaps announce this to the police force so your  
3 position will be clear that there is some clear policy  
4 of nonprosecution?

5 A I honestly don't know how I can answer that ques-  
6 tion, because you have hypothecated something that  
7 will not happen. I will never have a policy that 50  
8 numbers I will prosecute.

9 Q Are you able to set regulations?

10 A I can set any number of regulations, that is, the  
11 power to set regulations lies within the discretion of  
12 my office.

13 Q You are not limited?

14 A Defining regulations is something else again, and  
15 I have told you three times I am unable to do so. I  
16 cannot put out something that says, in this instance,  
17 "If you have all of the factors in Column A and none  
18 of the factors in Column B, we will not process this  
19 as a gambling arrest."

20 Q Is your power to set regulations not limited by  
21 the State Legislature, which, after all, has made  
22 gambling an offense which in 1973 raised the penalty  
23 for illegal gambling?

24 A My power, I suppose, sir, does not exist  
25 absolutely from God. I wasn't knighted. I was elected

1 by the people. Certainly it has certain regulations  
2 upon it. However, in spite of the various acts which  
3 the Legislature passed, I am still given what is known  
4 as discretion, a prosecutor's form of discretion. I  
5 don't know anywhere where that is limited. I just went  
6 through a large research project with the City court  
7 system over there as to whether or not I did have the  
8 power to withdraw, and all parties agreed, after  
9 sufficient research, that I did. I can withdraw now  
10 up until information time. Under the existing law I  
11 must offer a magistrate a transcript for nolle prosequere to  
12 a judge, so they have really expanded in spite of the  
13 fact that they might have done something different  
14 with the gambling legislation. They have expanded my  
15 powers in all areas.

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

19 BY DR. ALLEN:

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

25 A I have not. The determination of what corruption

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

1 Special Prosecutor might be able to bring more informa-  
2 tion concerning that.

3 DR. ALLEN: Mr. Ritchie?

4 MR. RITCHIE: Dr. Allen, I certainly  
5 want to commend Mr. Fitzpatrick and his office  
6 for the candor that he has shared with us regard-  
7 ing this problem.

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

16 Mr. Farrell and Ms. Marshall have shared  
17 with the rest of the staff the assistance you  
18 have provided, and we would hope that not only  
19 will you continue biting the bullet, but that  
20 your candor will be shared by other prosecutors  
21 across the United States. Again, we hope that in  
22 the future the work, important work, that you are  
23 doing regarding the diversion program as it relates  
24 to gambling, where you are much too overburdened  
25 with that as an issue, will be something that

1 we can be in communication with your office so  
2 that we can understand and appreciate the  
3 particular problems that you have in the county.

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

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

12 (Witness excused.)

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

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

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

25 MR. FINLEY: I have a short prepared

1 statement here. I have given a copy to the  
2 Commission.

3 My name is John J. Finley, Jr. I am  
4 president of Eagle Down Racing Association, which  
5 conducts thoroughbred racing meets at the Key-  
6 stone Race Track in the Northeast suburban area  
7 of Philadelphia. Keystone is in the same Phila-  
8 delphia metropolitan market area as the Southern  
9 New Jersey racetracks, Garden State in Cherry  
10 Hill, New Jersey, and Atlantic City Racetrack  
11 in Atlantic City, New Jersey. All three tracks  
12 draw from the same area of patronage, and  
13 essentially the same horse owners, trainers, and  
14 jockeys.

15 By reason of the fact that the Garden  
16 State Track, subsequent to the opening of Key-  
17 stone, extends its racing meets beyond its  
18 traditional spring dates into the fall and winter  
19 seasons during which Eagle Downs and Continental  
20 conducted meets since their inception, and for  
21 which cold weather meets Keystone was designed,  
22 there has been direct competition between Keystone  
23 and Garden State. Those two tracks are approxi-  
24 mately 15 miles apart. Such competition has been  
25 damaging both to the track operators and to the

1 states which derive substantial revenues there-  
2 from. Because of the particular market condi-  
3 tions, geographical locations, and other factors.  
4 peculiar to the area in which the foregoing  
5 competitive situation exists, it is my belief that  
6 the states themselves, through their respective  
7 racing commissions, are most competent to  
8 resolve the problems amicably and will do so.  
9 Those commissions are expert not only in racing,  
10 but in the factors and conditions which exist in  
11 the area from which both are concerned. It is  
12 my belief that a national governmental body,  
13 which must of necessity apply broad general  
14 standards, cannot, as effectively as directly con-  
15 cerned local agencies, solve issues which are  
16 essentially local in nature and concern. If  
17 states can cooperate as to matters of transporta-  
18 tion, bridges, utility service, and other such  
19 matters which transcend state boundaries in given  
20 metropolitan areas, they can and will do so with  
21 regard to thoroughbred racing.

22 Thank you for the opportunity to appear  
23 before you.

24 BY DR. ALLEN:

25 Q In the absence of one of our Commission members,

1       Congressman Steiger of Arizona, I feel I must ask the  
2       question because he has some very definitive feelings  
3       relative to this subject. First of all, let me  
4       establish one thing. You do run Butazolidin horses  
5       at Keystone; is that right?

6       A       The law was passed just recently, yes.

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

9       A       No.

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

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

19      Q       What do you think the Butazolidin application to  
20      horses prior to a race has on the betting habits of  
21      the populace, specifically those who are using book-  
22      makers as opposed to those who are appearing at the  
23      tracks?

24      A       I am afraid, Dr. Allen, I don't have an answer on  
25      this. I think you would have to call in somebody else.

1 Q We have heard some discussion recently in talking  
2 about things of this nature relative to the fact that  
3 horses treated with Butazolidin -- being a physician,  
4 I know what Butazolidin is, an anti-inflammatory and  
5 rheumatoidal drug which has a lot of factors relative  
6 to it that are supposed to keep horses running on a  
7 near hundred percent level -- however, in the long run  
8 it may prove to have some deleterious effects which  
9 haven't been shown to date. Has the utilization of  
10 Butazolidin in horses in the Keystone situation versus  
11 Garden State situation improved the volume of people  
12 which appear at the track?

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

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

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

25 Q Since you mention that you have your own police

1 force --

2 A Security force.

3 Q Security force. Very recently in the newspaper  
4 media we were informed that a convicted felon, Mr.  
5 Fred Corletta, was to be named as the law enforcement  
6 officer of the harness tracks of the State of Pennsyl-  
7 vania. Do you have any feelings relative to a provi-  
8 sion of a law that will regulate against having  
9 convicted criminals as members of your law enforcement  
10 arms, members of your commissions?

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

15 Q We were waiting for him for that purpose.

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

18 Commissioner Gimma.

19 Commissioner Gimma is the chairman --

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

22 BY MR. GIMMA:

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

25 A We have the Dalare Lab, and I am very familiar

1 with them. They have been handling our dairy  
2 products for about 70 years.

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

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

8 Q How long have you been open?

9 A We opened up November 4.

10 Q How is your attendance?

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

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

15 A We are going to get by.

16 Q My question is really to --

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

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

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

22 Q My questioning is not with the idea of some  
23 conflict or competitive spirit. I just want to find out  
24 whether Pennsylvania, traditionally Dutch Country,  
25 whether they have taken to gambling and to racing.

1 A Well, we supplied gamblers for all other states  
2 until such time as we opened up. All we want to do  
3 is keep some of it in Pennsylvania.

4 BY DR. ALLEN:

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

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

9 BY MR. GIMMA:

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

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

21 MR. GIMMA: Thank you very much.

22 DR. ALLEN: Commissioner Coleman.

23 BY MR. COLEMAN:

24 Q Mr. Finley, I notice you have great hope here  
25 that the respective racing commission in your state,

1 the state where I happen to be from, New Jersey, can  
2 solve the present problem. I assume it is a problem.

3 A Yes.

4 Q There's been a suggestion in one of your earlier  
5 meetings by someone -- I forget whom -- that perhaps --

6 A I can supply if it you have lost it, Jack Krumpe.

7 Q As far as regionalization of the racing commis-  
8 sions, do you have any thought about that, whether that  
9 would be possible? Of course, you talk about the  
10 states being able to solve problems with transportation,  
11 et cetera.

12 A I think we can handle it ourselves, and I think  
13 we have the modus operandi to handle it with the  
14 state commissions, and they will do it.

15 MR. COLEMAN: Thank you.

16 DR. ALLEN: Mr. Ritchie?

17 BY MR. RITCHIE:

18 Q You are opposed to, on all grounds, any type of  
19 Federal circumvention or control, as I understand it,  
20 sir?

21 A In what form?

22 Q Regarding racing and your business.

23 A I think so.

24 Q Would you then encourage us to reappeal the  
25 exemption of excise and occupational tax that you

1 presently have so that there is absolutely no Federal  
2 touching upon your industry?

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

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

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

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

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

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

25 A By all means, we would like to keep what we have.

1 We can't afford anything else.

2 Q Then you are asking for some Federal treatment?

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

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

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

8 Q I take it that you do not believe that the  
9 proliferation of racetracks, the interstate competi-  
10 tion of racing, isn't separated by some imaginary  
11 boundary of a line, or perhaps a river, or something  
12 like that that causes any problem to the racing  
13 industry.

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

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

23 A When that time happens, that might be a reason  
24 for it. If the states can't get together on this,  
25 there is something wrong. The State of New Jersey, for

1 example, has lost about 5-1/2 million by putting  
2 people against us. There is no way we are going to  
3 continue that; nor is there any way that our State is  
4 going to continue to suffer losses. Our State does  
5 not lose as much because we have 70 additional days.

6 Q Assuming the states do not solve the problem --

7 A I am not going to take your assumption. I am  
8 going to say it is my conviction that we will work it  
9 out. If you want to come back next year and we  
10 haven't worked it out, I will give you an answer.

11 Q Assuming --

12 A I am not assuming.

13 Q Just a minute, sir. Listen to my question.

14 Assuming that you have not worked it out within one  
15 year, would you then feel that Federal control or  
16 Federal review would be required? -- or two years?  
17 Or three years? Or five years?

18 A No.

19 Q You would feel that Federal control would --

20 A You asked me for an answer, and I have given it.

21 Q Never?

22 A Never.

23 Q Absolutely never?

24 A Never is forever as far as I am concerned.

25 Q How do you view other types of Governmental

1 entities becoming involved in gambling, such as your  
2 State-conducted lottery? -- or a government imposing  
3 off-track betting?

4 A. In Pennsylvania we will take care of those things.  
5 I don't think off-track betting will arrive. As far  
6 as the lottery is concerned, that's -- there is not a  
7 darn thing I can do about that.

8 Q. Are you in favor of it or against it?

9 A. No.

10 Q. You are against it?

11 A. Sure. It is competition.

12 Q. Really what you are asking for is not only favored  
13 treatment taxwise, but you prefer a monopoly?

14 A. You can ply me with all the words you want as a  
15 lawyer, but I am not interested in any form of addi-  
16 tional gambling in this area. As far as the lottery  
17 is concerned, it is here, we have it. I didn't have  
18 anything to say about it.

19 Q. You voted on it, didn't you?

20 A. I didn't vote on it.

21 Q. You were offered the opportunity to vote on it?

22 A. That's right.

23 Q. What is your position on Bingo in the churches?

24 A. Cardinal Kroll is a very good friend of mine. If  
25 he needs money, I am going to let him have it.

1 Q Do you not think that this is a form of competi-  
2 tion for your racing dollar?

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

4 Q You just asked for one.

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

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

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

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

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

23 Q Let's assume this Commission wants to make a  
24 recommendation to the States that doesn't have anything  
25 to do --

1 A. To our states?

2 Q. Of course.

3 A. I wish you good luck.

4 Q. That's one of our functions.

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

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

20 A. I am no crusader. I am in this business to try  
21 to make a go of it. I hope some day to see some money,  
22 but I don't think I will; maybe my grandchildren will  
23 see some money. We have borrowed a lot of money. I am  
24 not in it for money. I am in it because it is a  
25 challenge to me.

1 MR. RITCHIE: I think I understand your  
2 views, Mr. Finley. Thank you.

3 MR. FINLEY: I understand your ques-  
4 tions, so that makes us even.

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

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

9 DR. ALLEN: Ms. Marshall?

10 MS. MARSHALL: Thank you.

11 BY MS. MARSHALL:

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

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

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

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

25 Q You feel you are almost halfway there?

1 A Yes, I think so.

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

4 BY DR. ALLEN:

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

9 A It has in New York, and it hurt New York con-  
10 siderably. I think unless it was done in some part of  
11 the state removed from taking our patrons from us, it  
12 would be detrimental to us.

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

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

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

23 BY MR. GIMMA:

24 Q I have one more question, Mr. Finley. Recognizing  
25 that you are an expert in this field --

1 A Not really.

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

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

21 MR. GIMMA: Thank you very much.

22 BY DR. ALLEN:

23 Q What would you describe as a level of corrupt  
24 activity at Keystone, if any has existed, since its  
25 inception versus the level, say, at Garden State or any

1 of the neighboring tracks?

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

11 Q You have had no trouble with the jockeys or  
12 trainers?

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

16 DR. ALLEN: Thank you, Mr. Finley.

17 (Witness excused.)

18 DR. ALLEN: Dr. Mark Haller is a  
19 Professor of History at Temple University. In  
20 1971 Mr. Haller was the co-director of the  
21 Conference on the History of the Peoples of  
22 Philadelphia held at the Temple University campus.  
23 He later edited and introduced the book, "The  
24 Peoples of Philadelphia: A History of Ethnic  
25 Groups and Lower Class Life."

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My name is John J. Finley, Jr. I am President of Eagle Downs Racing Association which conducts thoroughbred horse racing meets at the Keystone Race Track in the northeast suburban area of Philadelphia. Keystone is a new race track, completed in the fall of 1974 and owned by Eagle Downs jointly with Continental Thoroughbred Racing Association which also conducts thoroughbred racing at Keystone. Pending construction of the Keystone track, both companies conducted thoroughbred meets as a tenant at Liberty Bell Park in Philadelphia since 1969.

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

By reason of the fact that the Garden State Track, subsequent to the opening of Keystone, extended its racing meets beyond its traditional spring dates into the fall and winter seasons during which Eagle Downs and Continental conducted meets since their inception, and for which cold weather meets Keystone was designed, there has been direct competition between Keystone and Garden State. Those two tracks are approximately 15 miles apart. Such competition has been damaging both to the track operators and to the states which derive substantial revenues therefrom.

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Because of the particular market conditions geographical locations and other factors peculiar to the area in which the foregoing competitive situation exists, it is my belief that the states themselves, through their respective racing commissions, are most competent to resolve the problems amicably and will do so. Those commissions are expert not only in racing, but in the factors and conditions which exist in the area with which both are concerned.

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

Thank you for the opportunity to appear before you.

1                   Among his many books in progress is  
2                   one on the history of organized crime in America  
3                   from 1895 to 1965. Professor Haller has also  
4                   done extensive research on the subject of organized  
5                   crime in urban society and the criminal justice  
6                   system.

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

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

22                  PROFESSOR HALLER: Thank you. After  
23                  your introduction, I hardly have anything to add.  
24                  I really don't know to what extent you are inter-  
25                  ested in a history lecture late in the afternoon.

1 For many of you, history may have been the topic  
2 you liked the least in college and high school. I  
3 am willing to answer questions or summarize briefly  
4 what I have prepared for you.

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

7 PROFESSOR HALLER: In this country gam-  
8 bling became syndicated in the decades after the  
9 Civil War. By "syndicated" I mean a single organi-  
10 zation with numerous neighborhood outlets to accept  
11 bets. This occurred particularly in two areas.

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

21 The same thing occurred in bookmaking in  
22 the post-Civil War period. It was in this period  
23 that horseracing in this country became a national  
24 sport, that the racetracks were built around the  
25 cities, and that the cities began to have racing in

1 the North and West from spring to fall. It  
2 was in this period, too, that bookmaking was first  
3 introduced in the United States. Eventually, it  
4 developed off-track as well as ontrack.

5 The off-track bookmaking became syndi-  
6 cated for two reasons. One was, again, the need  
7 for backing; that is, a small-time bookmaker could  
8 well get too much money bet on a particular horse  
9 and not be able to pay off. He needed backing.  
10 The second reason was, of course, the communication  
11 network. Western Union provided, for a fee, tele-  
12 graphic tickers in horse parlors and provided race-  
13 track information to the horse parlors. A well-to-  
14 do bookmaker could rent a telegraph ticker and then  
15 set up a telephone switchboard and provide racing  
16 information to a lot of neighborhood outlets. So  
17 that there developed syndication both because the  
18 successful bookmaker backed others and because he  
19 provided racetrack information.

20 What I really want to emphasize is the  
21 implication of this for understanding urban neighbor-  
22 hoods in the late 19th Century and, indeed, urban  
23 neighborhoods today. One implication was the  
24 relationship between the gambling syndicate and  
25 politics. The syndicates were really, in many ways,

1 very much like what people sometimes call a poli-  
2 tical machine. They had runners out on the streets  
3 in day-to-day contact with people in the neighbor-  
4 hood, knowing their problems, talking to them  
5 every day. What happened, of course, was that the  
6 political organizations and the gambling syndicates  
7 in many areas were one and the same. It was not  
8 that gambling influenced politics, but that the  
9 political organization and the gambling syndicate  
10 were one and the same thing. I think sometimes  
11 perhaps there is too much emphasis placed on the  
12 notion that politicians protect gambling because  
13 money passes rather than this closer relationship.

14 The second relationship stemmed from the  
15 fact that in the 19th Century, prior to the intro-  
16 duction of the automobile, residential neighborhoods  
17 were characterized by numerous convenience shopping.  
18 People had to walk to shop, and the neighborhoods  
19 had grocery stores, and meat stores, fish stores,  
20 barber shops, cigar stores, and saloons. There was  
21 a mixture of residents and shopping. It was in  
22 this economic context that the gambling took place,  
23 that is, residents placed bets on the horses with  
24 the barber, with the saloon keeper, with the cigar  
25 store. People bet on numbers at the mom and pop

1 grocery stores, and so on. So in this way, too,  
2 the structure of gambling was built right into the  
3 neighborhood, in the legitimate economic interest  
4 in the neighborhood.

5 It seems to me that what has changed  
6 many urban neighborhoods in this country has been  
7 the introduction of the automobile, and more speci-  
8 fically the impact of the automobile on the way in  
9 which residential neighborhoods are structured. In  
10 all those residential neighborhoods built since  
11 1950, the assumption is, of course, that people  
12 will drive for entertainment and will drive for  
13 shopping. There is a separation of residence from  
14 commercial activity. The commercial activity is  
15 put into the local and regional shopping centers.  
16 These shopping centers don't have the o'd mom and  
17 pop stores. They have big chain stores.

18 Thus, there is not only a separation of  
19 the commercial activity from the residents, but a  
20 separation of gambling from the commercial activity.  
21 An A & P does not take bets on the side in order to  
22 make A & P profitable. This means, then, that for  
23 these kinds of neighborhoods there is a separation  
24 of gambling from the neighborhood life. A person  
25 living in an automobile residential neighborhood

1 may be able to bet at work: There may be a walking  
2 bookmaker on the factory floor, or maybe a guy who  
3 takes bets in the cigar store in the large office  
4 building. Also, a bettor may be able to bet by  
5 telephone with a bookmaker who will extend credit.  
6 But the neighborhood connections are gone.

7           Indeed there are today at Temple Univer-  
8 sity students who come to college having grown up  
9 and never having met a numbers runner or bookmaker,  
10 something that would have been almost impossible a  
11 generation ago.

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

18           It seems to me that perhaps one of the  
19 ways in which we can understand why some ethnic  
20 groups appear to be more involved in illegal gam-  
21 bling than others lies precisely in asking which  
22 groups have tended to remain or to live in these  
23 old 19th Century neighborhoods, the neighborhoods  
24 that were built during the 19th Century and that  
25 still have the kind of social structure of a

1 pre-automobile city. Of the white ethnic groups,  
2 Italian-Americans have, on the whole, clung most  
3 tenaciously to the old neighborhoods. When whites  
4 have abandoned the old neighborhoods, their places  
5 have often been taken by blacks, who, in inheriting  
6 the oldest housing in the city, also inherit 19th  
7 Century neighborhoods. With the social structure  
8 of the 19th Century in many of these neighborhoods,  
9 there continues to be the kind of relationships of  
10 gambling to politics and to the economic life with-  
11 in the neighborhood.

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

23 Also, when you examine the impact of  
24 gambling on the modern city, you need to be aware  
25 of the history of the neighborhoods. In some

1 neighborhoods gambling has a great deal of impact,  
2 much like the 19th Century, because they still are  
3 19th Century neighborhoods in terms of economics  
4 and social structure. In other neighborhoods  
5 there has been very little impact because there  
6 has been a separation of gambling from neighbor-  
7 hood life.

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

10 BY DR. ALLEN:

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

14 A I am not sure whether it necessarily does. Empiri-  
15 cally it seems almost inevitably to do so.

16 DR. ALLEN: Commissioner Gimma?

17 BY MR. GIMMA:

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

24 A In fact, I think that would be a further part of  
25 my answer to Dr. Allen's question. Yes, an important

1 factor about gambling in many neighborhoods is the de-  
2 gree to which it is accepted, accepted by customers,  
3 accepted by storekeepers, accepted by politicians. Even  
4 if there were no money that passed, there would be little  
5 desire that the gambling laws be enforced. Therefore,  
6 to a considerable extent, the money that passes insti-  
7 tutionalizes a policy which a lot of people would have  
8 wanted anyway. If officials had their druthers, they  
9 wouldn't enforce gambling laws even if they didn't get  
10 money, so money in many cases becomes institutional-  
11 zation of neighborhood norms rather than the reason why  
12 the laws are not enforced.

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

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

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

22 A You are assuming now that what would be recommended  
23 is not state-run gambling to compete with illegal gam-  
24 bling, but rather gambling laws would be done away with  
25 so persons could without a license conduct gambling

1 operations?

2 Q No, they would all have to be licensed, and pay a  
3 license fee, and be regulated like stock brokers are  
4 regulated with a form of S.E.C., let's say, as to what  
5 limits they could extend on credit, and so forth, and  
6 then they could utilize that neighborhood store and  
7 facilities by agents and agencies, and take the load  
8 off the courts, load off the police department. Do you  
9 envision anything like that to be helpful?

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

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

16 A Yes.

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

20 A Yes.

21 MR. GIMMA: That's all. Thank you.

22 DR. ALLEN: Commissioner Coleman.

23 MR. COLEMAN: Thank you, Dr. Allen.

24 BY MR. COLEMAN:

25 Q Professor Haller, what research have you done in

1 this area? I know you are a professor of history, and  
2 you say nobody is interested in history, but, for the  
3 record, I was a history major. What is the background  
4 of this information that you have given us?

5 A Well, I have a number of ways of answering that.  
6 I started doing research in the history of crime in 1968,  
7 so in some sense the background is 9 years of work in  
8 this field. If the question is what particular sources  
9 do I go to, the answer to that would be, for the 19th  
10 Century, primarily newspapers. The discussion of gam-  
11 bling in the newspapers outside the City of Philadelphia  
12 is really quite frank and open. In the 19th Century the  
13 newspaper reported who gambled, who ran the syndicates,  
14 and the newspapers carried quite accurate stories about  
15 syndicate gambling. The Philadelphia newspapers, unfor-  
16 tunately, have a tradition of not knowing much about  
17 their city. You can't do history on the Philadelphia  
18 gambler.

19 Q Was gambling illegal in the 19th Century?

20 A Yes.

21 Q All forms?

22 A Depending upon the state, yes. Even on-track bet-  
23 ting, you see, so the racetracks themselves were dependent  
24 upon nonenforcement of the gambling laws at the tracks.

25 Q I assume you made some study about that illegal

1 activity more commonly referred to as numbers. What is  
2 your opinion about who controls that today, if you have  
3 an opinion?

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

6 Q. Let's start with this city. We are here in Phila-  
7 delphia today. Let's start here.

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

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

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

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

22 A. Oh, yes, certainly.

23 Q. Such as?

24 A. Aspects of organized crime. We get into a defini-  
25 tional problem of what we mean by organized crime. Like

1 other successful businessmen, they take money from one  
2 place and invest it in other places.

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

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

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

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

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

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

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

23 Mr. Farrell?

24 MR. FARRELL: Thank you.

25

1 BY MR. FARRELL:

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

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

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

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

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

21 A With reference to Los Angeles, which was almost  
22 entirely an automobile city, the city never developed  
23 the sort of 19th Century neighborhoods where you get the  
24 sorts of relationships between gambling syndicates and  
25 neighborhoods.

1 Q After the repeal of prohibition, didn't you find  
2 some big-time bootleggers going into syndicated gambling  
3 and muscling out these old neighborhood gambling oper-  
4 ators?

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

10 MR. FARRELL: Thank you.

11 DR. ALLEN: Mr. Ritchie?

12 MR. RITCHIE: Thank you.

13 BY MR. RITCHIE:

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

19 A I don't know. That's precisely something one  
20 would like to study. Urban renewal had the effect of  
21 taking the old neighborhoods and removing a lot of the  
22 stores, putting up high-rises, but not replacing commer-  
23 cial activity, so that residents often were no longer  
24 within walking distance of kinds of stores. In my theory  
25 this ought to decrease the neighborhood influence of

1 gambling, and it would be an interesting question whether  
2 it does or doesn't.

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

5 A Yes.

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

14 A No, I wouldn't think so. I would think right now  
15 for so many of us who live in the cities the problem of  
16 criminal justice, given what I think is a real rise in  
17 street crime in the 1960's and continuing into 1970, is  
18 very great. Gambling does take up the time of the  
19 courts, does take up the time of the police, does lead  
20 to corruption of the police in ways that make it diffi-  
21 cult for police to enforce laws in neighborhoods. Given  
22 the level of the problem of street crime, given the fears  
23 that so many people have of going out at night, and even  
24 during the day, it is worth considering whether one  
25 ought to get the gambling problem out of the criminal

1 justice system.

2 Q When you looked at your neighborhood concept in  
3 Los Angeles, did you also look in San Francisco?

4 A San Francisco, has had as heavy a gambling history  
5 as any city. It, of course, being an island, was to a  
6 considerable extent built up in the 19th Century, and  
7 many of the automobile neighborhoods are not in San Fran-  
8 cisco itself, but around the Bay Area, so San Francisco  
9 itself has remained very much a 19th Century city with  
10 very much the same sort of problems one would find in  
11 other cities.

12 Q Would it provide a good model to test the concept  
13 of the neighborhood environment leading to syndicated  
14 gambling?

15 A I would think so, yes.

16 MR. RITCHIE: Thank you.

17 DR. ALLEN: Any further questions?

18 Thank you very much, Professor Haller.

19 The hearing of the Commission on the  
20 Review of the National Policy Toward Gambling  
21 stands adjourned until 9:30 Thursday morning,  
22 May 29, 1975.

23 (Whereupon the hearing was adjourned at  
24 4:10 p.m.)

25 Reported By Karen D'Angelo

Mark H. Muller  
Department of History  
Temple University

GAMBLING AND URBAN NEIGHBORHOODS: A HISTORY

Testimony before the Commission on the Review of National Policy  
toward Gambling, May 28, 1975

Since 1966 I have, as a historian, been involved in a study of the history of crime in American cities during the past century. In particular, my focus has been on the history of what others have--inappropriately, I think--called "organized crime": especially gambling, prostitution, bootlegging in the 1920's, and loansharking. I have, as a historian, no particular policy recommendations--and no specific information about legal or illegal gambling in Philadelphia at the present time. As I explained to the staff who invited me to testify, my contribution might lie chiefly in providing some historical background for understanding the place of commercialized gambling in the social structure of American cities.

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

Of these, policy was the first to become syndicated. In the 18th and early 19th centuries, policy had been operated as a sideline by the lottery companies that ran money-raising lotteries for local governments and private charitable institutions. The crucial characteristic of policy,

of course, was that the customer could choose his own numbers. Another difference was that policy tickets cost less than lottery tickets, so that it already was becoming the gambling game of the poor. During this period the winning numbers in the lotteries were also the winning numbers for policy. And, although the lotteries were legal when chartered for fundraising purposes, the policy games were generally forbidden by state gambling laws.

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

The syndicate formed in 1863 soon split because of disputes among the partners. But in New York and other cities policy continued to be coordinated by financial backers who assumed the risks in return for the profits. The policy runners or writers were on a commission basis and kept a set percentage of the money bet with them each day. By 1900 in

Chicago, the seven major policy "wheels" each had well over one hundred writers to collect the bets in the neighborhoods. When, in the 1920's and 1930's, numbers began to replace policy as a popular gambling game in most cities, the syndicate structure continued.

The second type of betting to become syndicated was off-track bookmaking. In the period before the Civil War, horse racing was already the nation's leading sport, but it was largely local and occasional. Because only two horses were entered in many races, betting was between two bettors and did not require a middle man. As the old song explained, one person bet money on a bobtailed nag, and somebody bet on the bay. But after the Civil War, railroads made it possible for the same horses to race at tracks across the country, and racing became a national (and an urban) sport. Cities in the North and West had racing from spring to fall; the South had winter racing as well. To excite the new urban mass audience, racing came to consist of short sprints with a number of horses entered in each sprint. By the 1860's and 1890's, the sport entered upon what may have been its golden age in this country.

With a mass audience and with many horses entered in each race, it was no longer possible to wager privately, and middlemen became necessary to manage the betting. The traditional system had been auction pools, and these continued into the post-Civil War period. But two new systems were also introduced. One was the betting machines already used in France and called French pools or Paris mutuels (later pari-mutuel). While the machines were tried at various American tracks in the 1870's, the fans apparently found that betting with a machine was too impersonal. The second new system was bookmaking, and this system caught on, so that by the 1890's it dominated race track betting.

Many fans, however, wanted to bet even though they could not attend the races and, because racing was now national, there was a desire to bet on races in other cities. Hence the development of off-track bookmaking. For two reasons, syndicates developed. One was that the small-time bookmaker could not pay off if he received too many bets on a single horse, and he therefore needed a backer. The second reason was rooted in the communications technology. Successful bookmakers could afford to rent a telegraph ticker from Western Union and receive race results from across the country. They could then install a telephone switchboard in their horse parlors and telephone results to numerous neighborhood outlets. Thus, successful bookmakers provided financial backing and an information service and thereby coordinated dozens of neighborhood bookmakers.

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

To a considerable extent, in cities outside the old South, common Irish ethnicity tied together gambling, politics, and police. For, by

the 1890's, Irish-Americans were disproportionately involved as successful bookmakers and policy entrepreneurs--and also as urban politicians and policemen. I mention this chiefly to make clear that neither Italian-Americans nor bootlegging gangs of the 1920's created what is now often referred to as "organized crime" in American cities.

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

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

But one fact should be made clear: The period from 1870 or 1880 until about 1905 was almost certainly the high point for the influence of

illegal gambling upon American cities. With greater or lesser certainty, I would argue that three different measures lead to this conclusion. First, the decades before 1905 were the period when gambling exercised the widest impact upon local politics and criminal justice institutions. Secondly, this may have been the period when the largest proportion of the urban population engaged in illegal betting on a regular basis. And, thirdly, this appears to have been the period when successful gambling entrepreneurs had the widest concurrent investments in a variety of legitimate business ventures.

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

Some light can be shed on the nature of the current problem by examining one of the many factors that has led to the declining influence of illegal gambling on urban neighborhoods. That factor, oddly enough, is the automobile--specifically, the impact of the automobile upon residential neighborhoods of our metropolitan regions. In the neighborhoods built since World War II, the assumption has been that residents will drive in order to make purchases of food and other daily needs, and also that they will drive to places of entertainment. Hence there has been a separation of homes from commercial activity. Commercial activities have been segregated in local and regional shopping centers, and the stores are often large branches of national chains rather than marginal retail outlets. The manager of an A & P is not likely to write numbers in order to make

his store profitable. Adults who want to bet can no longer do so in the neighborhood. At work, of course, there often will be a walking bookie at the factory or a man willing to take sports bets in the cigar store on the ground floor of an office building. Bettors can also place bets by telephone to bookmakers will to extend credit. But, in either case, the old link between gambling and the neighborhood has been broken in the new automobile areas; and the structure of illegal gambling for those living in automobile neighborhoods is quite different from the structure in older neighborhoods. Today many young people grow up and go off to college without ever meeting a numbers writer or a bookmaker.

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

Cities and neighborhoods have histories; and those histories do much to explain the local structure of gambling.

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COMMISSION ON THE REVIEW OF THE  
NATIONAL POLICY TOWARD GAMBLING

PUBLIC HEARING

3306 William J. Green Federal Building  
Philadelphia, Pennsylvania

May 29, 1975

9:30 a.m.

ETHEL D. ALLEN, M.D.  
JAMES M. COLEMAN, JR., ESQ.  
THOMAS FARRELL, ESQ.  
MARILU MARSHALL, ESQ.  
JAMES RITCHIE, ESQ.

Members of the Commission

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1 MR. COLEMAN: Good morning. This is the  
2 second day of hearings held in Philadelphia by the  
3 Commission on the Review of the National Policy  
4 Toward Gambling. My name is James Coleman. I am  
5 one of the Commissioners. Senator Scott, Charles  
6 Morin, our Chairman, we except later. Dr. Ethel  
7 Allen, a member of our Commission, is tied up with  
8 City business. She is a Councilwoman in the City  
9 of Philadelphia.

10 Before we start I would briefly like to  
11 remark that the witnesses who are presenting testi-  
12 mony in this and all other hearings, those past and  
13 those who will come, may have a particular position  
14 that they urge the Commission to adopt. Following  
15 the statement remarks of the witnesses, the members  
16 of the Commission and its staff will question. The  
17 questions that are posed by any of us do not indi-  
18 cate a predisposition about the subject matter.  
19 We are in a position where we must ascertain the  
20 arguments in opposition to and in favor of legali-  
21 zation of various forms of gambling, so while our  
22 questions may appear sometimes to be pointed, bi-  
23 ased, prejudiced, or whatever, they are really de-  
24 signed to test the factual basis of the statement  
25 made by the witness. I would ask, therefore, on

1       behalf of the Commission, that you appreciate the  
2       purpose of the questioning and do not draw any con-  
3       clusions as to any predisposition on the part of  
4       any of us.

5                   The hearing will start today with Mr.  
6       Richard Thornburgh. Mr. Thornburgh was appointed  
7       the United States Attorney for Western Pennsylvania  
8       in 1969 and reappointed in 1973. He has been a mem-  
9       ber of the Attorney General's Advisory Committee of  
10      United States Attorneys since 1973, and is a fellow  
11      of the American Bar Foundation. In 1972 Mr. Thorn-  
12      burgh was named "Man of the Year in Law" by the  
13      Pittsburgh Jaycees. He has been a guest lecturer at  
14      various colleges and universities on matters relat-  
15      ing to law and the administration of justice, and  
16      last, but certainly by no means least, and probably  
17      of much more importance, he has been very recently  
18      nominated by the President of the United States to  
19      be Assistant Attorney General in charge of the  
20      Criminal Division in the Department of Justice.

21                   Mr. Thornburgh, we welcome you here.  
22       You have presented a statement to the Commission,  
23       and I assume you would like to read it in its en-  
24       tirety.

25                   MR. THORNBURGH: I would propose to do

1 so. Thank you very much, Mr. Coleman.

2 I am Richard L. Thornburgh, United States  
3 Attorney for Western Pennsylvania. I have served  
4 since 1969 as chief Federal law enforcement officer  
5 in the twenty-five counties in the Western Judicial  
6 District of Pennsylvania, headquartered in Pitts-  
7 burgh. My testimony draws on my personal experi-  
8 ences in that position and is not, in any way, in-  
9 tended to reflect an official position of the United  
10 States Department of Justice.

11 During the past five years Federal efforts  
12 against illegal gambling activities in Western  
13 Pennsylvania have been greatly stepped up in tempo.  
14 The passage of the Organized Crime Control Act in  
15 October, 1970, brought all major illegal gambling  
16 enterprises -- not just those with specific inter-  
17 state ramifications -- within the reach of Federal  
18 prosecution. A new anti-organized crime "Strike  
19 Force" became operative in the Pittsburgh area  
20 about the same time, and provided additional man-  
21 power to increase the pressure on all syndicate  
22 activity. Special grand juries, court-authorized  
23 wiretaps and the use of witness immunity laws have  
24 all been stepped up. The result has been the con-  
25 viction of those in charge of several multi-million

1 dollar gambling operations in the Western Pennsyl-  
2 vania area. These efforts, however, have also  
3 served to highlight some old questions about il-  
4 legal gambling that I would like to discuss briefly  
5 with you today.

6 One of the questions most frequently  
7 asked of those involved in the battle against or-  
8 ganized crime is "Why worry about gambling...  
9 Why not concentrate on something important?" I  
10 think this question deserves a response. I think  
11 the public is entitled to some straight talk about  
12 gambling, legal and illegal. I will try to pro-  
13 vide one law enforcement official's answers to you  
14 today.

15 First of all, it is vital that we recog-  
16 nize illegal gambling for what it is -- a big busi-  
17 ness. It is so big in terms of gross revenues that  
18 authorities estimate the annual "take" to be on the  
19 order of -- \$20 to \$50 billion per year nationally;  
20 --\$350 million per year in the Commonwealth of  
21 Pennsylvania; and -- \$100 million per year in the  
22 Greater Pittsburgh area alone. Anyone active in  
23 the business community can certainly appreciate the  
24 magnitude of these figures, and the estimated one-  
25 third net profit rake-off that syndicate gamblers



**CONTINUED**

**3 OF 7**

1 realize must fairly make their mouths water!

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

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

18           Pittsburgh numbers kingpin Tony Grosso,  
19 now serving a 10-year jail sentence following a  
20 Federal conviction, has testified that his opera-  
21 tion alone utilized as many as 4,000 to 5,000  
22 writers within the City of Pittsburgh and Allegheny  
23 County and he estimated gross play to have ap-  
24 proached \$75,000 per day in his operation -- court-  
25 authorized wiretaps put the gross revenue of the

1 Grosso business at \$30 million annually.

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

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

22 Sports-betting is similarly conducted,  
23 but is even more heavily reliant on the telephone  
24 to carry out its business. Late lineup changes,  
25 injuries to key players and just plain "hunches"

1 will alter the "line" as put out on a given con-  
2 test and must be transmitted instantaneously to  
3 permit the bookmaker to maintain his "edge" on  
4 those who bet with him. The largest sports-betting  
5 operation in our area -- a \$7 - 8 million per year  
6 business run by Robert "Bobby I" Iannelli -- oper-  
7 ated out of a phone-festooned palatial estate in  
8 Pittsburgh's North Hills area until the FBI shut  
9 it down.

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

19 So much then for a brief look at the  
20 scope of these illegal operations. What are the  
21 reasons why law enforcement officials pay heed to  
22 these operations? Is it just pious morality that  
23 leads us to be concerned with illegal gambling?  
24 Is there some streak of puritanism within the law  
25 enforcement community that causes us to want to

1 "crack down" on gambling operations? The answer  
2 is, of course, much more complex.

3 First of all, recognize that illegal  
4 gambling is the "cash register" for all organized  
5 crime operations. Nationwide, the huge amounts of  
6 profits realized from illegal gambling operations  
7 are pumped into numerous other organized criminal  
8 activities -- the purchase, importation and dis-  
9 tribution in bulk of hard narcotics, loan sharking  
10 operations at interest rates of up to 20 percent  
11 per week, systematic hi-jacking, prostitution,  
12 pornography, labor racketeering activities and the  
13 infiltration of legitimate businesses to the extent  
14 that the Pennsylvania Crime Commission -- while  
15 refusing to reveal the names of those involved --  
16 has documented over 375 legitimate businesses in  
17 this Commonwealth that are owned or controlled by  
18 racket figures.

19 Without illegal gambling's mammoth prof-  
20 its, it is likely the whole super-structure of or-  
21 ganized crime in this country would collapse.

22 But there is more. These profits are  
23 "put to work" in another way to maximize the mob's  
24 position in the community -- that is, through the  
25 systematic corruption of law enforcement officials

1 who permit illegal gambling operations to be  
2 carried on. And it is here that the syndicates  
3 exact their highest toll.

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

8 We in Western Pennsylvania know this all  
9 too well. For the most startling revelations to  
10 come out of recent Federal investigations and pros-  
11 ecutions have been those detailing the systematic  
12 and widespread nature of official corruption allied  
13 with racket activities.

14 --The Mayor and Chief of Police in Jean-  
15 nette, Westmoreland County, were convicted in 1971  
16 of receiving protection payoffs to let numbers  
17 flourish in that community.

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

22 --The District Attorney of Allegheny  
23 County was indicted in 1974 on income tax fraud  
24 charges growing out of the secret deposit of nearly  
25 a quarter of a million dollars in racket payoffs

1 into a phony corporate bank account.

2 --Last summer an Allegheny County Deputy  
3 Sheriff was convicted of collecting as much as  
4 \$3,000 per month in payoffs for the Sheriff's  
5 office from the Grosso organization.

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

10 And, regrettably, other serious allega-  
11 tions are presently under investigation by the FBI  
12 and Treasury Agents as I speak to you today.

13 It is from these disclosures that we be-  
14 gin to discover the toll which illegal gambling  
15 exacts of a community where it aspires to a "pro-  
16 tected" position. For the entire community enters  
17 a period of moral decline when its government is  
18 subverted by the mob. The classic case of Newark,  
19 New Jersey, is a grim reminder of what can happen  
20 when organized crime actually "takes over" a com-  
21 munity. There urban disorders in 1967 were di-  
22 rectly traced to the "pervasive atmosphere of cor-  
23 ruption" in that city by a special investigating  
24 committee looking into the riots. It was certainly  
25 no coincidence that within two years thereafter a

1 total of 82 Federal indictments were returned in  
2 Newark -- including the Mayor, heads of city de-  
3 partments and leading racketeers -- on charges of  
4 illegal gambling, tax fraud, bribery, extortion  
5 and conspiracy.

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

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

21 On the other hand, if the community feels  
22 that law enforcement activities against illegal  
23 gambling are not important, there is a very simple  
24 way to remove this burden from police officers and  
25 prosecutors -- de-criminalize these activities.

1 Let those who castigate law enforcement officials  
2 for "wasting their time" on gambling prosecutions  
3 divert their message to the various legislatures  
4 and seek what many nations throughout the world  
5 have provided for their citizens -- legalized and  
6 government-run gambling.

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

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

21 Traditionally, we have always insisted  
22 upon a moral basis for the elevation of anti-social  
23 activity to "criminal" status, i.e., we establish  
24 that certain kinds of activity are so immoral that  
25 we make them criminal. Today, the moral

1 underpinning for making gambling a crime is --  
2 purely and simply -- gone. No longer can we char-  
3 acterize the issue as a moral one in a state where:

4 --The state runs its own gambling opera-  
5 tions in the form of an official and highly ad-  
6 vertised state lottery.

7 --The state sanctions and promotes bet-  
8 ting on horse races so long as wagering is done at  
9 the track.

10 --State and local law officers "look the  
11 other way" while illegal bingo and lottery opera-  
12 tions are carried out by churches, fraternal organ-  
13 izations and political parties.

14 And if the moral basis for a law is  
15 eroded, there remains little to justify its con-  
16 tinued presence on the books.

17 What then does justify the continued  
18 criminal status of gambling in Pennsylvania? We  
19 know that all crime begins in the legislature --  
20 that is, nothing is inherently criminal, as dis-  
21 tinguished from immoral, but must be enacted into  
22 law. Thus, gambling is illegal simply because a  
23 majority of our legislature says it should be so.  
24 And that majority presumably expresses the will  
25 of the majority of Pennsylvania's citizenry.

1 But if that is the majority feeling -- it must be  
2 so by a mighty slim margin. For all the other  
3 citizens of this state are voting otherwise by  
4 pouring nickles, dimes, quarters and dollars into  
5 the syndicate monopolies we have created and continue  
6 to foster through our laws making gambling illegal.

7 Or is it much simpler than that? Per-  
8 haps it is just a matter of wearing our morality on  
9 our sleeve while we cheat a little here and a little  
10 there on observance and enforcement of the very  
11 laws we have enacted.

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

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

20 The Historian Danial Boorstin has noted:  
21 "Americans' desire to gamble has been equalled only  
22 by their desire to see that gambling was legally  
23 forbidden." Until this "moral schizophrenia" is  
24 resolved, major numbers and sports-betting  
25 operations will remain an illegal monopoly in

1 this Commonwealth and will continue to operate as  
2 the "cash register" for racket operations.

3 So long as they do, and so long as Fed-  
4 eral prosecutions can be brought against syndi-  
5 cated operators under the Organized Crime Control  
6 Act and other laws, we shall continue to vigorously  
7 pursue these activities and attempt to dig out the  
8 mob's influence in Western Pennsylvania communities,  
9 root and branch.

10 We would hope to count on increasing  
11 support and interest of the community in these  
12 activities, for while these activities remain il-  
13 legal, we think the investigation and prosecution  
14 of them is important.

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

17 MR. COLEMAN: Thank you, Mr. Thornburgh.

18 Before we commence questioning, I think  
19 we should note the appearance of the people sitting  
20 here. On my immediate right is James Ritchie, who  
21 is the Executive Director of the Commission. On  
22 my left is Miss Marilu Marshall, the Associate  
23 Director; Tom Farrell, the Associate Counsel of the  
24 Commission.  
25

1 BY MR. COLEMAN:

2 Q Mr. Thornburgh, I have a technical question, per-  
3 haps. In part of your presentation you talked about  
4 the lengths to which organized crime numbers activity  
5 might go, particularly as rigged numbers. How would  
6 that be accomplished, assuming they are playing on a  
7 race-track handle figure or treasury balance, or what-  
8 ever? You apparently have some information of that.

9 A Yes. In the greater Pittsburgh area the numbers  
10 are placed in five so-called houses. Two of them relate  
11 to the stock figures. Advances declines and unchanged  
12 figures are published in the morning newspaper, and of-  
13 ficially verified by the Wall Street Journal figures.  
14 Two of them relate to pari-mutuel handles at tracks which  
15 are designated from time to time and, again, published  
16 in the morning newspaper and subject to official verifi-  
17 cation in The Morning Telegraph. The fifth house is a  
18 combination stock figure, the two added together, with  
19 the fourth figure to the left dropped. So you have five  
20 houses that can be bet.

21 We had an experience about two years  
22 ago where an employee of the morning newspaper was  
23 reached and induced to change the final figures that  
24 came out in the newspaper so that if there had been no  
25 verification made independently by an

1 individual with what the Wall Street Journal figures  
2 were, there could have been either payoffs on that  
3 rigged number or no payoff on the official number in  
4 the final analysis. This is one specific instance that  
5 I am speaking of; but we are informed through testimony  
6 and interviews with those who have been convicted and  
7 subsequently obliged to testify through grants of in-  
8 munity that this is not an infrequent type of activity,  
9 particularly where there is a big hit. It isn't fool-  
10 proof by any means, because there are various sources  
11 for these figures, but it does have the effect of re-  
12 ducing the losses that might be suffered by the house,  
13 where a particularly heavy play was on a number that  
14 was the official hit.

15 Q In the mention of Robert Iannelli, which apparently  
16 was a bookmaking operation, was there a Federal prosecu-  
17 tion there?

18 A There was a Federal prosecution of Mr. Iannelli,  
19 his wife, and seven other members of their organization.  
20 It was the first use of court-authorized wiretaps in  
21 Western Pennsylvania, and resulted in the conviction of  
22 all but one of the defendants. Iannelli is now serving  
23 a 3-year jail sentence.

24 Q That was a sports-betting operation?

25 A Yes.

1 Q Not horse bookmaking?

2 A Due to the time of the season when the wiretap was  
3 on, it was largely football, pro-football betting; but  
4 we subsequently learned that they booked year-round on  
5 professional events. In fact, Mr. Iannelli is under  
6 indictment again on a subsequent operation that he  
7 carried on while out on bail pending his appeal, which  
8 bail was revoked at the time he was discovered to have  
9 been continuing in the business. That was a baseball  
10 operation, so that this was a year-round operation.

11 Q In the figure of \$100 million which you set in the  
12 greater Pittsburgh area alone, are you able to tell us  
13 your opinion how that's split? In other words, would  
14 the larger share be sports-betting and then numbers  
15 second?

16 A Obviously, these guys don't publish Profit and Loss  
17 statements and balance sheets, but we have had the ad-  
18 vantage of evidence plus rather substantial cooperation  
19 from Mr. Grosso following his conviction. He is still  
20 serving that sentence, to allay any fear that that coop-  
21 eration might have been rewarded by his being sprung, but  
22 I think he did make a determination that the only way he  
23 was going to help himself was to be of assistance to the  
24 Government, and he has provided substantial insight into

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1 the numbers gambling operations in the greater Pitts-  
2 burgh area where he has been the acknowledged master  
3 practitioner of the art, if you will, for the past 25  
4 years or so.

5 The figures on numbers, the \$30 million  
6 a year from the Grosso operation, is almost like a  
7 P & L figure. It is substantiated not only by the wire-  
8 taps and extrapolations from the period in which they  
9 were on, but by Mr. Grosso's own testimony and the books  
10 and records of that business.

11 The \$100 million figure, I would say,  
12 is based on just an informed guess. You could probably  
13 break that down about 55 percent - 45 percent with the  
14 heavy side on the numbers. Numbers in the Pittsburgh  
15 area is a substantial operation. The number of players,  
16 bettors, involved in sports-betting is substantially less,  
17 but the bets are of a much higher magnitude. As high  
18 as \$25,000 have been handled on intercepted conversa-  
19 tions, in the Pittsburgh area. But, again, I wouldn't  
20 want to be held to the complete accuracy of those figures.

21 Q You have also mentioned the Grosso conviction, and  
22 from what we have learned over several months, some of  
23 us having been also in law enforcement, there apparently  
24 is some feeling that basically throughout the United  
25 States the gambling sentences are not very severe.

1 This appears to be a rather substantial sentence. Was  
2 that based partly on some prior record that was brought  
3 to the attention of the Court?

4 A Well, our experience in Western Pennsylvania has  
5 been somewhat contrary to your observation about sentenc-  
6 ing. We have gotten what I think I would characterize  
7 as appropriate sentences for large-scale gambling opera-  
8 tions. I think the Grosso 10-year sentence is probably  
9 as long a sentence for a bookmaking conviction in Fed-  
10 eral Court as has been imposed.

11 There were fifty-five defendants in the  
12 Grosso case. Seven of those were on the executive level,  
13 down through probably the vice-president level, if you  
14 want to make it equivalent to a business corporation.  
15 The executive vice-presidents, again, if you will, by  
16 analogy, received sentences that were rather stiff as  
17 well. Mr. Grosso's brother, Sam, received a 6-year sen-  
18 tence. Three women were involved with the transmission  
19 of gambling information, two of them grandmothers -- I  
20 suppose this is a blow for Women's Liberation -- they  
21 got 3-year jail sentences, so there was no discrimina-  
22 tion in their favor.

23 The sentences of those who were not  
24 jailed were such that the probationary terms included  
25 a specific provision prohibiting these probationers

1 from going back into the gambling business. We have  
2 had four separate cases where they didn't take the  
3 judge at his word and again went back into the business  
4 and they are now in jail, so even the probationary sen-  
5 tences have had a salutary effect in deterring these  
6 individuals from further participation in the illegal  
7 gambling business.

8                   So, taking into account, as one must,  
9 the fact that Federal prosecutions are supposed to be  
10 zeroing in on major violators, I can't express any dis-  
11 satisfaction with the sentencing patterns that have  
12 developed in the Western District of Pennsylvania.

13 Q   Following this conviction of a person who obviously  
14 was the, if not one of the, kingpins in this so-called  
15 business, -- when was the conviction, by the way?

16 A   The conviction was in June of 1973, and he was im-  
17 mediately jailed, so he has been in jail now for upwards  
18 of two years.

19 Q   Based upon your knowledge now, what effect has that  
20 had on this type of activity? In other words, have the  
21 numbers been abated?

22 A   I would have to be totally candid in that respect.  
23 That effect of the Grosso incarceration and the disa-  
24 bility of the top people in the organization disrupted  
25 that organization substantially. There is no question

1 about that; but the fact of the matter is that there  
2 are two sides to this equation. Law enforcement can  
3 only deal with the supply side, and even if you put  
4 every last identified numbers kingpin around in jail  
5 under some disability, there is still the demand side  
6 to deal with, over which law enforcement has no hold.  
7 That is to say, people are going to play numbers. They  
8 are going to bet on sporting events, and they are going  
9 to find somebody who is going to book those bets. That's  
10 the experience in Pittsburgh. There has been, to be  
11 sure, some fall off in the volume, I am sure, simply be-  
12 cause of the inconvenience of having to find a new num-  
13 bers writer or a new bookie; but it certainly has not  
14 been a deterrent in terms of the players themselves.  
15 First of all, as we know, they commit no crime and  
16 have no criminal sanctions imposed on them for placing  
17 bets; but it has disrupted the organization and the flow  
18 of funds, the orderly flow of funds, into the treasury  
19 of the syndicate in the Pittsburgh area.

20 Q One more question, and then I will pass along here.  
21 We have heard testimony, Mr. Thornburgh, from local of-  
22 ficials and from State and Federal officials, a great  
23 many feeling, particularly in this field of activity,  
24 illegal-legal numbers, that the arrest, continual arrest,

25

1 of so-called street people runners really has little or  
2 no effect, but based on what you told me and what may  
3 not be so, isn't it a fact that locking up the higher  
4 people may temporarily disrupt or destroy, but the  
5 street people are still there, aren't they?

6 A Yes, they are.

7 Q The sellers.

8 A No question about it, and I think a study done by  
9 the Pennsylvania Crime Commission, to which I hope you  
10 either have access or will get access, of sentencing  
11 patterns by judges in the Court of Common Pleas in Alle-  
12 gheny County indicates that these repeaters come back  
13 time after time after time with no real sanction imposed  
14 on them. Unfortunately, there is no real effort on the  
15 part of local prosecutors to run out the string to go  
16 up the ladder rung by rung, to determine where the locus  
17 of power is within a particular organization. Lest that  
18 sound critical in gross of local prosecution activities,  
19 I think the problem is they simply don't have available  
20 to them, with all the demands that are made with respect  
21 to the problem of street crime the resources in terms of  
22 skilled investigators and prosecutors who can devote the  
23 time to knocking down one domino after another until you  
24 reach the Grossos, and the Grossos are the proper focus  
25 for the type of

1 Federal activity that we have undertaken, if indeed  
2 there is to be that kind of effort put on illegal gam-  
3 bling.

4 Q The Grossos couldn't work without the people in  
5 the street?

6 A They couldn't really work without the people in  
7 the street. My own personal feeling, I must say, has  
8 been that our desire has been not so much to put the  
9 people in jail for gambling but to get them the hell out  
10 of the business. That's been accomplished in some re-  
11 spect by a monitoring process on probation. What happens  
12 at the State level, if I may for a moment -- to my obser-  
13 vation -- is that street writers will be put on probation,  
14 and even in many cases adjured to get out of the business,  
15 and they go right back in the business, and they are ar-  
16 rested a week later, and there is never any attempt to  
17 revoke their probation. I think a judicious revocation of  
18 probation and the reinstatement of a suspended sentence  
19 would have some kind of deterrent effect. Although I  
20 don't know that it is really in society's best interest  
21 to fill up the jails with street writers, I think some  
22 expectation that they might actually go to jail if they  
23 persist and continue in their operations would be worth  
24 a try in terms of increasing the deterrent effect of the  
25 laws that are on the books, if they are to remain there.

1 MR. COLEMAN: Thank you Mr. Thornburgh.  
2 Mr. Ritchie?

3 MR. RITCHIE: Thank you.

4 BY MR. RITCHIE:

5 Q Mr. Thornburgh, just for a moment, to engage in sort  
6 of strategies of law enforcement within your experience,  
7 would you agree that the basic responsibility for en-  
8 forcing the gambling laws or anti-gambling laws are  
9 those of the States as opposed to Federal Government's?

10 A Yes, I think so. I think the Federal Government's  
11 role in this area relates to its concern with organized  
12 crime and its interstate and international ramifications.

13 At the other end of the operation, at  
14 the street level, there is not much sense in involving  
15 the Federal Government's vast apparatus of experts, in-  
16 vestigators, and prosecutors in that day-to-day opera-  
17 tion, but the two have to be interconnected and inter-  
18 twined in some way. They can't go about their business  
19 separately.

20 We have had in our area a great deal of  
21 cooperation and a good deal of joint undertaking with  
22 some state and local agencies -- not, of course, the ones  
23 I have mentioned that were found to be on the take.  
24 which is a substantial problem. As you know, Mr.  
25 Ritchie, you have

1 to carefully assess with whom you are going to share  
2 intelligence information and with whom you are going to  
3 undertake joint operations. I think that, in the best of  
4 all worlds, a cooperative effort of pressure from one  
5 end by local authorities on the street operations and  
6 pressure from the other end on the business suite opera-  
7 tions by the Federal Government should end up meeting  
8 somewhere in the middle and exert a maximum amount of  
9 pressure on illegal gambling operations.

10 Q Well, in line with that particular policy judgment,  
11 which is essentially what that is, we have been told by  
12 officials of local law enforcement that they believe,  
13 not all, but some, gambling laws are totally unenforce-  
14 able and have led to serious corruptive influences within  
15 their own organizations, which they are incapable of  
16 dealing with under the present judicial system or the  
17 present criminal system. If that were a conclusion  
18 after the research was completed that this Commission  
19 would make, that local law enforcement, meaning state  
20 and city levels, were incapable of coping with this  
21 problem with their present resources, would you support  
22 a recommendation that the Federal efforts be increased  
23 substantially; to wit: the Federal Government become  
24 more involved in this type of enforcement? I am not  
25 asking you to commit yourself to the future.

1 A There are a lot of "iffy" propositions there. I  
2 think at bottom my answer would have to be "no." I  
3 don't look with particular favor upon the Federal Govern-  
4 ment encroaching into so-called local law enforcement  
5 areas in any respect. I think there is a special role  
6 that the Federal law enforcement apparatus can play and  
7 can play effectively; but the idea of some national  
8 police force running down bookmakers or numbers writers  
9 in every major metropolitan area of this country does  
10 not sit well with me.

11 I recognize, as you do, I am sure, that  
12 the present major Federal weapon in dealing with illegal  
13 gambling Section 1955 of Title 18, rests on a premise  
14 that that gambling is illegal under State law. One  
15 of the triggering modes for Federal involvement is that  
16 the gambling operation is illegal under State law. It  
17 seems to me that, if indeed there is a conclusion of  
18 some weight that these laws are unenforceable, the logical  
19 and only proper response is not to not enforce them but  
20 repeal them, because to me there is nothing more degen-  
21 erative of the process of respect for our system of law  
22 than laws that are on the books that are not being en-  
23 forced. I think if the determination that you outlined  
24 is ultimately arrived at, then, a very careful examina-  
25 tion would have to be made of the laws, of the propriety

1 of the laws, in the first place. I think one has to  
2 accept the judgment that is made by those operating at  
3 the street level. I can't quarrel with the testimony.  
4 I don't have the expertise myself to evaluate that; but  
5 I am certainly in no position to quarrel with that fact.

6 Q Many of these same officials have proposed that  
7 gambling be legalized, the legalization being utilized  
8 as a tool against organized crime, believing that legal-  
9 ization per se, assuming it were competitive with the  
10 illegal market, would ultimately derive or deprive rev-  
11 enue that presently goes to organized crime from organized  
12 crime. Now, countering that, we have the exact opposite  
13 argument offered by other law enforcement officials  
14 that you must prohibit gambling, because that is the  
15 most effective tool against organized crime.

16                   Could you share with us any thoughts you  
17 might have as to paths of inquiry that this Commission  
18 might follow to appropriately resolve which of those  
19 two viewpoints, if either one, might be more correct?

20 A Well, I would have two observations in that respect.  
21 First of all, I think the key insertion in your posing  
22 the question is the assumption that legal gambling can  
23 compete and override mob-dominated monopolies in numbers  
24 and sports-betting. That's an assumption that has to be  
25 tested somewhere along the line. It's quite clear that

1 one basic element of the noncompetitive nature of State-  
2 run gambling at the present time is that the tax is  
3 punitive. It's no secret that people who win in the  
4 numbers and illegal sports gambling operations many times  
5 do not report that on their Form 1040, while the State  
6 operations are open to the tax-gatherer's view. That  
7 seems to me to be one very crucial area that has to be  
8 looked into. Is it feasible, as I understand it, is done  
9 in some other countries, to provide some form of tax  
10 credit or some form of nonrecognition of income on gam-  
11 bling winnings? And what effect does that have on the  
12 moral tone of this nation when you say to a taxpayer,  
13 "You can go out and work by the sweat of your brow and  
14 bring home a paycheck, and we are going to grab this much  
15 of it by way of income tax," and then you say, "But if  
16 you go out and gamble and happen to hit it lucky, we are  
17 not going to tax you."? It seems to me there is a little  
18 topsy-turvy feature to that.

19                   The second observation or suggestion  
20 that I might make, and I obviously am not in any way in-  
21 formed in this, but my understanding is that in most of  
22 the western world, the United States excepted, there are  
23 State-run gambling enterprises of various kinds and  
24 forms, and there is very little syndicated illegal gam-  
25 bling in those countries. If that is the case, it

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1 suggests to me an answer to the first line of inquiry,  
2 indeed that

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1 one can devise a means of running the mob out of busi-  
2 ness through some kind of legal operation.

3 Those are hypotheses that would have to  
4 be tested by the facilities that you have available to  
5 you. I think it would be a worthy line of inquiry.

6 A point that I think is important and  
7 that I and an, of the law enforcement people that appear  
8 before you have to be very careful about is that it is  
9 not a proper determination for us to make. We are sworn  
10 to enforce the laws that the legislative bodies enact as  
11 the will of the people, and my own personal feelings  
12 about gambling's worth or lack of worth to the community  
13 are relevant only in determining priorities of the use  
14 of resources at my command. I don't think that law en-  
15 forcement officers have any monopoly on valued views  
16 about whether gambling is a good or bad thing. and I  
17 would caution not only all of us but all of you to  
18 keep that in mind when making your ultimate recommenda-  
19 tions.

20 The matter of gambling's status in our  
21 society is a very involved question, a social question,  
22 a cultural question, a philosophic question, a religious  
23 question, as the material that your Commission has pre-  
24 pared as background material indicates, and there is no  
25 monopoly on the right view from the point of view of law

1 enforcement officials. I think we can give you facts,  
2 but I am not quite sure our views with respect to wheth-  
3 er or not it's a good idea to have gambling made legal  
4 or illegal from an abstract point of view have all that  
5 worth.

6 Q Two questions, Mr. Thornburgh, regarding your posi-  
7 tion presently as the chief law enforcement officer in  
8 your Federal Judicial District and your respected posi-  
9 tion as the chief law enforcement official of the Crim-  
10 inal Division of the Department of Justice. Do you be-  
11 lieve it would be appropriate for you to voice an opin-  
12 ion about whether or not the laws that certain policy-  
13 makers have enacted to be carried out by your office  
14 should be questioned at all?

15 A I don't think it would be proper for me to express  
16 that kind of view in the abstract, as I indicated. My  
17 views would be relevant in terms of what kind of re-  
18 sponses could be forthcoming as dictated by a change in  
19 policy by the legislative policymakers. That is to say,  
20 I can respond with views on what effect it might have on  
21 Federal law enforcement in other substantive areas if we  
22 did not have to enforce the gambling laws. I can respond  
23 to what effect it would have if, as you suggested as a  
24 possibility, an increased Federal involvement were to  
25 be undertaken

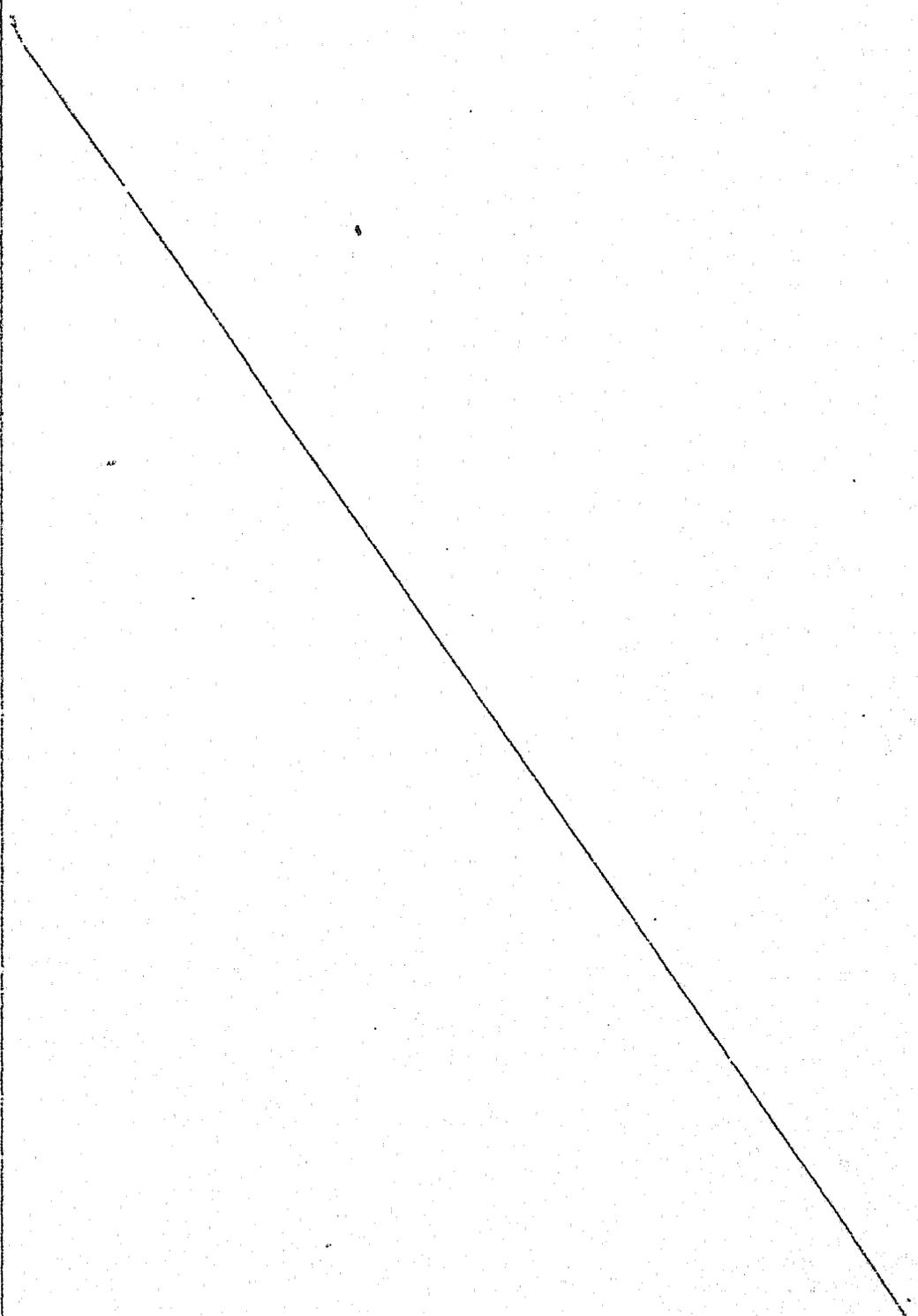
1 in the gambling area; but as to the propriety of the  
2 legislative bodies or this Commission or any policy-  
3 making body changing the law substantively, I think the  
4 only input that we as law enforcement officials in  
5 either position could have is the type of input I have  
6 tried to give you this morning to indicate that it is  
7 not simply a matter of gambling; that because gambling  
8 is illegal and because it is a monopoly of the organized  
9 crime syndicates and because it is a source of front  
10 money for a number of very serious, by common definition,  
11 "criminal activities," it is a proper concern at the pres-  
12 ent time for us to be undertaking.

13 My own views on gambling are really  
14 kind of irrelevant. I don't gamble, but it's not be-  
15 cause of some moral commitment. I am just too cheap to  
16 gamble. I don't like the odds. It's like the old car-  
17 toon during the 20's of the guy going into brokerage  
18 house and asking the broker "Where are the customers'  
19 yachts?" It's the bookmakers and those involved in the  
20 operation who are the guys wearing the \$300 suits and  
21 driving the Cadillacs and owning the palatial estates.  
22 It's only once in a while that somebody hits big on the  
23 numbers.

24 Q You don't believe the casinos in Las Vegas were  
25 built by charitable institutions?

1 A No, I am afraid not.

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1 Q Do you agree the issue of Federal taxation of gam-  
2 bling winnings as an income is such a basic determina-  
3 tion that unless that particular policy were changed,  
4 any form of legalization that might be enacted by the  
5 states would doom our Federal Government to be noncom-  
6 petitive and fall and thus should be discouraged?

7 A I would be telling you more than I know if I were  
8 to give you a "yes" or "no" answer to that. I think it's  
9 clear it is a major consideration that has to be worked  
10 out. Again, I think the experience of other countries  
11 in this regard might be useful but it is clear, I think  
12 logic tells us, if a man can play two identical lot-  
13 teries and he is going to be taxed on the winnings of  
14 one and not taxed on the winnings of another, then it's  
15 fairly obvious which one he is going to participate in,  
16 irrespective of what minor edge in terms of maybe a 700  
17 or 800 to 1 payoff or other types of conveniences, such  
18 as not having his bookmaker run out of business by a  
19 police raid, might provide as an incentive to playing the  
20 legal lottery. I think that is a major consideration  
21 that would have to be worked out. Whether it's total  
22 factor or not, I don't really know.

23 Q If I might then go back to your observation about,  
24 in particular, legal gambling operations, yesterday we  
25 had officials from Philadelphia, not from Pittsburgh, of

1 local law enforcement who testified that 90 percent of  
2 the arrests that were made locally were for illegal  
3 lottery or numbers, and that in none of those cases was  
4 there a connection to organized crime, and in the judg-  
5 ment of the prosecutor it was sufficient to be brought  
6 to the attention of the Courts. Thus there was a con-  
7 clusion that these cases were not "significant" by one  
8 person's definition to the Court system. Is that a view  
9 you would share or believe is shared in the Pittsburgh  
10 area by local law enforcement?

11 A As I indicated, I don't think in our area anybody is  
12 in a position to make that determination We have in Alle-  
13 gheny County, which is the greater Pittsburgh area, 116  
14 separate police forces, the vast majority of which have  
15 10 or less officers. They are hard pressed to provide  
16 the patrol and service functions that are the basic police  
17 work required, let alone engage in any kind of concerted  
18 activity against numbers writers. There is no coordina-  
19 tion among those units. As indicated by my testimony,  
20 there has been an effective and successful attempt to  
21 systematically corrupt all of the county-wide enforce-  
22 ment agencies, county detectives, the sheriff's office,  
23 all except the county police, which, up until a couple of  
24 years ago, was told not to pay any attention to numbers  
25 operations but to guard the parks and the tunnels and

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1 airports. There is no effective anti-organized crime,  
2 anti-gambling activity, in the greater Pittsburgh area  
3 worthy of the name, although the City of Pittsburgh  
4 police force in recent years has established a fairly  
5 effective organized crime division which has done some  
6 work. I mentioned that as a preface only to indicate  
7 that I don't think people who are engaged in that type  
8 of enforcement activity are well served by a district  
9 attorney's office which is only part time. Other than  
10 some L.E.A.A. specially-funded operations, there are no  
11 full-time prosecutors in our Pittsburgh area. As a con-  
12 sequence, the continuum of illegal gambling is never  
13 examined. You have a series of numbers writers, street  
14 writers, housewives or elderly people who appear seriatim,  
15 and no attempt is ever made to establish what position,  
16 if any, they do occupy within the hierarchy of a Grosso  
17 organization, but we know damn well from Tony Grosso's  
18 own mouth that he had from 3,000 to 5,000 operators in  
19 a float around the greater Pittsburgh area. I warrant  
20 that when any of those 3,000 ro 5,000 people were pro-  
21 cessed through the local courts, they were characterized  
22 in much the same manner you indicated the characteriza-  
23 tion was made of these Philadelphia people.

24 Q Well, utilizing the term that I used yesterday just  
25 to be consistent, without looking for Joe Bananas and

1 his operation, there was testimony that fines were paid  
2 by someone other than the defendant; that the odds in  
3 Philadelphia were 400 to 1 as opposed to the 600 to 1,  
4 which would appear that all of Pittsburgh should come  
5 to Philadelphia, or vice versa; but this did not, in the  
6 witness' judgment, constitute an indication of organiza-  
7 tion.

8                   In your experience, would you tell us  
9 whether or not you agree or disagree with that?

10 A     Well, I don't think there is such a thing to my  
11 knowledge, but I certainly can't speak with respect to  
12 Philadelphia or Chicago, or wherever. I am talking about  
13 Western Pennsylvania. There is no such thing as an in-  
14 dependent book. That is a justification that is some-  
15 times thrown out by people who lack the resolve or the  
16 resources to take this on in their community. The so-  
17 called independent book relies on the syndicate for a  
18 layoff, if for nothing else, to reinsure those bets where  
19 he may be exposed. Now, if that is the only contact they  
20 have with the organization, it is a very significant con-  
21 tact, because without that access to the layoff, the so-  
22 called independent book would have to fold up.

23                   In my experience, in the population cen-  
24 ters of Western Pennsylvania these operations are a true  
25 monopoly of the organized crime syndicates, which I

1 recognize is a term that has some flair to it; but it's  
2 a business operation. It's a monopoly business, and  
3 these guys are businessmen, and they control their busi-  
4 ness operation. They franchise the operators. They do  
5 provide lawyers and bondsmen, pay the fines, take care of  
6 the lame, the halt and the blind, aid the wounded in bat-  
7 tle, and exert the ultimate policy-making power over what  
8 kind of an operation is carried on in numbers, sports-  
9 betting. or a'y other kind of an operation. I have ab-  
10 solutely no doubt about that, based on my involvement over  
11 the last six years in major prosecutions of large-scale  
12 illegal gambling operations. There is simply no such  
13 thing as a "mom and pop" operation which stands alone and  
14 survives as a bastion of free enterprise; albeit illegal.  
15 They are all tied in with the larger operations.

16 I think the point that must be realized  
17 is that there is a vast public relations effort on the  
18 part of the syndicates to make it appear that these  
19 people at the lower level are indeed individual practi-  
20 tioners and have no tie to the bad guys, the guys in the  
21 dark hats, but it just "ain't" so.

22 Q Mr. Thornburgh, again, going now from your observa-  
23 tions about the existence of the criminal syndicates and  
24 looking at the manners or the strategies which have been  
25 employed by your office specifically of selecting out

1 the leaders and going after those persons, I am reminded,  
2 as I am sure you are aware of, the views of Mr. Richard-  
3 son when he was the Attorney General. He posed the ques-  
4 tion of the efficiency of selective prosecution, com-  
5 pared it to the Board of AT & T and said, "If you remove  
6 all of these people, put them in jail, the question is  
7 what have you done to the organization? Have you made  
8 it more efficient or less efficient?", and the bottom  
9 line question is: comparing it to the telephone company,  
10 have you disrupted the service?

11 In your judgment, utilizing the criminal  
12 statutes which Congress has presently given the Federal  
13 Government, is that an effective method of eliminating  
14 these organizations as criminal syndicates or must other  
15 strategies be investigated? By that I mean utilizing  
16 perhaps a civil sanction as opposed to criminal sanc-  
17 tions.

18 A Well, as you know, there are substantial civil  
19 sanctions already being utilized in the form of the in-  
20 come tax laws. When we complete a criminal prosecu-  
21 tion, for example, based on a Court-authorized wiretap,  
22 we secure an order from the Court authorizing the trans-  
23 mittal of that data to the Internal Revenue Service,  
24 which uses it as a basis for a tax assessment and the  
25 collection of income tax from that operation. That's a

1 kind of civil sanction that can be imposed. Any other  
2 kind of civil sanction, I think, based on my not-too-  
3 complete thinking, is really kind of a licensing provi-  
4 sion. You are collecting something to permit people to  
5 stay in business.

6 I don't know. I haven't really thought  
7 that much about it. I do think that, in terms of the  
8 overall structure of organized crime, not just gambling  
9 but the entire gambit of their operations, successful  
10 and aggressive prosecution of major gambling figures,  
11 the Chairman of the Board and his coterie, and the im-  
12 position of appropriate sentences does have the effect  
13 of disrupting the operations, does have the effect of  
14 upping the ante, if you will, for participation in these  
15 types of those activities, and I would hope has a ripple  
16 effect on the other kinds of operations that organized  
17 crime is engaged in.

18 Again, there is no way to demonstrably  
19 prove this beyond a reasonable doubt, because we do not  
20 have access, except in rare cases, such as Grosso, to  
21 what the real books of the syndicate show. I think it's  
22 important that that question be asked in your travels  
23 about the country of other Federal prosecutors, and I  
24 for one would be interested in what your final determina-  
25 tion is, based on candid responses that you get, because

1 if it is having no effect, then we ought to do some real  
2 thinking in terms of priorities that are, I think, a  
3 proper concern to the Department of Justice. However,  
4 I am not prepared to say that at this time.

5 Q Your experience as a judiciary in imposing the types  
6 of sentences that you brought to the attention of the  
7 Commission would appear to be somewhat unusual. There  
8 are some districts that, because of the hypocrisy of  
9 certain legal exemptions, Courts, really cannot distin-  
10 guish between a numbers seller and a licensed lottery  
11 agent and a legal off-track New York bookmaker and an  
12 illegal off-track New York bookmaker. Consequently,  
13 jail sentences are not being imposed. There is a type  
14 of exercise which has been brought to the attention of  
15 the Commission of tremendous resources being utilized  
16 to investigate, prosecute, and ultimately convict Court-  
17 imposed fines which are almost predestined, according to  
18 the defendants which are interviewed, and a licensing  
19 fee, which is past along to their customers, and really  
20 no deterrent sentencing. Now, I am not saying this is  
21 a fact. I am saying this has been brought to the atten-  
22 tion of the Commission. Would you favor the Commission  
23 considering recommending to Congress some type of manda-  
24 tory minimum sentencing for recidivists in the gambling  
25 area or do you believe that might be a further millstone

1 around the necks of the Courts in prosecuting?

2 A Well, the area of minimum mandatory sentences is a  
3 tough one. It's a mixed bag. There are, on the one  
4 hand, strong arguments to be made that because of the  
5 types of phenomenon that you have noted, not only in  
6 gambling but in other areas, there may be a complete  
7 failure of the deterrent value of the criminal justice  
8 system because of so-called light sentences, lenient  
9 sentences, and that area of discretion on the part of  
10 the Courts should be cut down.

11 On the other hand, there is the school  
12 of thought that says that juries and judges are going to  
13 be less likely to convict if they know a minimum manda-  
14 tory sentence is in the offing, simply because there is  
15 no opportunity to ameliorate a particular situation,  
16 and I have some reason to believe there is some validity  
17 to this.

18 We must, I think, also recognize that we  
19 are sentencing offenders and not offenses. There may be  
20 some situations, particularly in the area of violent  
21 crimes and repeat offenders, which while not the sub-  
22 ject of your inquiry, afford much greater opportunities  
23 for minimum mandatory sentencing, than there is in this  
24 area. I don't know how to account for the sentencing  
25 practices in Western Pennsylvania.

1 Let me just touch on that for a second.

2 Q Certainly.

3 A Maybe it's because we are the land of the coal mines  
4 and steel mills, and we play hard ball in every respect  
5 in Western Pennsylvania. You may be interested to know  
6 that it has been the invariable practice of my office to  
7 make no recommendation with respect to sentencing in any  
8 case whatsoever. We simply will not take a position,  
9 because I think that's the problem of the Court. We  
10 have good judges, and I trust their discretion. We are con-  
11 tent to abide by our role as investigators and prosecutors  
12 and leave the sentencing to the Court. Ironically, that  
13 has produced what I would deem satisfactory and appro-  
14 priate sentencing in organized crime cases. At the time  
15 of sentencing we will bend every effort to indicate to  
16 the Court, not only through the probation office pre-sen-  
17 tence reports but on the record at the time of senten-  
18 cing, those special facts which relate to the individual  
19 involved and his status, based on our investigation, within  
20 the hierarchy of organized crime, which we feel are ap-  
21 propriate. Those are factual matters which we are  
22 making available to the Court for its use or nonuse as  
23 they see fit, but we simply will not go in and ask for  
24 a jail sentence, or whatever, in any case.

25

In a situation where you can manage your

1 caseload, I would recommend that to every prosecutor in  
2 the United States. I am cognizant of the fact that, be-  
3 cause of the tremendous caseload that exists in major  
4 metropolitan areas, and certainly we are aware of  
5 Philadelphia's quandary in that respect, plea bargaining  
6 and recommendations to the Court are things that has  
7 to be done. It's a regrettable thing, because in my  
8 experience, in the luxury of being able to handle our  
9 caseload in such a way that we carry out our function  
10 and let the Court carry out their function, I think it  
11 heightens the respect of the public for the process of  
12 the criminal justice system. It has been very satis-  
13 factory to us and, parenthetically, has produced sen-  
14 tences in organized crime cases that I think have been  
15 highly appropriate.

16 MR. RITCHIE. Mr. Coleman, if I may just  
17 indulge, it's only my respect for Mr. Thornburgh's  
18 views that leads me to take so much time. I have  
19 one last inquiry.

20 Q The new statute created by the 1970 act of the in-  
21 trastate gambling, the IGB or the 1955 statute, has been  
22 criticized in some quarters because it was utilized in  
23 the judgment of the Courts against low level operatives  
24 who were targets of first opportunity. It seems con-  
25 sistent that when there is a connection to a criminal

1 syndicate that appropriate sentences are always given.  
2 Judges respond to that but feel they are being taken  
3 advantage of by certain prosecutive forces that deal  
4 with a lower level. Would you favor some type of spe-  
5 cial offender provision that would insure that that  
6 particular statute was utilized against organized crime?  
7 By that I mean some type of a causal connection between  
8 the organization alleged in the indictment and a crimi-  
9 nal syndicate as a method to alleviate this particular  
10 problem from at least isolated instances or perhaps  
11 general instances of prosecution views?

12 A How do you define "organized crime"? I have never  
13 seen a satisfactory legal definition of organized crime.  
14 I know within the last three or four months, I believe,  
15 the Court of Appeals of New York declared a state stat-  
16 ute unconstitutional because it attempted to use "organ-  
17 ized crime" as a term of art, stating that the term in  
18 and of itself was vague, and a statute that related  
19 criminal offenses to that term was found unconstitutional  
20 because of vagueness. I think you have to rely in those  
21 areas, in the use of the IGB 1955 statute, on the integ-  
22 rity and the good sense of the investigators and pros-  
23 ecutors. You have to rely, as I hope we can, that they  
24 are not engaged in some numbers game of their own; a  
25 statistical race to the swift of compiling statistics

1 for public and congressional consumption really has no  
2 relationship to the real impact of what the prosecutive  
3 activities are, and I am bound to say my experience with  
4 United States Attorneys and Strike Forces indicates in  
5 the vast majority of cases there is an eye on the major  
6 syndicate figures. Sometimes it is necessary to deal  
7 with prosecutions that involve very low level people in  
8 order to get on the ladder at some rung. You can't al-  
9 ways get on the ladder at the next rung to the top. The  
10 familiar process of conviction and utilization of testi-  
11 mony of those convicted to go one step higher must oc-  
12 casionally begin at a very low level.

13           Again, I think it's probably a lack of  
14 appreciation for the continuum of the operation that  
15 leads judges, commentators, defense counsel, and  
16 others to be critical of particular prosecutions for in-  
17 volving minor figures when, in fact, it may be the first  
18 step on a major investigation into a large-scale syndi-  
19 cate operation. There are mistakes of judgment, to be  
20 sure. We are all human. I have made my share of them,  
21 I am sure; but I would like to think and I would certain-  
22 ly hold to a standard that those types of prosecutions  
23 should be undertaken not to compile statistics but to  
24 keep a consistent route of investigation and prosecution  
25 going toward the real kingpins of those operations.

1 Q Assuming there is an efficiency in judicial aware-  
2 ness, would you favor some type of presentencing program  
3 that would educate them, even though this is the bottom  
4 rung, only for sentencing purposes?

5 A Yes. In fact, as I indicated, that's the type of  
6 effort that we undertake in cases like that, to educate  
7 the judiciary. I have told my assistants on more than  
8 one occasion when a sentencing of this type of case comes  
9 up, they ought to prepare for that sentencing just as  
10 carefully as they prepared for trial, because they have  
11 an opportunity to acquaint the judge at the sentencing  
12 time with factors that are relevant for sentencing pur-  
13 poses which would not have been relevant at the trial.

14 As you know, at the trial, anything that  
15 relates to other involvements or other offenses or posi-  
16 tions within organized crime are totally irrelevant and  
17 never appear before a judge or jury lest there be a  
18 mistrial; but at sentencing time, when the judge needs  
19 to know all of the factors that bear on this offender's  
20 place in society as a whole, it's entirely appropriate  
21 and indeed necessary that that type of presentence in-  
22 vestigation and that type of presentation at sentencing  
23 be made.

24 MR. RITCHIE: Mr. Coleman, I just want  
25 to again congratulate Mr. Thornburgh on his selection

1 by the President.

2 MR. COLEMAN: I have one other question.

3 BY MR. COLEMAN:

4 Q We have heard all sorts of things about organized  
5 crime and its connection with gambling or its nonconnec-  
6 tion. What about Mr. Grosso, if you can tell us? What  
7 business was he in besides running the numbers game,  
8 and where did he put his profit? Did he put it in loan  
9 sharking? Did he throw it into pornography, prostitu-  
10 tion, hijacking, and so forth?

11 A This is a terrible way to end up, but I really  
12 can't discuss that with you this morning, because it is  
13 the subject of continuing investigation by both the FBI,  
14 the IRS, and the grand jury, with Mr. Grosso's coopera-  
15 tion, to be sure. It just would not be proper for me  
16 to spread that on the record.

17 Q The only reason for the question is because we have  
18 had, particularly as of yesterday, out and out state-  
19 ments that there was no connection, for instance, be-  
20 tween numbers and organized crime. Obviously, it's some  
21 sort of organization, as you very ably told us and the  
22 others have told us; but somewhere along the line I  
23 suppose someone will come and say yes, they are, or no,  
24 they are not, in some criminal activities, but we will  
25 leave it at that.

1 A I think part of the problem is the nature of our  
2 criminal justice system in dealing with criminal of-  
3 fenses on a case-by-case basis. There is, as I indi-  
4 cated, sometimes an excusable lack of perception of the  
5 forest for the need to concentrate on individual trees.  
6 I would be delighted to take the time to spell out some  
7 of the things we know. They relate to pending investiga-  
8 tions and prosecutions of other individuals, however,  
9 and, as a prosecutor, my job is to present evidence in  
10 Court and observations to commissions, so I hope I have  
11 restricted myself to observations and not transcended  
12 into the evidence, which I will have to deal with  
13 another day.

14 MR. COLEMAN: I think you have done so  
15 very well. On behalf of the entire Commission, we  
16 thank you very much and wish you the best.

17 MR. THORNBURGH: Thank you. I want to  
18 wish you well in a very important task, and I will  
19 await with much interest the conclusions that you  
20 render next year.

21 Thank you.

22 (Witness excused.)

23 MR. COLEMAN: The next witness is Joel  
24 Friedman, the Chief Attorney in charge of the United  
25 States Department of Justice. Mr. Friedman has been

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STATEMENT OF  
RICHARD L. THORNBURGH  
UNITED STATES ATTORNEY FOR  
WESTERN PENNSYLVANIA

BEFORE

THE COMMISSION ON THE REVIEW OF THE  
NATIONAL POLICY TOWARD GAMBLING

THURSDAY, MAY 29, 1975

9:30 A.M.

ROOM 3305  
WILLIAM J. GREEN, JR. FEDERAL BUILDING  
PHILADELPHIA, PENNSYLVANIA

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

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

One of the questions most frequently asked of those involved in the battle against organized crime is

"Why worry about gambling . . .  
Why not concentrate on something important?"

I think this question deserves a response. I think the public is entitled to some straight talk about gambling, legal and illegal. I will try to provide one law enforcement official's answers to you today.

First of all, it is vital that we recognize illegal gambling for what it is -- a big business. It is so big in terms of gross revenues that authorities estimate the annual "take" to be on the order of

--\$20 to \$50 billion per year nationally;

--\$350 million per year in the Commonwealth of Pennsylvania; and

--\$100 million per year in the Greater Pittsburgh area alone.

Anyone active in the business community can certainly appreciate the magnitude of these figures, and the estimated one-third net profit rake-off that syndicate gamblers realize must fairly make their mouths water!

These amounts in my District come primarily from two sources. First in terms of the number of participants is the numbers racket with its 600-to-1 daily payoff on a three-digit

number from 000 to 999 derived from stock market and race result figures in our daily papers. The second major source is the sports-betting operation -- an intricate business involving wagers on college, professional, and even high school, football and basketball contests, major league baseball games and off-track horse betting.

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

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

Writers are the numbers business' "salesmen" -- runners who pick up wagers from all over the community -- a surprising amount of it from within local plants and office buildings -- and pass them up the line by telephone through the bookies and

into the numbers banks. Layoff operations insure that no one is "hit" too hard when a number with a big play comes up and occasionally the published number is "rigged" to frustrate a big payoff. Funds are systematically set aside as well for jail bonds and lawyers' fees to assist the unfortunate writer -- seldom the bookie or banker -- who is arrested.

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

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

Layoff operations in sports-betting are nationwide in character and connections in recent years have been firmly

established between major Pittsburgh sports bettors and bookmakers and their counterparts in cities such as Atlanta, Buffalo, Baltimore, Cleveland, Detroit, Houston, Providence, and, of course, Las Vegas. Again, the number of persons involved in these major operations runs well into the hundreds.

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

First of all, recognize that illegal gambling is the "cash register" for all organized crime operations. Nationwide, the huge amounts of profits realized from illegal gambling operations are pumped into numerous other organized criminal activities -- the purchase, importation and distribution in bulk of hard narcotics, loan sharking operations at interest rates of up to 20% per week, systematic hi-jacking, prostitution, pornography, labor racketeering activities and the infiltration of legitimate businesses to the extent that the Pennsylvania Crime Commission -- while refusing to reveal the names of those

involved -- has documented over 375 legitimate businesses in this Commonwealth that are owned or controlled by racket figures.

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

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

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

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

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

- The Chief of Allegheny County's "Racket Squad" was convicted in 1973 of taking over \$300,000 in payoffs from the very top racket figures he was supposed to be prosecuting.
- The District Attorney of Allegheny County was indicted in 1974 on income tax fraud charges growing out of the secret deposit of nearly a quarter of a million dollars in racket payoffs into a phony corporate bank account.
- Last summer an Allegheny County Deputy Sheriff was convicted of collecting as much as \$3,000 per month in payoffs for the Sheriff's office from the Grosso organization.
- Awaiting trial on similar charges are the Sheriff of Beaver County, one of his deputies and a District Justice of the Peace for providing protection to a major numbers business there.

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

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

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

There are only two alternatives to follow in these matters. Our laws presently make these multi-million dollar businesses -- numbers and sports-betting -- illegal. In fact, Pennsylvania -- along with Massachusetts -- was the very first state in the Union to make lotteries illegal. If these laws are to remain on the books, then the community had better realize that law

enforcement activities against illegal gambling are important -- and I hope I have been able to shed some light on this for you today.

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

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

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

types of gambling.

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

- The state runs its own gambling operations in the form of an official and highly advertised state lottery.
- The state sanctions and promotes betting on horse races so long as wagering is done at the track.
- State and local law officers "look the other way" while illegal bingo and lottery operations are carried out by churches, fraternal organizations and political parties.

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

What then does justify the continued criminal status of gambling in Pennsylvania? We know that all crime begins in the legislature -- that is, nothing is inherently criminal, as distinguished from immoral, but must be enacted into law. Thus,

gambling is illegal simply because a majority of our legislature says it should be so. And that majority presumably expresses the will of the majority of Pennsylvania's citizenry.

But if that is the majority feeling -- it must be so by a mighty slim margin. For all the other citizens of this state are voting otherwise by pouring nickles, dimes, quarters and dollars into the syndicate monopoly we have created and continue to foster through our laws making gambling illegal.

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

If that's the case then the mob must be laughing up its sleeve. For we are contributing to the very goal they seek -- subversion of the rule of law.

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

The historian Daniel Boorstin has noted:

"Americans' desire to gamble has been equalled only by their desire to see that gambling was legally forbidden."

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Until this "moral schizophrenia" is resolved, major numbers and sports-betting operations will remain an illegal monopoly in this Commonwealth and will continue to operate as the "cash register" for racket operations.

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

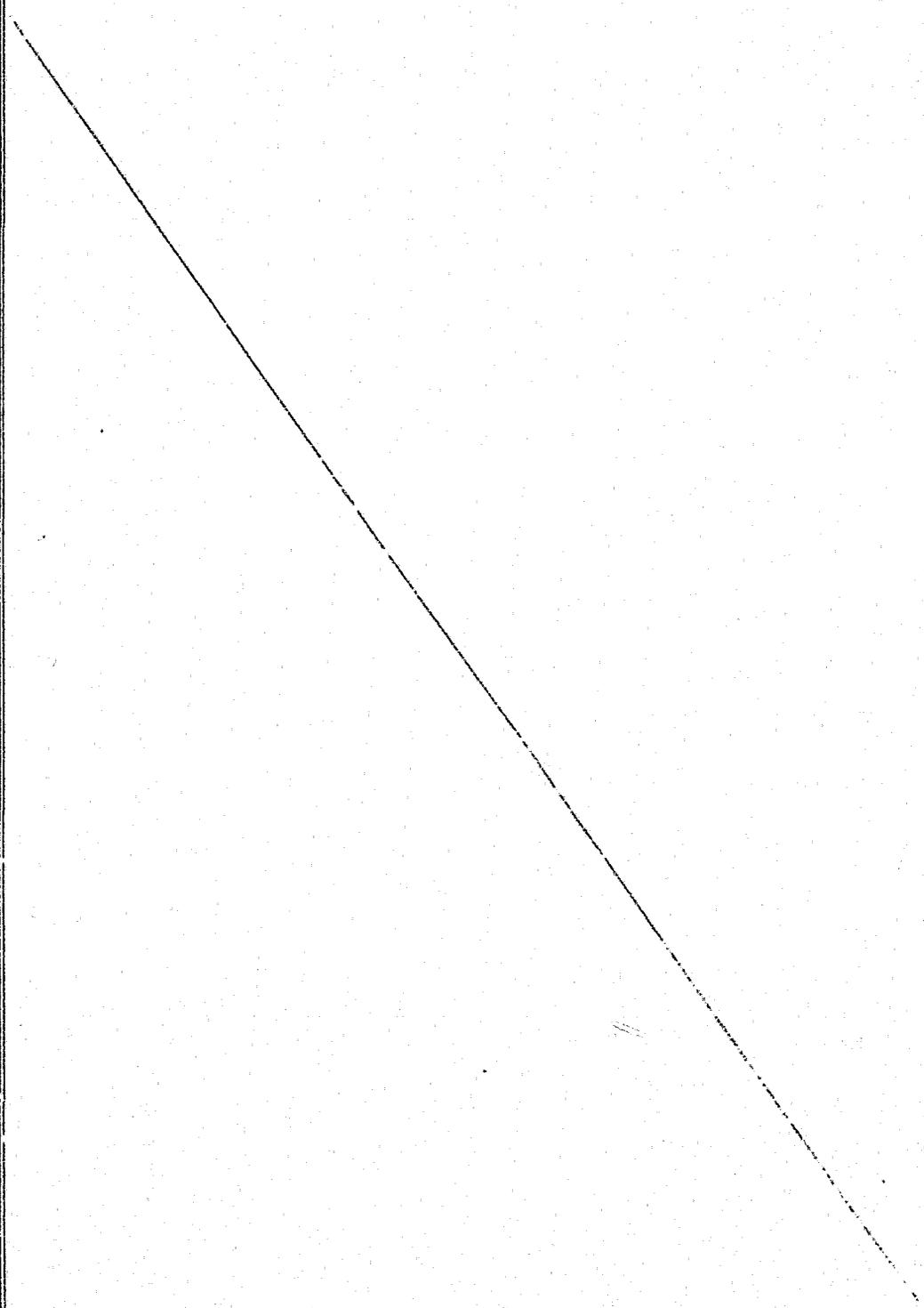
I hope we can count on increasing support and interest of the community in these activities. We think they are important.

Thank you.

# # #

head of the Philadelphia Strike Force since

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1 November 1974. Prior to this position he was deputy  
2 chief of New England's Strike Force and former  
3 United States attorney, special attorney for the  
4 Manhattan Strike Force in New York.

5 We welcome you, Mr. Friedman. We appreciate  
6 your coming.

7 You have presented us with a statement  
8 here. Of course, it will become part of the record.  
9

10 If I may make a suggestion, having gone  
11 over this statement, a large part of your statement  
12 deals with your activities in Boston. If you  
13 don't know, the Commission has already held hearings  
14 in Boston. We are actually concerned with  
15 Philadelphia now, and we hope that doesn't cut you.  
16 You may feel cut to the quick on that, but you can  
17 make some summary. We have it, in any event.

18 MR. FRIEDMAN: Thank you, sir. I will  
19 try to summarize some of the statements relating  
20 to Boston. It was my impression that the Pellicci  
21 case was not gone into in Boston, basically because  
22 there were some criminal matters pending there, and  
23 it was felt that it might in some way cause prejudicial  
24 publicity, whereas if it were handled where  
25 if I made a statement regarding it here, the chance

1 of prejudicial publicity would be minimized com-  
2 pletely, and that's why I basically covered it.

3 The items that I referred to, of course,  
4 in my prepared statement relating to the Pellicci  
5 case are based upon evidence that is in the public  
6 record at the present time. Therefore, I will just  
7 basically summarize it or at least try in some way  
8 to quicken my presentation.

9 Mr. Coleman, my name is Joel M. Friedman.  
10 I am the Chief Attorney of the Justice Department's  
11 Organized Crime Strike Force covering the Eastern  
12 District of Pennsylvania, Middle District of Penn-  
13 sylvania, Delaware, and Maryland. I arrived in  
14 Philadelphia in November 1974, and supervised the  
15 investigation and prosecution of all organized crime  
16 cases falling within the geographical area covered  
17 by the Strike Force.

18 I want to thank the Commission for asking  
19 me to come here today to testify about the Federal  
20 Prosecutor's role in the enforcement of the nation's  
21 law against syndicated gambling. It is my belief  
22 that organized crime attacks the intestines of  
23 society and erodes our entire system from the guts  
24 outward. I believe the legislation passed by Con-  
25 gress directed at illegal gambling gives the

1 Strike Force one of its more important weapons  
2 with which to prosecute the leadership and financial  
3 underpinnings of organized crime. If this weapon  
4 was removed, it would be much more difficult to  
5 defend society against the cancer of organized  
6 crime.

7 The Strike Force headquartered in Phila-  
8 delphia was set up in 1968 and is composed of career  
9 Justice Department Prosecutors stationed in Phila-  
10 delphia, Pennsylvania. Conducting the Strike  
11 Force's field investigations into organized crime  
12 are agents from the FBI, the Internal Revenue Ser-  
13 vice, the DEA, the Postal Inspection Service, the  
14 Treasury Department's Bureau of Alcohol, Tobacco,  
15 and Firearms, the Secret Service, Securities and  
16 Exchange Commission, the Department of Labor, the  
17 Bureau of Customs, the Immigration Naturalization  
18 Service, and representatives of the Philadelphia  
19 Police Department Organized Crime squad.

20 One of the prime purposes of the Strike  
21 Force is to coordinate all Federal law enforcement  
22 into a unified and programmatic attack on the prob-  
23 lem of organized crime. Using the investigative  
24 talent of the participating Strike Force Agencies,  
25 the Strike Force has sought to prosecute the

1 organized hoodlum and racketeer whenever we could  
2 establish that the regular business activity of the  
3 underworld had violated a Federal law. The Strike  
4 Force investigates and prosecutes such racketeer-  
5 infiltrated activities as loansharking, fencing,  
6 securities frauds, income tax evasions, narcotics  
7 violations, extortion, and labor racketeering.  
8 We have also prosecuted non-organized crime polit-  
9 ical corruption cases. Maurice Osser was prose-  
10 cuted and convicted by the Strike Force. The  
11 Shoup Voting Machine Case was also successfully  
12 prosecuted by us.

13 The most pervasive illegal activity  
14 dominated by organized crime is gambling. Gambling  
15 provides the financial means for narcotics violators,  
16 corruptors, and loan sharks. I strongly oppose any  
17 weakening of the present laws against illegal  
18 gambling.

19 Judge Mansfield, of the U.S. Court of  
20 Appeals for the Second Circuit, addressing himself  
21 to the constitutionality of Title 18, United States  
22 Code, Section 1955, in the case of United States v.  
23 Becker, 461 F.2d 230, 233 (2d Cir. 1972), reversed  
24 on other grounds, 417 U.S. 903 (1974), quoted Jus-  
25 tice Douglas as follows: "Loan sharking in its

1 national setting is one way organized interstate  
2 crime holds its guns to the heads of the poor and  
3 rich alike and syphons funds from numerous local-  
4 ities to finance its national operations." 402 U.S.  
5 at 157, 91S.Ct. at 1363.

6 Judge Mansfield then went on to point out  
7 that: "The statement applies with equal force to  
8 illegal gambling of the class prohibited by Section  
9 1955. Indeed the President's Commission on Law En-  
10 forcement and Administration of Justice has con-  
11 cluded that 'gambling is the greatest source of  
12 revenue for organized crime.' Operating through a  
13 system of 'layoff' bets 'accomplished through a  
14 network of local, regional, and national layoff men  
15 throughout the nation, the profit flowing into  
16 criminal coffers from gambling activities, the Com-  
17 mission concluded, may approximate \$6 to \$7 billion  
18 each year."

19 As Judge Mansfield pointed out, gambling,  
20 as loansharking in its national setting, is one way  
21 organized interstate crime holds its gun to the  
22 heads of the poor and the rich alike and syphons  
23 funds from the numerous localities to finance its  
24 national operations.

25 Three prior cases that I have had

1 personal contact with best illustrate the inter-  
2 relationship of gambling income with narcotics,  
3 loansharking, and corruption.

4 The first case is the conviction in Jan-  
5 uary 1975, by the Philadelphia Strike Force of  
6 eight high echelon narcotics figures who had named  
7 the organization they headed the "Black Mafia."  
8 The investigation conducted by DEA with the help of  
9 the Strike Force, included the use of Court-author-  
10 ized wiretaps. The eight Defendants received the  
11 following sentences for violations of the narcotics  
12 laws: JAMES FOX, 30 years' imprisonment; EUGENE  
13 BAYNES, 27 years' imprisonment; RUSSELL BARNES, 21  
14 years' imprisonment; EUGENE HEARN, 15 years' im-  
15 prisonment; GREGORY TRICE, 15 years' imprisonment;  
16 WILLIAM JEFFERSON, 15 years' imprisonment; FERRIS  
17 FOSTER, 5 years' imprisonment; and BARTHANIEL  
18 THORNTON, 4 years' imprisonment. All were self-  
19 proclaimed leaders of the Black Mafia.

20 While awaiting trial on the above nar-  
21 cotics charges, JAMES FOX was arrested for gambling  
22 violations by the Philadelphia Police Department.

23 Reliable information available to the  
24 Strike Force indicates that the Black Mafia con-  
25 trolled the majority of numbers businesses in West

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Philadelphia. It is my opinion that the Black

1 Mafia funded their narcotics business in large part  
2 from gambling revenues they received.

3 Another Strike Force case, concluded on  
4 April 29, 1975, was the conviction of Alexander  
5 Hartzell. Mr. Hartzell was part of an organized  
6 criminal loanshark operation. He received a sen-  
7 tence of five years' imprisonment and a \$10,000  
8 fine and is presently incarcerated. His Co-Defend-  
9 ant, Frank Sindone, however, was acquitted. Trial  
10 evidence revealed that Mr. Hartzell worked for a  
11 much larger organization. According to him, the  
12 leadership of that organization included Angie,  
13 Frank, and Phil. Mr. James, a witness at the trial,  
14 identified these individuals as Angelo Bruno,  
15 Philip Testa, and Frank Sindone. In 1969, Congress  
16 in the Mc Clellan Committee Report published a list  
17 that identified Mr. Bruno as Head of the La Cosa  
18 Nostra in the Philadelphia area, and Mr. Testa as  
19 a capodecina of La Cosa Nostra in the Philadelphia  
20 area. During the course of the investigation,  
21 Hartzell told William James, the loan shark victim,  
22 that he needed a \$10,000 principal repayment be-  
23 cause Frank Sindone has promised "Wolfie," a local  
24 gambling figure, the \$10,000. According to Hartzell,  
25 Sindone has promised the \$10,000 to "Wolfie" because

1 the gambler had received a hit in excess of \$40,000,  
2 the term "hit" meaning that the gambling business  
3 lost \$40,000 to a particular customer. Thus, it  
4 appeared that Sindone intended to finance the gam-  
5 bling business through collection of a loan shark  
6 debt. The interrelationship of the loan shark  
7 business with Wolfie's gambling business was ob-  
8 vious from Hartzell's statements.

9 Experience has also taught us that gam-  
10 bling victims often become loan shark victims.  
11 When gambling customers have lost so much that they  
12 can no longer pay their accounts, they are turned  
13 over to the leg breakers or loan shark. Then, the  
14 friendly bookie tells the customer the account is  
15 out of his hands. It's been taken over by downtown.

16 Is there any doubt that organized crime  
17 really controls gambling? That fact is self-evi-  
18 dent.

19 Frequently, low-level members of gam-  
20 bling organizations are immunized to testify against  
21 higher-ups. Some testify, but a significant number  
22 of others submit to 18-month terms of incarcera-  
23 tion, rather than testify against their organized  
24 crime superiors. Thus they accept the 18 months in  
25 jail, despite the fact that the violation about

1 which they are being questioned usually results in  
2 probation or short terms of imprisonment. In fact,  
3 District Court files reflect that in a pending  
4 gambling investigation, of which Frank Narducci is  
5 a subject, the Government has filed a petition for  
6 Civil Contempt against an immunized Grand Jury wit-  
7 ness who has refused to testify. Frank Narducci  
8 has been identified by the Pennsylvania Crime Com-  
9 mission as a soldier in the Angelo Bruno Cost Nostra  
10 Family and as having been convicted of a gangland-  
11 style slaying. Pp. 33 and 61, Report on Organized  
12 Crime, Pennsylvania Crime Commission (1970).

13 One of the best examples of the inter-  
14 relationship of gambling with organized crime and  
15 its obviously disastrous effects upon society is a  
16 case that I handled as Deputy Chief Attorney of  
17 the New England Strike Force. This case was that of  
18 United States v. Michael Pellicci.

19 At this point I will adapt what I said  
20 regarding the Pellicci case and will just basically  
21 summarize it to the effect that in that case a  
22 police lieutenant, who was the head of the vice  
23 squad for the Watertown Police Department, was ap-  
24 proached by a fellow by the name of Michael Pellicci,  
25 and the police lieutenant was an honest officer and

1 reported that immediately. He then went through a  
2 period of time for approximately one year of under-  
3 cover investigation. We obtained Court-authorized  
4 wiretaps during that process of it. During the  
5 course of the investigation Pellicci stated that  
6 he had been assigned control of three towns by  
7 Gennaro Angiulo. Mr. Angiulo had been listed in  
8 the McClellan Committee Reports as being an under-  
9 boss of the Patriarca family during the course of  
10 the investigation. Mr. Pellicci was followed into  
11 Mr. Angiulo's office, and Mr. Pellicci was con-  
12 victed for a violation of 18USC 1955. He received  
13 a sentence of five years imprisonment and a \$20,000  
14 fine. He is presently incarcerated.

15 He was also indicted more recently for  
16 violation of the loan shark laws and the income tax  
17 laws, and the other indictment is presently pending  
18 against both himself and his wife. Five other in-  
19 dividuals also have been indicted for violation of  
20 loan shark laws as a result of this, but it seems  
21 to me the Pellicci case illustrates very graphically  
22 the interrelationship of the loan shark business  
23 and the gambling business, and it shows Pellicci's  
24 overall control of three towns, of which the con-  
25 trol was assigned to him by Angiulo. It shows his

1 control of at least two towns and shows his role  
2 with respect to organized crime, in controlling  
3 gambling matters. Additionally, the Pellicci case  
4 also shows the involvement of organized crime in  
5 police corruption, and it also shows, as Pellicci  
6 told Lieutenant Edward Vaughn, that he had been  
7 doing matters like this since he was a child. He  
8 also said that he had bribed the captain of police  
9 in New York City.

10 I think the Pellicci case has a lesson  
11 nationwide, basically, to the extent it does show  
12 the interrelationship and control by organized  
13 crime of gambling activities and how the gambling  
14 activities support other activities such as loan  
15 sharking and the other organized crime matters that  
16 the criminal forces are involved in.

17 The Philadelphia Strike Force, with the  
18 skilled agents of the FBI and the grand jury, is in-  
19 vestigating many gambling cases. Some of these  
20 cases contain evidence of police corruption. The  
21 Organized Crime Squad of the Philadelphia Police  
22 Department under the leadership of Lt. Daniel Mc  
23 Fadden is cooperating with us with respect to the  
24 police corruption investigations. If we obtain  
25 sufficient evidence, indictments will be sought

1           against the policemen.

2                         Court-authorized wiretaps, consensual  
3           recording devices, and the use of immunity are es-  
4           sential to successful prosecution of high echelon  
5           organized crime figures and corrupt individuals  
6           associated with gambling cases. Prosecutors can  
7           apprehend and prosecute low-level violators of the  
8           criminal law without much effort. We do not need  
9           sophisticated devices to catch low-level criminals.  
10          But, in order to effectively prosecute sophisticated  
11          criminal activity and get at the foundations of the  
12          organized criminal establishment, we need effective  
13          tools. Those effective tools include the use of  
14          immunity, the use of wiretaps, and the use of the  
15          gambling statutes. Prosecutors have a major re-  
16          sponsibility to use these tools wisely and properly.  
17          However, without them, no expenditure of manpower  
18          and resources will be sufficient to do the job.  
19          Society is entitled to some protection against  
20          organized crime. The wiretap statutes, the immunity  
21          statutes, and the gambling statutes are essential  
22          tools in protecting society against organized crime,  
23          and we must keep them.

24                         The average sentence in gambling cases in  
25          the Eastern District of Pennsylvania is probation.

1 Sentences of probation do not have a major impact  
2 upon organized crime. The prosecutor must impress  
3 upon the judiciary the significance of gambling  
4 cases and why lengthy jail sentences are necessary.  
5 Individuals who generate gambling revenues and thus  
6 support organized crime's more cancerous activities  
7 must be made to realize that they do not have a  
8 license to prey upon society.

9 Some of the vigorous efforts by the FBI  
10 and Strike Force have recently led to more lengthy  
11 sentences. Recently, a defendant who had been con-  
12 victed for conducting an illegal gambling business  
13 and given probation was intercepted again over a  
14 Court-authorized wiretap, participating in an il-  
15 legal gambling business. The Strike Force peti-  
16 tioned the Court to revoke his probation. Judge  
17 Ditter, United States District Court, Eastern Dis-  
18 trict of Pennsylvania, revoked that probation and  
19 sentenced the defendant to four years' imprison-  
20 ment. This is the kind of alert law enforcement  
21 that we must continue to have an effect upon or-  
22 ganized crime.

23 If a felon feels he can violate the gam-  
24 bling laws at will, without receiving a prison sen-  
25 tence, he will flaunt the law. He will never

1 testify against higher-ups in the gambling opera-  
2 tion; against loansharks related to that gambling  
3 operation; against narcotics violators related to  
4 that gambling operation, or against corrupt police-  
5 men. We must work for higher sentences.

6 The reason the mob has so decisively moved  
7 into control of gambling is because it is the big-  
8 gest money maker of any form of illegal activity.  
9 The gross handle is estimated to range in the bil-  
10 lions of dollars; the net profit to major organized  
11 crime figures is enormous. The Internal Revenue  
12 Service works with the Strike Force by enforcing  
13 Income Tax Laws of the United States against mobsters  
14 who compound their crimes by evading taxes due on  
15 the profits of their rackets.

16 As long as it is a fact that the mob con-  
17 trols gambling or significant portions thereof; then  
18 the best way to prosecute the leadership of the mob  
19 is through enforcement of the Federal gambling laws.  
20 One of the issues before this Commission is whether  
21 or not further legalization of gambling in some  
22 form will reduce the evils now attendant upon the  
23 crime of professional gambling. It is my opinion  
24 that legalization of gambling in any of the com-  
25 monly-suggested forms will not significantly reduce

1 organized crime's control over the industry.

2 In New York, control of gambling by or-  
3 ganized crime has not significantly decreased as  
4 the result of the legalization of horse race bet-  
5 ting. If gambling is legalized on a nationwide  
6 or regionwide basis, who will conduct it, if not  
7 the same racketeers who enforce the monopoly in  
8 an industry. Professional criminals will not re-  
9 form merely because one aspect of their industry is  
10 legalized. During the period of time immediately  
11 preceding the referendum in New Jersey relating to  
12 legalization of the gambling laws, intelligence  
13 reports available to Strike Force personnel indi-  
14 cated that a significant number of organized crimi-  
15 nals were moving from New York and the Philadelphia  
16 area into the New Jersey area. These organized  
17 criminals appeared to be purchasing property in  
18 areas where the legalized gambling industry was  
19 anticipated to be the busiest. This was true es-  
20 pecially in Atlantic City. One can only conclude  
21 that members of organized crime were eagerly await-  
22 ing participation in the legalized gambling field.  
23 Far from fearing competition from legalized gam-  
24 bling members of organized crime seemed to anxiously  
25 welcome its coming. Based upon the facts available

1 to me, I seriously doubt that legalization of gam-  
2 bling would deter racketeers from use of violence in  
3 the collection of gambling debts, and I doubt that  
4 it would deter organized crime figures from raking  
5 certain sums off the top of legalized casinos.

6 Legalized gambling will not significantly decrease  
7 the number of people betting with bookies, but,  
8 instead, will draw most of its revenues from those  
9 who now bet infrequently. It will probably also  
10 tend to increase the number of loan shark victims.

11 Any realistic form of state regulations  
12 would put legitimate gambling automatically at a  
13 disadvantage with the professional gambler. The  
14 professional gambler is able to give easy credit,  
15 telephone service, and tax-free payoffs. The pro-  
16 fessional gambler can give his bettors better odds  
17 and credit. The only system that would make legal-  
18 ized gambling competitive would be to make numbers,  
19 sports, or horse betting a tax-free unregulated  
20 activity producing no revenue for the State.

21 The moral authority of the State should  
22 not be put behind what is now generally treated as  
23 criminal behavior because it will only change our  
24 society for the worst. The bettor always loses to  
25 a well-run gambling organization. The criminal

1 community is full of people who are degenerate  
2 gamblers who've lost so much that they keep gam-  
3 bling not to make a buck, but just to pay their  
4 prior gambling and loanshark debts. Gambling  
5 should not be legalized.

6 Gambling, by virtue of its contribution  
7 to the bankrolls of organized crime, has a cancerous  
8 effect upon society. Organized crime is a corruptor  
9 and a peril to us all. We must not cripple the  
10 prosecutor. It is the prosecutor's responsibility  
11 to protect society against sophisticated criminals.  
12 If we remove his most effective tools, we leave the  
13 criminals free to extort from legitimate business-  
14 men; to control industries; to give narcotics to  
15 our youth; to kill and to mame. If we let organized  
16 crime run rampant, it will strangle us to death.  
17 I urge that this Commission find that one of the  
18 more valuable tools of the prosecutor, the gambling  
19 statutes, not be removed from our arsenal of weapons.

20 BY MR. COLEMAN:

21 Q Mr. Friedman, in your statement you were talking  
22 about one of the matters you prosecuted here in Phila-  
23 delphia, and you say, "It is my opinion the Mafia funded  
24 their narcotics business in large part from gambling  
25 revenues they received." Now, we heard considerable

1 testimony over a number of months from various officials  
2 at different levels definitely tying organized crime in-  
3 to illegal gambling, saying the revenue from illegal  
4 gambling funded various criminal activities, running  
5 from loansharking, narcotics, hijacking, prostitution,  
6 and pornography. Now, you have mentioned narcotics,  
7 prefacing it by "in your opinion." Let me ask you your  
8 opinion on this. Other than loansharking, why would  
9 some organized group have to finance from gambling any  
10 of these other activities? The turnover in narcotics  
11 money is a revolving situation only to get outside money.  
12 The profits are huge.

13 I am not that conversant with the facts  
14 relating to prostitution. I wouldn't think you need any  
15 capital to run that. With respect to hijacking, you  
16 have to have a victim. Do you have any evidence other  
17 than what you tell us about the case here in Philadelphia  
18 while waiting sentencing for narcotics or waiting trial  
19 that he was picked up on a gambling violation and that  
20 the money was taken from gambling and put into other  
21 criminal activities other than loansharking?

22 A Well, firstly, I believe the case we are referring  
23 to was of an organization that had named themselves the  
24 Black Mafia. It was not a one-time situation but a very  
25 wide spread criminal organization that had significant

1 control over criminal activity in a major portion of  
2 this city. I am not basing my conclusion on the fact that  
3 they purchased narcotics and that they used the gam-  
4 bling funds to support their narcotics business. I am  
5 not relying exclusively nor in large part upon the fact  
6 that James Fox was arrested while awaiting trial. I  
7 rely upon other information that I have available to me:  
8 intelligence reports, and so forth, to the effect that  
9 they did, in fact, fund a large part of their narcotics  
10 business with the funds from the gambling business, and  
11 I do believe that those intelligence reports are accu-  
12 rate. Having available to one a very large source of  
13 funds, of course it allows one to expand one's business  
14 as in any other kind of business. A ready source of  
15 capital in order to make huge narcotic purchases is cer-  
16 tainly valuable and allows one to expand further and  
17 make even more money and allows one to just have a total  
18 fluid cash situation.

19 I think that that is the kind of revenue  
20 that gambling does allow, just as it allows that kind of  
21 funds for the purpose of conducting loanshark businesses.

22 Q Let me just interrupt you. You have, of course,  
23 been in other parts of the east and in other places where  
24 you served. Have you arrested large narcotic dealers  
25 connected with organized gambling? Do you have

1 information about them? I am not aware of any activity  
2 that goes that way. Has it been your experience? Cer-  
3 tainly people smuggling heroin from foreign countries  
4 are not bookmakers or connected in any way.

5 A I don't think necessarily people smuggling in hero-  
6 in from other countries are on the same level as the  
7 bookmaker. I do think in New York City, where I was  
8 with the Strike Force, there is a definite interrela-  
9 tionship between gambling and narcotics. Some of the  
10 organized figures in the Manhattan area do use funds  
11 from gambling in order to support narcotics purchases,  
12 in order to fund narcotics purchases.

13 Q Mr. Friedman, in your work here in Philadelphia  
14 you talked about gambling investigations as a result,  
15 apparently, of some information received, investigation  
16 with the cooperation of some members of the Philadelphia  
17 Police Department and possible corruption in the depart-  
18 ment. Is that correct?

19 A Yes.

20 Q These relate, first of all, to members of the police  
21 department in your Strike Force, as such?

22 A Yes, they do.

23 Q We have heard yesterday that there is also a special  
24 prosecutor here in the City of Philadelphia, apparently,  
25 to look into police corruption.

1 A Yes.

2 Q You are aware of that?

3 A Yes, sir.

4 Q Is that in this same area of police corruption re-  
5 lating to gambling? Are you people cooperating in their  
6 efforts, so to speak, assuming that there is some legal  
7 justification? I heard on the radio this morning he  
8 was affirmed yesterday in some area, but I mean is he  
9 part of your effort in this, at least for exchange of  
10 information in the same area of gambling and corruption  
11 of the police officers?

12 A We do exchange some information. At the present  
13 time we are not actively pursuing a joint investigation.

14 Q In your conclusion, prior to your conduction of the  
15 legalization of gambling, particularly where you say the  
16 only system that would make legalized gambling competi-  
17 tive would be to make all sorts of numbers, sports, what-  
18 ever, a tax-free, ongoing activity producing no revenue  
19 for the State. Would you have an opinion if the State  
20 were to regulate it in some form, either run it them-  
21 selves or let other people run it? They certainly would  
22 get some revenue back by license fees or percentage of  
23 the take, or whatever, wouldn't they?

24 A Yes. If we are talking about legalization, in  
25 order for legalized gambling to be competitive with

1 organized criminal gambling, I think basically you have  
2 to put the legalized gambling in a posture where they  
3 have all the identical advantages that organized crimi-  
4 nal gambling does have. That would included basically  
5 not giving the legalized gambling organization the ex-  
6 penses of having to pay revenues to the State, and if  
7 they had to pay revenues to the State and incur the ex-  
8 penses, then I think that would make them less competi-  
9 tive with the organized criminal enterprise.

10 Q In other words, what you are saying is that as well  
11 as eliminating the tax on the bettor's winnings, the man  
12 running it, the bookmaker, does not pay any taxes?  
13 That's what you are talking about?

14 A Yes, sir.

15 MR. COLEMAN: Mr. Ritchie?

16 BY MR. RITCHIE:

17 Q Mr. Friedman, the Strike Force has been here in  
18 Philadelphia for seven years. I recognize you have only  
19 been here for approximately seven months. Could you tell  
20 us whether or not in your judgment you are winning the  
21 war? I don't mean you personally, but is the Strike  
22 Force winning the war against organized crime?

23 A I definitely think we are having a significant im-  
24 pact on it. On an overall basis, I would say we are  
25 winning, but it is very difficult, and it takes a long

1 time.

2 Q Can you give us a prognosis as to how long the  
3 Strike Force will be in Philadelphia?

4 A I think there is a definite need for the Strike  
5 Force to remain in Philadelphia for an extended period  
6 of time.

7 Q Would you say it's a requirement that is here per-  
8 manently?

9 A I think it depends on the success of ventures in  
10 the future and on the impact that we make on organized  
11 crime. Certainly if we rid Philadelphia of organized  
12 crime, which would be our goal, then, of course, the  
13 Strike Force would not be necessary; but I think we are  
14 far from the point where we have rid Philadelphia of  
15 organized crime.

16 Q You follow a system of identifying individuals and  
17 then selectively investigating and prosecuting those in-  
18 dividuals whom you have identified as members of or-  
19 ganized crime, do you not?

20 A Yes, sir.

21 Q Assuming that you were able to incarcerate all of  
22 those people or that they died from natural causes, what  
23 would happen to the level of criminal activity in Phila-  
24 delphia? Would it continue? Would it completely disap-  
25 pear?

1 A It would be significantly lessened.

2 Q But it would not disappear?

3 A The level of crime in Philadelphia? Would it dis-  
4 appear? You are talking about organized crime?

5 Q I am talking about all crime.

6 A No, it wouldn't disappear. I mean there are other  
7 criminals other than just organized criminals.

8 Q In terms of the national effort, is it not so that  
9 you essentially have said we are going after organized  
10 crime, and we are going to utilize from your testimony  
11 gambling statutes to go after organized crime?

12 A Yes, sir.

13 Q That's viewed as a vehicle toward organized crime?

14 A Yes, sir.

15 Q We heard yesterday some very discouraging statistics  
16 on the results of local prosecutions, both from the judi-  
17 ciary as well as the prosecutive forces, that nobody  
18 goes to jail for gambling. It's led to a program which  
19 is aimed at reducing the number of gambling cases that  
20 ultimately come to Court. Do you have the same problem  
21 in the Federal Court as the State Courts have demonstrat-  
22 ed by their statistics?

23 A We do have the same problem in the Federal District  
24 Court for the Eastern District of Pennsylvania. However,  
25 there are some exceptions. As I pointed to the recent

1 probation revocation situation, I think it's incumbent  
2 upon the prosecutors to impress upon the judiciary the  
3 interrelationship with organized crime and gambling.  
4 I think it's important for us to fight for larger sen-  
5 tences. I also think the gambling statutes should be  
6 used selectively, only to get at those people who are  
7 organized criminals, and I also believe in the idea of  
8 immunizing the lower members of the gambling organiza-  
9 tion in order to get at the higher members. I think  
10 by doing that, by being selective, we can impress upon  
11 the judiciary that those people who we are bringing in  
12 are actually the leaders of this organization and are  
13 in fact organized criminals themselves, and are support-  
14 ing the more violent and more socially-damaging activ-  
15 ities of organized crime, and I hope through that to  
16 be able to get more significant sentences.

17 Q Again, contrary to what seems to be the tenor of  
18 your remarks, your prepared remarks, that the Commission  
19 is considering to take with it these arrows from your  
20 arsenal; that is, the gambling statutes. The Commission  
21 is very concerned as to whether or not you have enough.  
22 Are you presently using the statute, Title 10 of the  
23 Organized Crime Act, in gambling cases?

24 A We intend to use it. We have not used it.

25 Q What about the civil sanctions of 1962? Do you

1 have cases in process where you are investigating that  
2 technique of moving against gambling?

3 A Yes. We are looking into using that technique.

4 Q Have either of them ever been utilized by the  
5 Philadelphia Strike Force?

6 A No, they have not.

7 Q The statistics offered by the Department in Washing-  
8 ton, which I believe have been made available to you,  
9 determining the best efforts of an intensified program  
10 reached only two percent of the volume, and the judg-  
11 ment was made by the representatives of the department  
12 that that was the worst two percent, and that was about  
13 as far as the Federal Government should try to go, and  
14 the rest of it was really the responsibility of the  
15 State. I am not asking you to disagree with your super-  
16 iors, but does that, do you believe, sufficiently de-  
17 scribe what the Federal efforts have been nationally as  
18 you view it, both from New York, Boston, and Philadel-  
19 phia? I may have left out one of your Strike Forces;  
20 but in those areas.

21 A Well, I really don't want to engage in statistical  
22 battles on the subject or even discussions, because that  
23 is certainly not my forte. I attempt to concentrate on  
24 selective prosecution of the upper echelons and more  
25 sophisticated organized criminal figures. I think the

1 statistics can basically be meaningless. I think the  
2 important thing is to figure what kind of real impact  
3 you have had on the organization and on organized crimi-  
4 nals, and to engage in a percentage discussion, I think,  
5 has really little significance.

6 Q But you do understand that the Department of Justice  
7 testified they had no impact on the level of illegal gam-  
8 bling and that, in fact, they probably could prognosti-  
9 cate that illegal gambling was increaseing, despite all  
10 their efforts against organized crime. In aiding law  
11 enforcement, we certainly don't say we want the revenue  
12 to go to organized crime, but how best take the revenue  
13 away and how best to engage in some type of an awareness  
14 program that would decrease the level of illegal gam-  
15 bling, whether it is through a strategy of legalization  
16 or further prohibition. We don't know. That's essen-  
17 tially what we are seeking. We are seeking knowledge.

18 A I think legalization, as I said, would not decrease  
19 revenues going to organized crime. I think legalized  
20 gambling could not be competitive. In fact, by making  
21 gambling more available to the public at large, I think  
22 it would probably create and induce more of the public  
23 to participate in gambling activity. As a result of  
24 that, if people lost huge sums, they might in fact go  
25 to loan sharks in order to make up for these sums in

1 order to live. Therefore, you might be increasing the  
2 loansharking business of organized crime.

3 In addition to that, if you created some  
4 sort of bureaucracy to handle legalized gambling, you  
5 might be in the posture and probably would be in the  
6 posture to have significant corruption connection with  
7 that, and probably organized crime being involved in the  
8 bureaucracy, you would probably get into the posture  
9 where organized crime would be raking off a certain per-  
10 centage off the top.

11 Lastly, with regard to the judiciary, I  
12 think if you legalized it as a policy and then prosecuted  
13 individuals who were conducting gambling operations not  
14 in the manner specified by the law, I think the judi-  
15 cary would be even more hesitant to give sentences to  
16 gambling figures who would be participating outside the  
17 system gambling than they are now, because I think they  
18 would feel if the State is in the business of gambling  
19 on this nationwide scale, how in any way can we give  
20 sentences to individuals who are doing the same thing?

21 MR. RITCHIE: Thank you, Mr. Friedman.

22 BY MISS MARSHALL:

23 Q Mr. Friedman, what policy or standard, if you will,  
24 have you set regarding the type or the size of gambling  
25 operations that your office will prosecute? I guess

1 what I am asking you is: Is it dependent on the size of  
2 the gross volume or the persons involved, or just what?

3 A It's a system of balancing the various factors in-  
4 volved. It is not a rigid policy. I think it involves  
5 questions as to whether or not corruption is likely to  
6 be uncovered in an investigation of the particular gam-  
7 bling operation. That depends upon many factors, of  
8 course including what witness one is likely to get to  
9 testify, whether there is a particular location where if  
10 you put a wiretap on or bugging device in that is Court  
11 authorized, you would be likely to intercept conversa-  
12 tions with corrupt individuals. It also depends on the  
13 volume of the operation in terms of money. It depends  
14 upon whether at the particular time you have actual  
15 physical surveillances of high echelon organized crime  
16 figures being involved in the operation to the extent  
17 that you have a likelihood of being able to apprehend  
18 them. It's a multi-faceted approach and does not have  
19 any rigid guidelines.

20 Q Could you estimate for us what amount or what per-  
21 centage of those cases brought to you for prosecution  
22 you proceed on in which you would turn over either to  
23 the United States Attorney's office or to the local law  
24 enforcement?

25 A I really couldn't estimate a percentage on that.

1 Q Would you say it was in the majority or the minor-  
2 ity?

3 A If we are talking about cases including cases de-  
4 clined? Is that what you are asking?

5 Q Yes.

6 A The cases turned over to local officials or  
7 turned over to the United States Attorney's office would  
8 be in a minority. Of course, it must be kept in mind  
9 that certain matters probably are never even brought to  
10 us, because they don't meet the statutory minimum, and  
11 the FBI or the agency investigating it would automati-  
12 cally, without even bringing it to the Strike Force,  
13 refer that to local officials or refer it to the United  
14 States Attorney.

15 Q What percentage of the caseload in your office  
16 would you estimate to be attributed to gambling cases?

17 A About 20, 25 percent.

18 Q And you have how many attorneys on your staff?

19 A Nine attorneys.

20 Q Do you have any of those attorneys working exclu-  
21 sively on gambling cases or do you parcel them out  
22 amongst the nine?

23 A I parcel them out.

24 Q Could you then estimate for us the amount of time  
25 spent working on the 20 to 25 percent of gambling

1 cases? The reason I ask that question is, for example,  
2 when I was with the Miami Strike Force, about 50 per  
3 cent of our caseload was gambling; but because of the  
4 fact that those cases generally force Court-authorized  
5 wiretaps, they therefore take more time to prepare for  
6 grand jury presentation and for trial. Consequently,  
7 we would be spending 90 percent of our time on essen-  
8 tially 50 percent of our cases. Do you have this  
9 situation in your office?

10 A No, I don't. I think it's about the same percentage  
11 of time spent.

12 Q Can you tell us, sir, what number of organized  
13 crime figures, high echelon crime figures, have been  
14 convicted of gambling offenses in Philadelphia since  
15 the inception of the Strike Force?

16 A No, I can't. I can't go back. I know there have  
17 been several, but I can't go back.

18 Q Can you estimate for us the impact that the Strike  
19 Force in this area has had on the incidents of illegal  
20 gambling?

21 A Mr. Baker from the FBI will be testifying later.  
22 I think he is in a better posture to actually make an  
23 estimate as to something like that.

24 MISS MARSHALL: Thank you. That's all I  
25 have.

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STATEMENT

OF

JOEL M. FRIEDMAN  
CHIEF ATTORNEY  
PHILADELPHIA STRIKE FORCE  
UNITED STATES DEPARTMENT OF JUSTICE

BEFORE

THE

COMMISSION ON THE REVIEW OF THE  
NATIONAL POLICY TOWARDS GAMBLING

STATEMENT CONCERNING

GAMBLING, LAW ENFORCEMENT, ORGANIZED CRIME

ROOM 3306  
WILLIAM J. GREEN JR.  
FEDERAL BUILDING  
PHILADELPHIA, PENNSYLVANIA

MAY 29, 1975



**CONTINUED**

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Mr. Chairman, my name is Joel M. Friedman. I am the Chief Attorney of the Justice Department's Organized Crime Strike Force covering the Eastern District of Pennsylvania, Middle District of Pennsylvania, Delaware, and Maryland. I arrived in Philadelphia in November 1974, and supervise the investigation and prosecution of all Organized Crime cases falling within the geographical area covered by the Strike Force.

I want to thank the Commission for asking me to come here today to testify about the Federal Prosecutor's role in the enforcement of the nation's law against syndicated gambling. It is my belief that Organized Crime attacks the intestines of society and erodes our entire system from the guts outward. I believe the legislation passed by Congress directed at illegal gambling gives the Strike Force one of its more important weapons with which to prosecute the leadership and financial underpinnings

of Organized Crime. If this weapon was removed, it would be much more difficult to defend society against the cancer of Organized Crime.

The Strike Force headquartered in Philadelphia was set up in 1968 and is composed of career Justice Department Prosecutors stationed in Philadelphia, Pennsylvania. Conducting the Strike Force's field investigations into Organized Crime are Agents from the FBI, the Internal Revenue Service, the DEA, the Postal Inspection Service, the Treasury Department's Bureau of Alcohol, Tobacco, and Firearms, the Secret Service, Securities and Exchange Commission, the Department of Labor, the Bureau of Customs, INS, and representatives of the Philadelphia Police Department Organized Crime Squad.

One of the prime purposes of the Strike Force is to coordinate all Federal law enforcement into a unified and programmatic attack on the problem of Organized Crime. Using the investigative talent of the participating Strike Force Agencies, the Strike Force has sought to prosecute the organized hoodlum and racketeer whenever we could establish that the regular business activity of the underworld had violated a Federal law. The Strike Force investigates and prosecutes such racketeer-infiltrated activities as loansharking, fencing, securities frauds, income tax evasions, narcotics violations, extortion, and labor racketeering. We have also prosecuted non-Organized Crime political corruption cases. Maurice Osser was prosecuted and convicted by the Strike Force. The Shoup Voting Machine Case was also successfully prosecuted by us.

The most pervasive illegal activity dominated by Organized Crime is gambling. Gambling provides the financial means for narcotics violators, corruptors, and loansharks. I strongly oppose any weakening of the present laws against illegal gambling.

Judge Mansfield, of the U.S. Court of Appeals for the Second Circuit, addressing himself to the constitutionality of Title 18, United States Code, Section 1955, in the case of United States v. Becker, 461 F.2d 230, 233 (2d Cir. 1972), reversed on other grounds, 417 U.S. 903 (1974), quoted Justice Douglas as follows:

"loan sharking in its national setting  
is one way-organized interstate crime  
holds its guns to the heads of the poor

"and the rich alike and syphons funds from numerous localities to finance its national operations." 402 U.S. at 157, 91 S.Ct. at 1363.

Judge Mansfield then went on to point out that:

"The statement applies with equal force to illegal gambling of the class prohibited by Section 1955. Indeed the President's Commission on Law Enforcement and Administration of Justice has concluded that 'gambling is the greatest source of revenue for organized crime.' Operating through a system of 'layoff' bets accomplished through a network of local, regional, and national layoff men' throughout the nation, the profit

"flowing into criminal coffers from gambling activities, the Commission concluded, may approximate \$6 to \$7 billion each year."

As Judge Mansfield pointed out, gambling as loan-sharking in its national setting is one way organized interstate crime holds its gun to the heads of the poor and the rich alike and syphons funds from the numerous localities to finance its national operations.

Three prior cases that I have had personal contact with best illustrate the interrelationship of gambling income with narcotics, loansharking, and corruption.

The first case is the conviction in January 1975, by the Philadelphia Strike Force of eight high echelon narcotics figures who had named the organization they

headed the "Black Mafia." The investigation conducted by DEA with the help of the Strike Force, included the use of Court-authorized wiretaps. The eight Defendants received the following sentences for violations of the narcotics laws: JAMES FOX, 30 years' imprisonment; EUGENE BAYNES, 27 years' imprisonment; RUSSELL BARNES, 21 years' imprisonment; EUGENE HEARN, 15 years' imprisonment; WILLIAM JEFFERSON, 15 years' imprisonment; GREGORY TRICE, 15 years' imprisonment; FERRIS FOSTER, 5 years' imprisonment; and BARTHANIEL THORNTON, 4 years' imprisonment. All were self-proclaimed leaders of the Black Mafia.

While awaiting trial on the above narcotics charges, JAMES FOX was arrested for gambling violations by the Philadelphia Police Department.

Reliable information available to the Strike Force indicates that the Black Mafia controlled the majority of numbers businesses in West Philadelphia. It is my opinion that the Black Mafia funded their narcotics business in large part from gambling revenues they received.

Another Strike Force case, concluded on April 29, 1975, was the conviction of Alexander Hartzell. Mr. Hartzell was part of an organized criminal loanshark operation. He received a sentence of five years' imprisonment and a \$10,000 fine and is presently incarcerated. His Co-Defendant, Frank Sindone, however, was acquitted. Trial evidence revealed that Mr. Hartzell worked for a much larger organization. According to him, the leadership of

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that organization included Angie, Frank, and Phil.

Mr. James, a witness at the trial, identified these

individuals as Angelo Bruno, Philip Testa, and Frank

Sindone. In 1969, Congress in the Mc Clellan Committee

Report published a list that identified Mr. Bruno as

Head of the La Cosa Nostra in the Philadelphia area,

and Mr. Testa as a capodecina of La Cosa Nostra in the

Philadelphia area. During the course of the investiga-

tion, Hartzell told William James, the loanshark

victim, that he needed a \$10,000 principal repayment

because Frank Sindone had promised "Wolfie," a local

gambling figure, the \$10,000. According to Hartzell,

Sindone had promised the \$10,000 to "Wolfie" because

the gambler had received a hit in excess of \$40,000,

the term "hit" meaning that the gambling business

lost \$40,000 to a particular customer. Thus, it

appeared that Sindone intended to finance the gambling

business through collection of a loanshark debt.

The interrelationship of the loanshark business with Wolfie's gambling business was obvious from Hartzell's statements.

Experience has also taught us that gambling victims often become loanshark victims. When gambling customers have lost so much that they can no longer pay their accounts, they are turned over to the leg breakers or loanshark. Then, the friendly bookie tells the customer the account is out of his hands. It's been taken over by downtown.

Is there any doubt that Organized Crime really controls gambling? That fact is self-evident.

Frequently, low-level members of gambling organizations are immunized to testify against higher-ups. Some testify, but a significant number of others

submit to 18-month terms of incarceration, rather than testify against their Organized Crime superiors. Thus they accept the 18 months in jail, despite the fact that the violation about which they are being questioned usually results in probation or short terms of imprisonment. In fact, District Court files reflect that in a pending gambling investigation, of which Frank Narducci is a subject, the Government has filed a petition for Civil Contempt against an immunized Grand Jury witness who has refused to testify. Frank Narducci has been identified by the Pennsylvania Crime Commission as a soldier in the Angelo Bruno Cosa Nostra Family and as having been convicted of a gangland-style slaying. Pp. 33 and 61, Report on Organized Crime, Pennsylvania Crime Commission (1970).

One of the best examples of the interrelationship of gambling with Organized Crime and its obviously disastrous effects upon society is a case that I handled as Deputy Chief Attorney of the New England Strike Force. This case was that of United States v. Michael Pellicci. Lt. Edward Vaughn, Head of the Vice Squad in Watertown, Mass., was approached with a bribe offer by Michael Pellicci in the beginning of 1973. He reported the approach immediately to his superiors and then to the FBI. For over a year, he wore a body recorder and risked his life investigating Pellicci and his superiors. On November 27, 1973, and December 17, 1973, U.S. District Judge Murray, of the District of Massachusetts, authorized wiretaps on the phones of Michael Pellicci at his home and office and a bug of Michael Pellicci's office.

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During the course of the investigation, Michael Pellicci told Edward Vaughn that Gennaro Angiulo had placed him in charge of all gambling and loan-shark activity in a three-town area surrounding Boston. Pellicci was intercepted on December 28, 1973, telling a companion, "I'll be very honest with you; I make a move; they know it." Gennaro Angiulo, in the hearings before the Committee on Criminal Law and Procedure of the Committee of the Judiciary --- United States Senate --- March 18, 19, 25, 26, and June 3, 4, 1969, was named on charts published by that Committee as the Underboss of the La Cosa Nostra in the New England area. Items available in the public record indicate that Michael Pellicci was a major loan-shark; that he threatened physical violence to

individuals; that he paid \$500 per month to Lt. Edward Vaughn for protection of a gambling operation; that he gave him automobiles; <sup>and</sup> that he gave him liquor (all these items were turned over to the FBI). Pellicci, an adult in his 50's, indicated to Vaughn that he had been heavily involved in criminal activity since he was a youngster and had bribed a Captain of Police in the City of New York. Pellicci told Vaughn he had already filled one safety deposit box and was working on a second larger one, and that if Vaughn played ball with Pellicci, he could get himself into a similar financial situation. In fact, on the day Pellicci was arrested, \$30,000 cash was seized from his house. On one occasion, the FBI raided a distant branch of the gambling operation Pellicci was in charge of. At the

direction of the FBI, Vaughn called Pellicci and told him the raid had taken place. Shortly thereafter, Pellicci was heard over the Court-authorized wiretap calling several of the bookies and telling them to be careful because Savas had been raided. The day after Savas was raided by the FBI, he talked to Pellicci about a new spot to continue his business. Pellicci suggested to Savas that he move into Pellicci's building in Watertown. Pellicci confidently indicated that Vaughn wouldn't want anything to happen to his "Uncle Mike."

There can be no doubt that, as the Pellicci investigation illustrates, Organized Crime is in large part supported by gambling revenues.

Michael Pellicci and Charles Savas were prosecuted by me for a violation of Title 18, United States

Code, Section 1955. Both were convicted in May of 1974.

Pellicci received a sentence of five years' imprisonment and a \$20,000 fine. Savas received a three-year sentence.

Pellicci was again indicted in November 1974, for Income Tax and loanshark violations. That case is pending.

The Philadelphia Strike Force with the skilled Agents of the FBI and the Grand Jury is investigating many gambling cases. Some of these cases contain evidence of Police Corruption. The Organized Crime Squad of the Philadelphia Police Department under the leadership of Lt. Daniel Mc Fadden is cooperating with us with respect to the Police Corruption investigations. If we obtain sufficient evidence, Indictments will be sought against the policemen.

METHODS OF INVESTIGATING GAMBLING CASES

Court-authorized wiretaps, consensual recording devices, and the use of immunity are essential to successful prosecution of high echelon Organized Crime figures and corrupt individuals associated with gambling cases. Prosecutors can apprehend and prosecute low-level violators of the criminal law without much effort. We do not need sophisticated devices to catch low-level criminals. But, in order to effectively prosecute sophisticated criminal activity and get at the foundations of the organized criminal establishment, we need effective tools. Those effective tools include the use of immunity, the use of wiretaps, and the use of the Gambling Statutes. Prosecutors have a major responsibility to use these tools wisely and properly. However, without them, no expenditure of manpower and resources

will be sufficient to do the job. Society is entitled to some protection against Organized Crime. The Wiretap Statutes, the Immunity Statutes, and the Gambling Statutes are essential tools in protecting society against Organized Crime, and we must keep them.

#### SENTENCES

The average sentence in gambling cases in the Eastern District of Pennsylvania is probation. Sentences of probation do not have a major impact upon Organized Crime. The prosecutor must impress upon the Judiciary the significance of gambling cases and why lengthy jail sentences are necessary. Individuals who generate gambling revenues and thus support Organized Crime's more cancerous activities must be made to realize that they do not have a license to prey upon society.

Some of the vigorous efforts by the FBI and Strike Force have recently led to more lengthy sentences. Recently, a defendant who had been convicted for conducting an illegal gambling business and given probation was intercepted again over a Court-authorized wiretap, participating in an illegal gambling business. The Strike Force petitioned the Court to revoke his probation. Judge Ditter, United States District Court, Eastern District of Pennsylvania, revoked that probation and sentenced the defendant to four years' imprisonment. This is the kind of alert law enforcement that we must continue to have an effect upon Organized Crime.

If a felon feels he can violate the gambling laws at will, without receiving a prison sentence, he will flaunt the law. He will never testify against

higher-ups in the gambling operation; against loan-sharks related to that gambling operation; against narcotics violators related to that gambling operation, or against corrupt policemen. We must work for higher sentences.

SHOULD GAMBLING BE LEGALIZED?

The reason the Mob has so decisively moved into control of gambling is because it is the biggest money maker of any form of illegal activity. The gross handle is estimated to range in the billions of dollars; the net profit to major Organized Crime figures is enormous. The Internal Revenue Service works with the Strike Force by enforcing Income Tax Laws of the United States against mobsters who compound their crimes by evading taxes due on the profits of their rackets.

As long as it is a fact that the Mob controls gambling or significant portion thereof; then the best way to prosecute the leadership of the Mob is through enforcement of the Federal Gambling Laws. One of the issues before this Commission is whether or not further legalization of gambling in some form will reduce the evils now attendant upon the crime of professional gambling. It is my opinion that legalization of gambling in any of the commonly-suggested forms will not significantly reduce Organized Crime's control over the industry.

In New York, control of gambling by Organized Crime has not significantly decreased as the result of the legalization of horse race betting. If gambling is legalized on a nationwide or regionwide basis, who

will conduct it, if not the same racketeers who enforce the monopoly in an industry. Professional criminals will not reform merely because one aspect of their industry is legalized? During the period of time immediately preceding the Referendum in New Jersey relating to legalization of the gambling laws, intelligence reports available to Strike Force personnel indicated that a significant number of organized criminals were moving from New York and the Philadelphia area into the New Jersey area. These organized criminals appeared to be purchasing property in areas where the legalized gambling industry was anticipated to be the busiest. This was true especially in Atlantic City. One can only conclude that members of Organized Crime were eagerly awaiting participation in the legalized gambling field.

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Far from fearing competition from legalized gambling, members of Organized Crime seemed to anxiously welcome its coming. Based upon the facts available to me, I seriously doubt that legalization of gambling would deter racketeers from use of violence in the collection of gambling debts, and I doubt that it would deter Organized Crime figures from raking certain sums off the top of legalized casinos. Legalized gambling will not significantly decrease the number of people betting with bookies. But, instead, will draw most of its revenues from those who now bet infrequently. It will probably also tend to increase the number of loanshark victims.

Any realistic form of state regulations would put legitimate gambling automatically at a disadvantage

with the professional gambler. The professional gambler is able to give easy credit, telephone service, and tax-free payoffs. The professional gambler can give his bettors better odds and credit. The only system that would make legalized gambling competitive would be to make numbers, sports, or horse betting a tax-free unregulated activity producing no revenue for the State.

The moral authority of the State should not be put behind what is now generally treated as criminal behavior because it will only change our society for the worst. The bettor always loses to a well-run gambling organization. The criminal community is full of people who are degenerate gamblers who've lost so much that they keep gambling not to make a buck, but just to pay their prior gambling and loanshark debts. Gambling should not be legalized..

CONCLUSION

Gambling, by virtue of its contribution to the bankrolls of Organized Crime, has a cancerous effect upon society. Organized Crime is a corruptor and a peril to us all. We must not cripple the prosecutor. It is the prosecutor's responsibility to protect society against sophisticated criminals. If we remove his most effective tools, we leave the criminals free to extort from legitimate businessmen; to control industries; to give narcotics to our youth; to kill and to maim. If we let Organized Crime run rampant, it will strangle us to death. I urge that this Commission find that one of the more valuable tools of the prosecutor, the Gambling Statutes, not be removed from our arsenal of weapons.

1 MR. COLEMAN: Mr. Friedman, on behalf of  
2 the Commission, I want to thank you very much.  
3 I know you brought some of your associates here  
4 today. As I say, you have been very helpful. We  
5 wish you the best here in Philadelphia. In answer  
6 to Mr. Ritchie's question, you said you don't know  
7 how long you will be here, but you have our best  
8 wishes.

9 MR. FRIEDMAN: Thank you.

10 (Witness excused.)

11 -----

12 MR. COLEMAN: The next witness, Mr.  
13 Richard J. Baker, has been the special agent in  
14 charge of the Philadelphia office of the Federal  
15 Bureau of Investigation since 1973. Prior to this  
16 position he was assistant director in charge of the  
17 Office of Planning Evaluation, FBI Headquarters in  
18 Washington, D.C. Mr. Baker has been a member of  
19 the FBI since 1947. He has served as special agent  
20 in charge of the New Haven, Connecticut; Dallas,  
21 Texas; and Miami, Florida, offices. He has also  
22 served as special agent in charge of the Organized  
23 Crime Division in New York City.

24 Mr. Baker, we welcome you.

25 MR. BAKER: Thank you very much, Mr.

1 Coleman.

2 MR. COLEMAN: I might state that you have  
3 one of your colleagues with you. Would you identify  
4 him?

5 MR. BAKER: Yes. I would like to intro-  
6 duce, if I can, Jack Howell, who is the coordinator  
7 of our organized crime program in the Philadelphia  
8 division.

9 MR. HOWELL: Good morning.

10 MR. BAKER: By way of jurisdiction, the  
11 Philadelphia office is responsible for the same  
12 geographical territories that are covered by the  
13 Eastern and Middle Judicial Districts in Pennsyl-  
14 vania. In effect, our office covers the eastern  
15 and middle sections of Pennsylvania as far west as  
16 State College. Our Pittsburgh office covers the  
17 remainder of the State.

18 Before I begin my testimony, I would like  
19 to take this opportunity to thank you for the priv-  
20 ilege of appearing before the Commission today.

21 As the Commission is well aware, pri-  
22 mary responsibility for investigation of illegal  
23 gambling lies with State and local authorities. I  
24 would, therefore, like to clarify the reason for  
25 the FBI's participation in this field. Such a

1 clarification obviously requires factual data re-  
2 garding the evils and problems inherent in illegal  
3 gambling as it presently exists and operates in  
4 the territory covered by the Philadelphia office  
5 of the FBI.

6 The FBI is opposed to illegal gambling  
7 inasmuch as, one, it has been legislated illegal  
8 and, two, it is for the most part under the control  
9 of organized crime. As indicated in various Con-  
10 gressional reports, following exhaustive inquiry  
11 and study, the major source of income for organized  
12 crime, both nationally and locally, is illegal  
13 gambling.

14 Organized crime has been defined as "The  
15 unlawful activities of the members of a highly  
16 organized, disciplined organization engaged in  
17 supplying illegal goods and services, including  
18 but not limited to gambling, prostitution, loan-  
19 sharking, narcotics, labor racketeering, and other  
20 unlawful activities of members of such organiza-  
21 tions." It is with the gambling aspect that I wish  
22 to deal today.

23 I should point out at this juncture that  
24 I cannot be as specific as I would like because of  
25 the public nature of these hearings and that certain

1 matters which I will mention are currently under  
2 active investigation or in the prosecutive stage.

3 In our area of responsibility there are  
4 basically four groups falling within the defini-  
5 tion of organized crime. One of these groups is  
6 commonly known to law enforcement officials as the  
7 Philadelphia "mob" or "syndicate;" the second group,  
8 the "upstate mob" or "upstate syndicate"; the third  
9 group I will refer to as a major independent group;  
10 the fourth group I will deal with will be referred  
11 to as a second major independent group.

12 The first two groups, which I described  
13 above, cooperate closely and have mutual respect for  
14 each other's territorial and jurisdictional areas.

15 The Philadelphia "mob" and the "upstate mob"  
16 have been the dominant groups in this area since the  
17 1920's and, as recited in Congressional hearings,  
18 parts of a national syndicate.

19 The first major independent group I re-  
20 ferred to has been prominent since the late 1930's,  
21 principally in Philadelphia, but has dwindled some-  
22 what in size during the past four or five years.  
23 This group, over the years, has avoided direct con-  
24 flicts with the two "mobs," primarily the Philadelphia  
25 "mob," and any problems which arose were usually

1 arbitrated, and violence for the most part was  
2 avoided.

3 The second major independent group I  
4 referred to is a relatively new group which came  
5 into being in the late 1960's and early 1970's.  
6 This group grew in strength and saw its power peak-  
7 ing during 1973 and 1974. This group engages pri-  
8 marily in gambling, loansharking, extortion, and  
9 narcotics with its income deriving primarily from  
10 their illegal gambling and narcotics activities.  
11 This group centers its activities almost exclu-  
12 sively in the ghetto areas of West and North Phila-  
13 delphia. This group unhesitatingly uses force and  
14 violence to obtain its objectives. As I said be-  
15 fore, the victims are usually the deprived members  
16 of Philadelphia's ghettos. Several confrontations,  
17 relating to the efforts of this group to expand its  
18 geographical area of operation, resulted in arbi-  
19 tration, with the Philadelphia "mob" retaining its  
20 geographical sphere of influence and this relatively  
21 new group being chiefly restrained to its original  
22 confines. During the past year, mainly as a result  
23 of Federal prosecutions, the majority of the hier-  
24 archy of this group is now either in jail or await-  
25 ing sentencing. It appears that, at least

1 temporarily, a key blow has been dealt this group  
2 and their participation in illegal activities has  
3 been hurt, including their illegal gambling opera-  
4 tions.

5 The four main groups I have referred to  
6 obtain the majority of their income from the sub-  
7 ject we are discussing today, namely gambling.

8 Illegal gambling in our geographical area  
9 is divided into three-digit numbers lottery, off-  
10 track wagering on horse races, wagering on national  
11 sports events, dice games, and card games.

12 The largest dollar volume is conducted in  
13 the three-digit numbers lottery and wagering on na-  
14 tional sports events.

15 Wagering exists throughout the area over  
16 which we have jurisdiction, being more concentrated  
17 in the urban areas only because of the greater popu-  
18 lation.

19 It is hard to state with a great degree  
20 of accuracy the magnitude of gambling, but suffice it  
21 to say it is widespread, well entrenched, and exists  
22 generally in every area. Our investigations and  
23 Title III interceptions have documented dealings by  
24 bookmakers in this area with bookmakers all over  
25 the country, from Rhode Island to Florida, from

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It is hard to state with a great degree of accuracy the magnitude of gambling, but suffice it to say it is widespread, well entrenched, and exists generally in every area. Our investigations and Title III interceptions have documented dealings by bookmakers in this area with bookmakers all over the country, from Rhode Island to Florida, from

1 New York and Pennsylvania to California. It is be-  
2 cause these gambling operations cross town, city,  
3 and state lines, and are national in operation,  
4 that the presence of the Federal Government is in-  
5 deed necessary in the enforcement of gambling laws.

6 It is virtually impossible to state ac-  
7 curately the percentage of the general population  
8 in our area participating in the various forms of  
9 gambling. I know of no statistics or surveys in-  
10 dicating the extent of such participation.

11 The best manner by which I can give you  
12 an idea of the volume is to explain that our Title  
13 III electronic surveillances have touched only a  
14 very small percentage of bookmakers operating in  
15 the Eastern and Middle sections of Pennsylvania.  
16 The projected tabulation of the annual total or  
17 "handle" for those operations monitored amounts to  
18 approximately \$200,000,000. These Title III elec-  
19 tronic surveillances, installed between October 1969  
20 and December 1974, involved 30 different gambling  
21 operations. You can see if such volume (\$200,000,000)  
22 involved only a small percentage of bookmakers, that  
23 the total amount of wagering taking place is poten-  
24 tially staggering.

25 At this point, if I may, I would like to

1 point out to you the progress we in the Philadel-  
2 phia office of the FBI have made in our investiga-  
3 tions into gambling since the passage of Federal  
4 legislation allowed us to get involved in this field.  
5 As a result of the passage of the first Federal  
6 gambling legislation in 1961, interstate or foreign  
7 travel or transportation in aid of a racketeering  
8 enterprise became a Federal crime. This statute  
9 specifically mentioned gambling as an unlawful activ-  
10 ity, along with narcotics, untaxed liquor, prostitu-  
11 tion offenses, extortion, bribery, and arson. The  
12 FBI was given investigative jurisdiction over all  
13 violations except narcotics and liquor.

14 The Philadelphia office was the first  
15 FBI office in the United States to produce positive  
16 results under the then new legislation. Large  
17 scale dice or "crap" games have for many years been  
18 prominent forms of revenue for organized crime in  
19 Pennsylvania. The most instructive example of syn-  
20 dicate organization of a professional crap game is  
21 offered by the "Reading crap game." The "Reading  
22 crap game," commonly known at that time as the larg-  
23 est game on the East Coast, was operated in Reading,  
24 Pennsylvania, beginning about 1956. In 1961 our  
25 investigation determined that this game was located

1 at 235 Cherry Street, Reading, Pennsylvania.

2 The profits from this game were tremen-  
3 dous. As an example, the president of a business  
4 corporation allegedly lost \$75,000 during one  
5 night's gambling.

6 The profits from this highly-organized  
7 gambling enterprise were split four ways, with 25  
8 percent going to the operators, 25 percent to an  
9 organized criminal element in New York City, 25  
10 percent to an organized criminal element in Camden,  
11 New Jersey, and 25 percent going to a Reading,  
12 Pennsylvania, rackets figure.

13 On January 20, 1962, over 100 FBI agents  
14 conducted a raid on the "Reading crap game." There  
15 were 150 operators and patrons present. There were  
16 over 35 employees on the payroll, including stick-  
17 men, luggers, tellers, loan sharks, dice detectives,  
18 and security personnel, with a weekly payroll of  
19 over \$7,800. Our investigation determined that  
20 most of the employees were from the Atlantic City,  
21 New Jersey area. Over \$50,000 in cash was seized  
22 at the time of the raid, approximately \$30,000 from  
23 the "house," and \$20,000 from the players.

24 The above game involved three crap tables  
25 with six employees per table. Approximately 20

1 luggers were bringing players from various loca-  
2 tions in Pennsylvania and New Jersey, including  
3 Philadelphia. The game operated every night with  
4 "matinees" on Saturday and Sunday. Bets were cov-  
5 ered by the "house," and players were not allowed  
6 to bet among themselves.

7 As a result of FBI investigation and  
8 the raid of the "Reading crap game," 14 individuals  
9 were indicted and charged with traveling inter-  
10 state with the intent to facilitate the carrying on  
11 of a business enterprise involving gambling in  
12 violation of the laws of Pennsylvania and also  
13 conspiracy to violate such laws. Four racket fig-  
14 ures and six employees in the game were convicted  
15 in Federal Court. The effects were far-reaching  
16 and led eventually to the subsequent indictments  
17 of the chief of police and other public officials  
18 in Reading, Pennsylvania. IRS filed levies amount-  
19 ing to \$333,792 against individuals involved in this  
20 case.

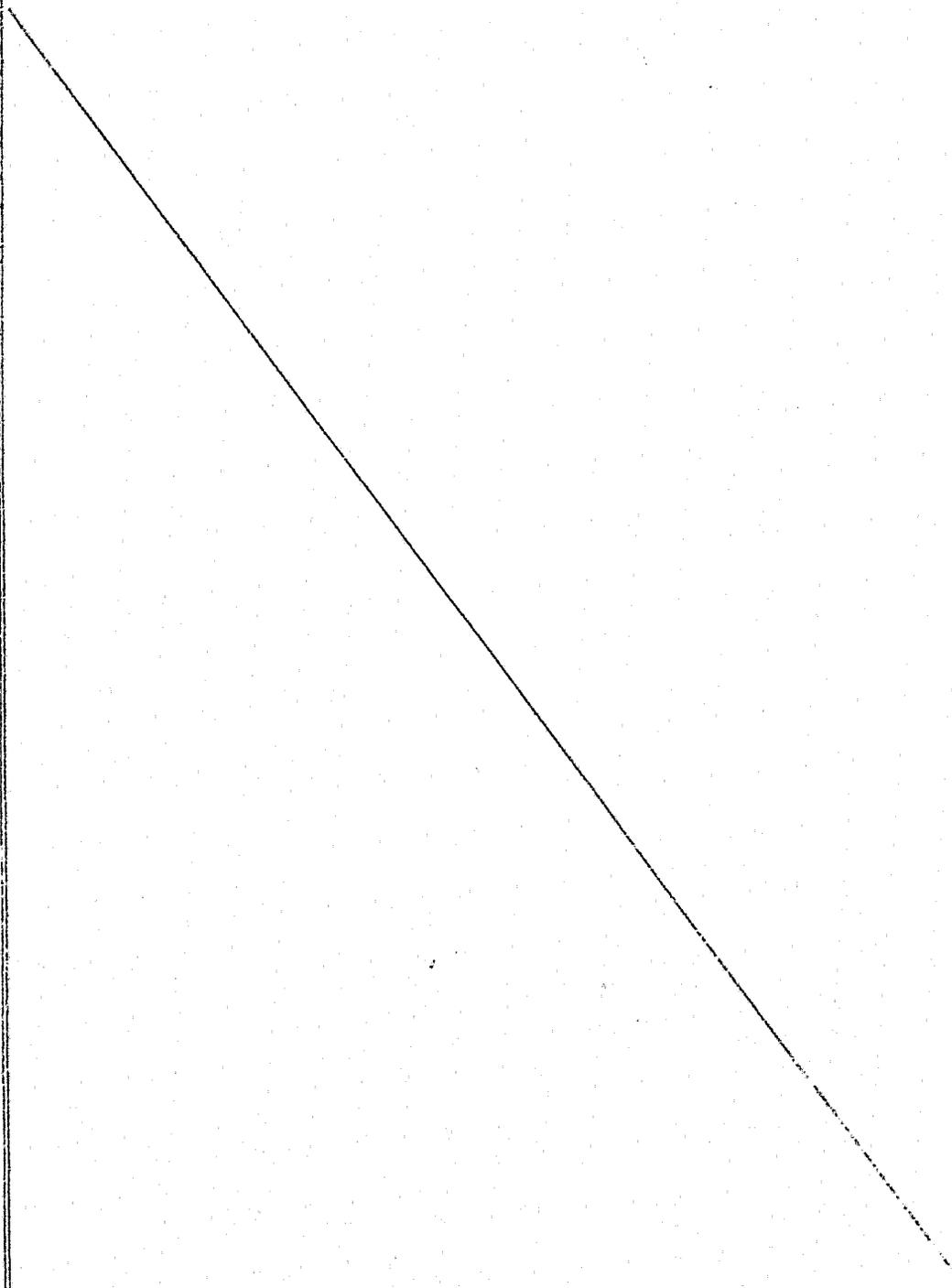
21 In September 1965 investigation by the  
22 Philadelphia office of the FBI developed facts con-  
23 cerning a syndicate controlled casino-type opera-  
24 tion headquartered in South Philadelphia. The direc-  
25 tion of this casino involved regular travel by the

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operators between Atlantic City, New Jersey, and Philadelphia, Pennsylvania.



1                   On September 5, 1965, FBI agents con-  
2                   ducted a raid at 1237 South 7th Street, Philadel-  
3                   phia, Pennsylvania, a vacant store being used for  
4                   the operation of this extremely large scale casino.  
5                   Results of the raid indicated that approximately  
6                   \$35,000 a day was being wagered in this operation.

7                   Among those arrested were four ranking  
8                   Philadelphia "mob" members. All received 12-month  
9                   sentences, which were suspended, and each was  
10                  placed on 12 months' probation and fined \$1,200.  
11                  As disruptive as the prosecution was to the under-  
12                  world, it nevertheless highlights the need I shall  
13                  discuss later for more stringent sentencing if we  
14                  hope to deter criminals from engaging in this type  
15                  of violation.

16                  Since armed with Federal legislation,  
17                  the Philadelphia office of the FBI has been making  
18                  substantial inroads in the investigation of illegal  
19                  gambling operations in our area.

20                  Our results can perhaps best be viewed  
21                  in the following figures which reflect the number  
22                  of gambling and organized crime figures who have  
23                  been convicted under Federal gambling statutes as a  
24                  result of investigations by our agents. Starting  
25                  in 1964, two convictions;

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1965, 21; '66, 8; '67, 7; '68, 2, and then we start a steady increase. In 1969, 15; 1970, 24; 1971, 17 people. In 1972, 36; 1973, 49; 1974, 57.

As of today, May 29, 1975, 62 convictions have been obtained from gambling violations in this fiscal year, and it is anticipated that by the end of the fiscal year, June 30, this figure will be expanded to approximately 65, based on several cases now in the late stages of prosecution.

At the present time 19 individuals are under indictment and 3 individuals are awaiting sentencing in the Eastern and Middle Judicial Districts for violations of Federal gambling statutes. It is anticipated that an additional 55 persons will be indicted on similar charges in the near future.

A review of the above figures clearly reflects a definite trend of increased convictions since the passage of the "Omnibus Crime Control and Safe Streets Act of 1968," and this allowed under Title III Court-authorized electronic surveillances. Enactment of this law eliminated the absolute necessity for live witnesses in order to obtain a successful prosecution. By obtaining sufficient probable cause, a Title III interception could be had, and

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22 Enactment of this law eliminated the absolute neces-  
23 sity for live witnesses in order to obtain a success-  
24 ful prosecution. By obtaining sufficient probable  
25 cause, a Title III interception could be had, and

1 the evidence necessary for a successful prosecu-  
2 tion could be obtained. It is an invaluable aid in  
3 the investigation and prosecution of these cases,  
4 inasmuch as organized crime has a long-standing  
5 reputation for intimidating and on occasion killing  
6 live witnesses.

7 Other advantages flow from electronic  
8 surveillance. It is essential that bookmakers  
9 utilize telephones in their operations. Telephones  
10 are a must in order to obtain line data and for the  
11 layoff of wagers. An interception provides the  
12 means by which all members of the operation can be  
13 identified. It provides detailed evidence on the  
14 scope of the operation. It provides the possibil-  
15 ity for intercepting the principals who make policy  
16 decisions and give directions to the office workers.

17 A second vital law was passed subsequent  
18 to the "Omnibus Crime Control and Safe Streets Act  
19 of 1968" which has greatly assisted our investiga-  
20 tions. In late 1970, the "Organized Crime Control  
21 Act of 1970" was enacted by Congress, and this legis-  
22 lation provided the FBI with additional methods of  
23 dealing with violators of the Federal gambling  
24 statutes as it made a gambling operation involving  
25 five or more persons who either grossed \$2,000 daily

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1 excess of 30 days in violation of this Federal  
2 statute and no interstate aspect was necessary.

3 I feel that these two statutes have  
4 been of tremendous help in our work and our steadily  
5 increasing number of convictions are directly at-  
6 tributable to the passage of these two statutes.  
7 The immunity provisions of the Organized Crime  
8 Control act of 1970 have been utilized on several  
9 occasions in our cases. These situations involved  
10 primarily individuals working for the prime operator  
11 who had knowledge of the operation but who were in-  
12 volved daily on a lower level within the operation.  
13 These individuals, on whom search warrants were  
14 served, were subsequently subpoenaed before a Fed-  
15 eral Grand Jury for inquiry as to identities of the  
16 principals behind the operation. These persons  
17 pled the fifth amendment, were granted immunity,  
18 and continued to refuse to testify after being  
19 granted immunity. Five individuals are currently  
20 awaiting sentencing on contempt charges.

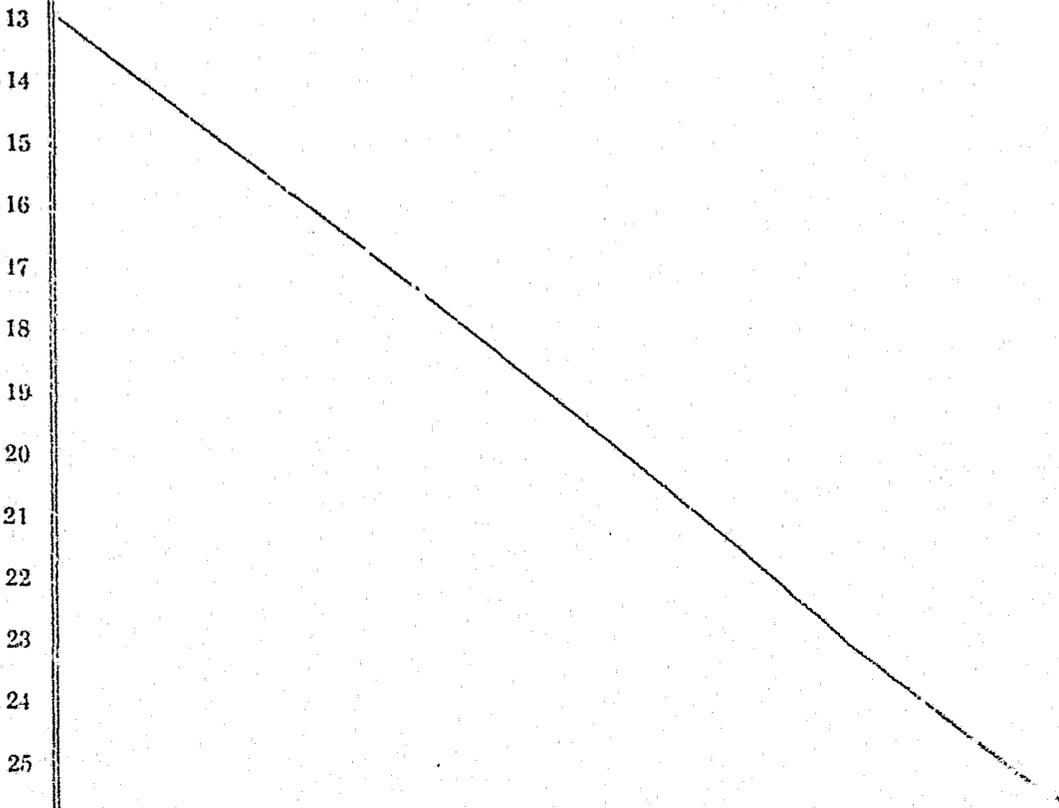
21 Another example of the use of immunity  
22 is the instance of Philip Charles Testa, who has  
23 been described as the number two man in the Philadel-  
24 phia mob, and who, following the granting of immu-  
25 nity in September 1970, was found in civil contempt of

1 Court for refusing to testify before a Federal  
2 Grand Jury. He was remanded to the custody of the  
3 U.S. Attorney General and was incarcerated until  
4 January 1975.

5 Another material aid to a successful  
6 prosecution is the Witness Protection Act. Under  
7 this Act individuals who are willing to testify  
8 against "mob" figures can, at Government expense,  
9 be relocated with their families, to various sec-  
10 tions of the country. They are furnished new  
11 identities, complete with new school records, birth  
12 certificates, and driver's licenses. Assistance  
13 will also be given in an effort to obtain new em-  
14 ployment. The relocation procedures are under the  
15 direction of the U.S. Marshall's Service. As a  
16 result of utilization of this Act, many key "mob"  
17 figures have been successfully prosecuted.

18 Our investigations have definitely  
19 shown that gamblers who incur debts are commonly  
20 referred to loan sharks. The average bookmaker has  
21 a ready list of such individuals available to him.  
22 We have found that it is very common during our  
23 gambling investigations to find a direct tie in  
24 between the persons we are investigating and loan  
25 sharks, because of the nature of the business in

1 which they are involved. It is not unusual for  
2 loan sharks to sell the indebtedness of an individ-  
3 ual to another loan shark. Individuals tied in  
4 with organized crime in many cases earn their living  
5 by collecting debts through strong-arm tactics.  
6 The loan shark usually resorts to threats when he  
7 wants his money, is not interested in how the debtor  
8 obtains these funds, cares less whether he steals,  
9 robs, or whatever, and very clearly impresses on  
10 the debtor that if the monies are not forthcoming,  
11 he, the debtor, will be subject to violence of one  
12 sort or another. In most cases

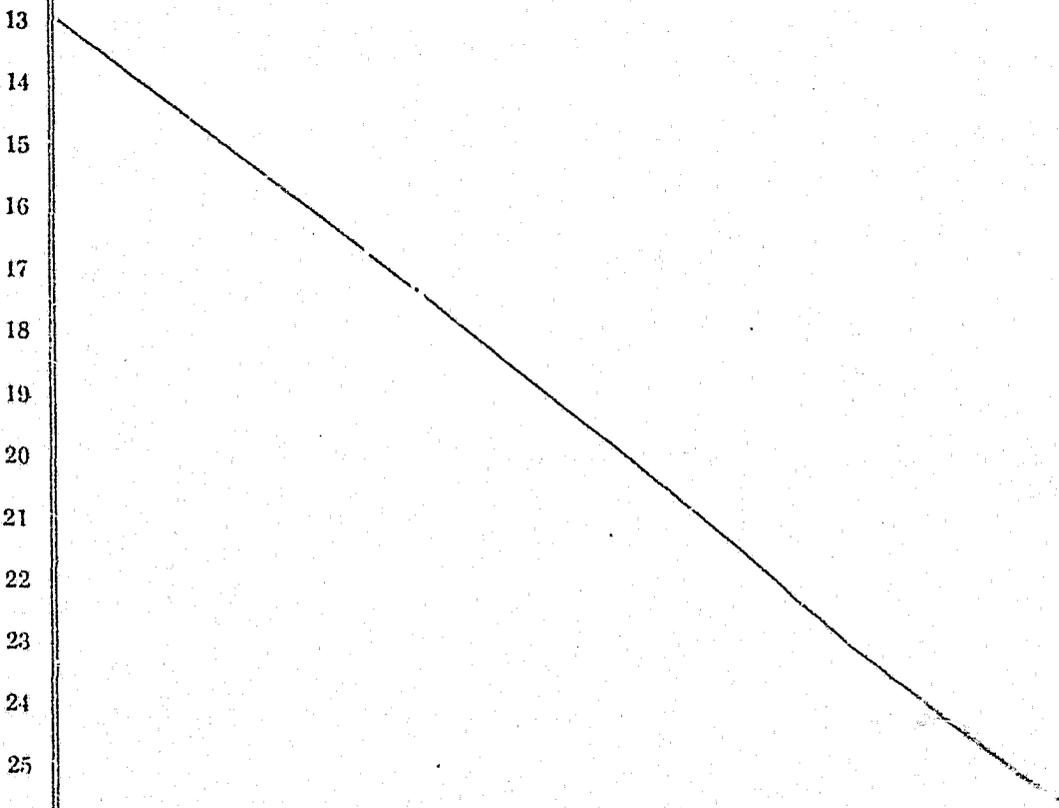


1 such threats cause the debtor to fear for his well-  
2 being or perhaps even his life or that of his family,  
3 and, as a result, the debtor often will commit  
4 other crimes to obtain money to appease the loan  
5 shark.

6 Threats are usually explicit, and the  
7 intentions of the loan sharks to the point. An  
8 example of this would be statements intercepted  
9 during Title III coverage of the number three rank-  
10 ing member of Philadelphia's mob, who while speak-  
11 ing to an associate in November 1970 regarding a  
12 loan owed him by a Philadelphia area woman stated,  
13 "I'm going to rip her face apart, girl or no girl."  
14 The associate responded by stating that, "I'm gonna  
15 hit her over the head with a sledge hammer, I'm  
16 gonna hit her cause she got no business doing this.  
17 She make \$500 a week...." During the course of the  
18 execution of a search warrant on the mobster's  
19 automobile at the conclusion of the aforementioned  
20 Title III coverage, a baseball bat was located  
21 under the front seat of his automobile.

22 In connection with another loan shark  
23 case handled by our office concluded in March of  
24 this year, during a monitored conversation between  
25 Alexander Hartzell, a close associate of the

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2 loan sharks to sell the indebtedness of an individ-  
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11 ing to an associate in November 1970 regarding a  
12 loan owed him by a Philadelphia area woman stated,  
13 "I'm going to rip her face apart, girl or no girl."  
14 The associate responded by stating that, "I'm gonna  
15 hit her over the head with a sledge hammer, I'm  
16 gonna hit her cause she got no business doing this.  
17 She make \$500 a week...." During the course of the  
18 execution of a search warrant on the mobster's  
19 automobile at the conclusion of the aforementioned  
20 Title III coverage, a baseball bat was located  
21 under the front seat of his automobile.

22 In connection with another loan shark  
23 case handled by our office concluded in March of  
24 this year, during a monitored conversation between  
25 Alexander Hartzell, a close associate of the

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Philadelphia "mob," who was a partner in this particular loan shark

1 venture with a ranking "rob" member and the victim,  
2 a New Jersey businessman, Hartzell told the victim  
3 during a conversation in which Hartzell had demanded  
4 prompt payment of money due, "If I have to get  
5 this, 'they' will tell me to do something. I am  
6 going to tell you, I, don't. It might not be today,  
7 a month, ah, two months from now. I am, I am going  
8 to give you, on my children. I've, I've got five  
9 of them... I hope they get cancer of their eyes,  
10 their throat, I will do what I have to do. When  
11 you mess with my family... that's the end of it.  
12 I am just going to tell you the way I feel. I am  
13 going to do what I have to do, whatever 'they' tell  
14 me to do."

15 During a subsequent conversation between  
16 Hartzell and the victim following a telephone call  
17 from the victim's wife to Hartzell, Hartzell told  
18 the victim, "She has to go. She has to go. There  
19 ain't nothing, there ain't no way. Hey, they're  
20 going to let the woman come in and testify against  
21 them and put him away for 10, 20 years? ... she has  
22 to go. Now I'm not saying your wife, I'm just not.  
23 But I'm telling you the truth, what you're doing  
24 to me, if they give me the word, go, I'll tell you.  
25 And that's the way I feel toward life. 'Cause I

1 ain't going to get taken a hole in the head for  
2 you...I could bust you up right now. But what good  
3 would it do?...but, if they say to me, Al, 'put him  
4 away', I am going to put you away... this is the  
5 pressure I get. You're not, you're not just the  
6 one customer... you, you are just a pawn."

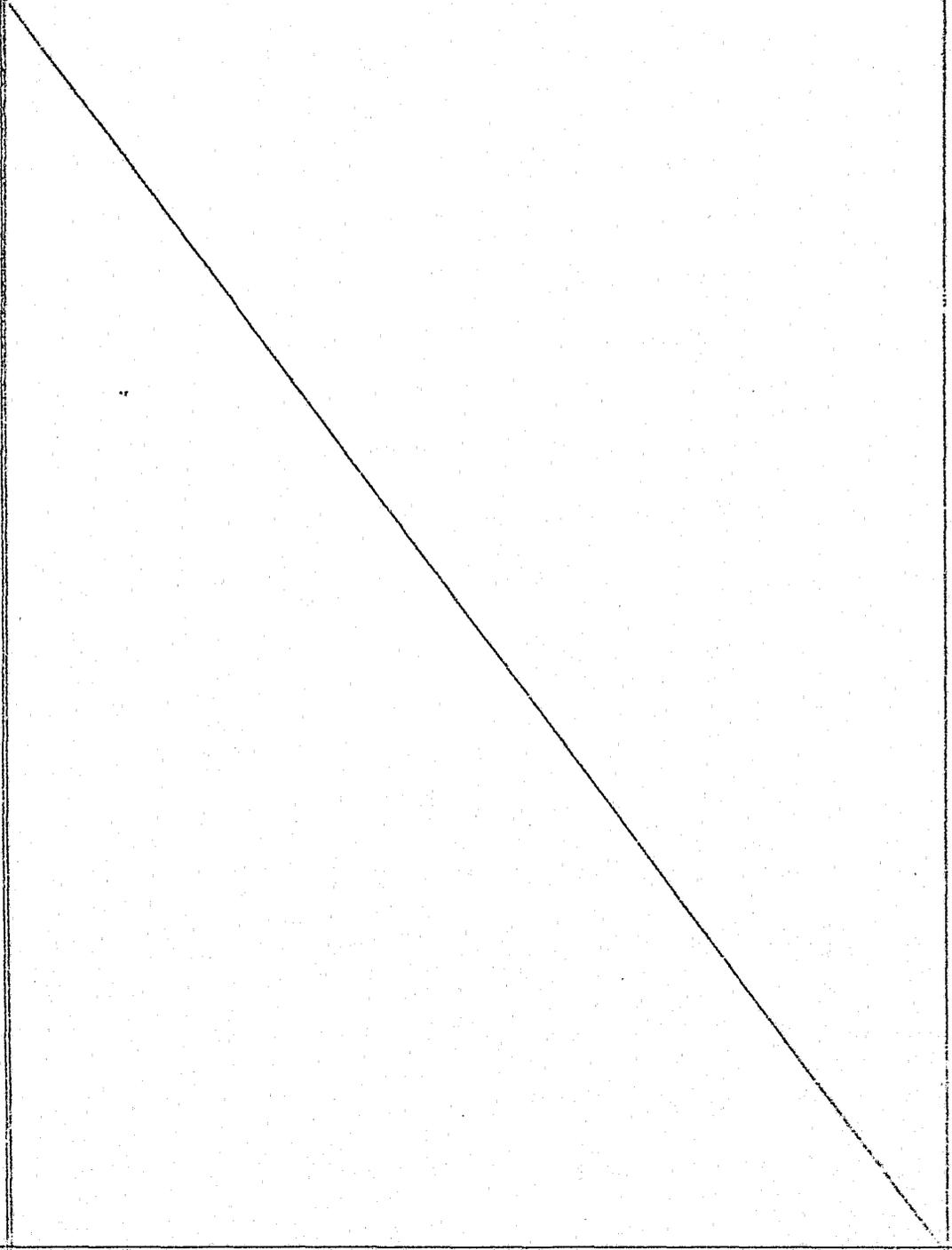
7 During the ensuing trial the victim,  
8 after testifying to the aforementioned threats,  
9 was asked if any other threats were made to him.  
10 He responded from the stand by stating that he was  
11 told by Hartzell that "they" knew the bus driver  
12 and the bus route which his children took on their  
13 way to and from school. The victim stated from the  
14 stand that it was clear to him that had he not  
15 furnished the money to Hartzell which he owed, his  
16 children were targets for retribution by the loan-  
17 sharks.

18 Various Congressional hearings involving  
19 gambling in organized crime reflect that in addition  
20 to gambling being a prime source of revenue for  
21 organized crime, this activity has also resulted in  
22 the corruption of political and police officials.  
23 According to information available, there contin-  
24 ue to be corruption on the part of some political  
25 and police figures. Deterrents to corruption, I

1 believe, consist of several factors; The Federal  
2 Government's intensified effort in gambling inves-  
3 tigation under Title 18, Sections 1955 and 1511;  
4 local police are definitely aware of the Federal  
5 Government's presence; the fact investigative ef-  
6 forts and grand jury inquiries are being made to  
7 uncover corruption. I think that the existence of  
8 such legislation has definitely served as a deter-  
9 rent, both because the police officer is aware of  
10 the Federal Government's intention to pursue cor-  
11 ruption and because the bookmaker understands that  
12 protection to local police is by no means any  
13 guarantee of not being raided, arrested, or con-  
14 victed. A large scale participation in illegal gam-  
15 bling extends far beyond corruption. It is my  
16 opinion that there is general apathy on the part of  
17 some members of the judiciary as well as some gov-  
18 ernment officials who do not think it is a crime to  
19 allow the public to gamble, the "victimless crime"  
20 type of thinking. There appears to be frustration  
21 on the part of some police officers who have their  
22 investigative efforts rewarded by the bookmaker  
23 being fined \$25 or \$50. The average police officer,  
24 unless he is working a gambling or vice unit, does  
25 not have the opportunity to arrest the principals

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controlling the illegal gambling operation; the principals have the money



1 to corrupt senior officers who may on occasion  
2 discipline the officer arresting the low-level  
3 bookmaker.

4 Our investigations to date have not de-  
5 veloped any evidence which warrants prosecution for  
6 corruption under Section 1511 or 1955. I believe  
7 that it is possible that the type of evidence  
8 needed to prove such violations is obtainable  
9 through Title III electronic interceptions but more  
10 probably by the successful prosecutions of key  
11 principals in the various gambling operations.  
12 Their cooperation, after conviction and sentencing,  
13 could provide the necessary evidence as it has in  
14 other areas. Generally, the principal in an opera-  
15 tion will provide for any protection being purchased.

16 Since our entry into the investigation  
17 of violations of Federal gambling statutes, we have,  
18 as mentioned before, obtained the convictions of  
19 300 individuals. Of these individuals, the vast  
20 majority have been placed on probation for periods  
21 ranging from three months to five years; fines  
22 assessed ranged from \$100 to \$10,000; jail sen-  
23 tencings have ranged from six weekends to one year  
24 and a day. I strongly feel when an individual  
25 faces a substantial period of incarceration, a

1           deterrent factor is encountered.

2                       Bookmakers and numbers operators have  
3           been accustomed to fines and short periods of pro-  
4           bation. Neither of these penalties substantially  
5           hurt or serve as a deterrent. Jail sentences and  
6           the use of the immunity statute, where key employees  
7           have actually been confined for periods of 18 months,  
8           I believe, are the type of deterrents required to  
9           create a real impact on the bookmaking community.

10                      I would like the Commission to be aware  
11           that in connection with our gambling investigations,  
12           it has been our practice to make records seized in  
13           gambling raids available to the Internal Revenue  
14           Service. That agency's seizures, assessments, and  
15           prosecutions also have had an impact. Internal  
16           Revenue Service assessments have been in the mil-  
17           lions. In addition to furnishing information to  
18           the Internal Revenue Service in connection with our  
19           investigations when information is developed during  
20           the course of gambling raids and such items as  
21           narcotics or weapons are seized, the drug enforce-  
22           ment agency and the Bureau of Alcohol, Tobacco and  
23           Firearms are also promptly advised, and the nature  
24           of evidence seized made available to them. When  
25           pertinent, evidence and data of interest to other

1 agencies are promptly furnished to these respective  
2 agencies.

3 In addition to our dealings with the afore-  
4 mentioned Federal agencies, we work closely with  
5 local police departments in the enforcement of  
6 gambling legislation and almost daily disseminate  
7 information pertaining to bookmakers which often  
8 results in raids and arrests by the local depart-  
9 ments. We have engaged in many cooperative ventures  
10 with local law enforcement, and, when appropriate,  
11 include local police in our raiding teams. Coopera-  
12 tion with local police departments, including the  
13 Philadelphia Police Department, has been excellent.

14 I feel the Commission should know that  
15 our investigations and our intelligence informa-  
16 tion indicates that the legalized lottery in Penn-  
17 sylvania has had little or no effect on illegal  
18 gambling. It would appear that local lotteries are  
19 not geared to compete with illegal gambling. I  
20 believe that the general public is apathetic toward  
21 enforcement of gambling laws. All too many people  
22 look at illegal gambling as a "victimless crime."  
23 Unfortunately, what they do not realize is the bru-  
24 tality that is exercised by organized crime in pro-  
25 moting gambling and other illegal activities. I

1 honestly do not feel that they have any understand-  
2 ing of the fact that gambling remains the single  
3 major source of income for organized crime. These  
4 same people seldom, if ever, see the suffering in-  
5 curred by victims of loansharks who feed off the  
6 profits of gambling.

7 It does not seem possible to completely  
8 eliminate all forms of illegal gambling. I think  
9 that we in law enforcement have found that gambling  
10 laws do not stop gambling from taking place. It  
11 would appear that a more realistic goal would be  
12 to attempt to control illegal gambling. If the  
13 principals and employees involved in illegal gam-  
14 bling ventures were given jail terms, long periods  
15 of probation, and sizeable penalties, assessments  
16 and fines by the Internal Revenue Service, the  
17 profit picture would not be so appetizing. There  
18 would then be the serious question on the part of  
19 employees within the bookmaking empire as to wheth-  
20 er the chance was worth what they were being paid.  
21 Organized crime needs the employees to effectively  
22 operate a bookmaking operation. Major operations  
23 can be put out of business as they have in the past.  
24 The smaller groups will lack the power, political  
25 affiliations, and ruthlessness of the groups now in

1 control. There will be individuals willing to take  
2 the calculated risk to move into the voids created,  
3 but through continued pressure these new principals  
4 will have difficulty in recruiting employees to  
5 build their venture into a major gambling operation.  
6 Gamblers fear incarceration and stiff prison sen-  
7 tences.

8 I believe that Congress has given the  
9 FBI the equipment to do the job. Given the time we  
10 shall do the job.

11 Regarding the question whether legalized  
12 gambling would have an impact on illegal gambling,  
13 it is our experience that in those areas where  
14 legalized gambling exists it is no deterrent to the  
15 illicit operations of the underworld. We have also  
16 found that there is little or no impact on such re-  
17 lated areas as graft and corruption or the associ-  
18 ated crimes of burglary and robbery. Because con-  
19 venient collection services are available with  
20 their ready credit situations, the wide variety of  
21 wagers and tax advantages offered by the criminal  
22 groups, legalized competitors are not able to lure  
23 away those individuals dealing with illegal gam-  
24 bling.

25 Let me again thank you for the invitation

1 to appear here, and I hope my testimony has been  
2 of some worth to the Commission.

3 MR. COLEMAN: Mr. Baker, we appreciate  
4 it very much.

5 Miss. Marshall, would you commence the  
6 questioning, please?

7 MISS. MARSHALL: Thank you.

8 BY MISS. MARSHALL:

9 Q Mr. Baker, I would like to ask you approximately  
10 how many of your agents you have assigned to the gam-  
11 bling investigation.

12 A We do not assign agents exclusively to gambling.  
13 We look at gambling, of course, as an organized crime  
14 related violation, so the agents who handle gambling  
15 also handle other organized crime violations. There  
16 are approximately 20 such agents who are engaged in  
17 gambling, and the major part of their work is gambling.

18 Q Out of a total of how many agents in your office?

19 A We have somewhere between 200 and 250 agents in  
20 the Philadelphia division.

21 Q Do you feel the existing manpower that you have in  
22 the existing resources are adequate in the gambling  
23 area or would you like to see the FBI extend its re-  
24 sources in that direction?

25 A I don't want to sound like a bureaucrat, but any

1 administrator never feels he has all the personnel he  
2 would like. Considering the total resources of the FBI,  
3 I think we are sensibly staffed. We could do more work  
4 in this area, of course, if we had additional personnel.

5 Q Would it be a fair statement, Mr. Baker, to say  
6 the wiretapping provisions enable you to, in essence,  
7 get a better handle on gambling?

8 A I think the wiretap aspect of the Federal statute  
9 is probably the single most important part of the legis-  
10 lation as far as gambling investigations are concerned.  
11 I also recognize the fact that when you talk about wire-  
12 tapping, it conjures up in the minds of many people,  
13 especially lay people, all sorts of Big Brother ap-  
14 proaches on the part of the Federal Government. I think  
15 perhaps we haven't done a proper selling job in telling  
16 the average person the safeguards that are involved in  
17 getting a wiretap, so they can rest assured at night  
18 that their Aunt Mary isn't having her telephone conversa-  
19 tions overheard.

20 The gamblers who operate must use tele-  
21 phone facilities. It is a tool of their trade. Much of  
22 their business is done by telephone. If we are to make  
23 inroads on their operations and obtain successful prosecu-  
24 tions, it just seems very elementary to me that we have  
25 to know the context of those telephone conversations to

1 obtain the necessary evidence under the statutes. Many  
2 of our cases in the gambling field are primarily on the  
3 basis of information obtained from wiretaps. Without  
4 them, we would not sustain those convictions.

5 Q We were told yesterday by various state and local  
6 officials about the Pennsylvania anti-wiretapping statute,  
7 which, given your position, would obviously be a  
8 great impediment to local law enforcement in the area of  
9 gambling. If this were to be remedied, if Pennsylvania  
10 were to be able to achieve Court-authorized wiretaps,  
11 would the FBI withdraw somewhat in the area of gambling  
12 enforcement and leave it more in the hands of the local  
13 officials?

14 A I think it would require a period of experiment,  
15 let us say, to see what the State authorities were able  
16 to do. We still feel that gambling is primarily a local  
17 problem. If the local authorities do not have the tools  
18 to do the job and the Federal Government does, then we  
19 feel the Federal presence should be heavier. I trust  
20 that answers your question in that degree.

21 Q Not having read their statute, I am not quite certain  
22 on this point, but I would assume it would preclude  
23 you as the Federal Government from, in essence, giving  
24 them information obtained off of wiretap. I would assume  
25 they would be precluded from using information off of

1 wiretaps; is that correct?

2 A It would, of course, depend on the language of the  
3 legislation once it is passed. I have been in other  
4 sections of the country, including New York State, as  
5 an example, where there was local as well as Federal  
6 wiretap legislation, and we could exchange information.  
7 We could furnish it to the local authorities, and they  
8 could use it in their trial, and the converse was also  
9 true.

10 If the safeguard that the local author-  
11 ities used in obtaining their wiretap met Federal stand-  
12 ards, we could use it in Federal Court. I would hope  
13 that such legislation passed in Pennsylvania would per-  
14 mit the same versatility.

15 Q Can you tell us, sir, to the best of your knowledge,  
16 what approximate percentage of illegal wagering in the  
17 Philadelphia area has been in essence deleted due to  
18 your efforts? Do you agree with the Department of Jus-  
19 tice's overall estimate that their best efforts have  
20 achieved only a two percent influence on the illegal  
21 market?

22 A I think it's a very difficult thing, and I am not  
23 trying to beg the issue. I think it's a very difficult  
24 thing for the Department of Justice to come up with a  
25 meaningful figure of that sort. Nobody really knows on

1 what basis you can rely upon for the total involvement.  
2 I mentioned in my prepared testimony here we have just  
3 slightly penetrated the surface, really, in our Title  
4 III interceptions, and we came up with a volume of  
5 \$200 million over the period of time that I mentioned.  
6 We really don't know what the total scope is, so how do  
7 we know what figure we are dealing with?

8 I would like to think, and I do think,  
9 that our investigations in this area have had some im-  
10 pact on the gambling operation. We know for a fact that  
11 a number of long-time gamblers have gone into retire-  
12 ment. I recall from previous assignments that I have  
13 had, and some of it came shortly after the passage of  
14 the 1970 Act, because they realized it would be a lot  
15 easier for the FBI to get into gambling since the inter-  
16 state aspect was removed, and many of them decided it  
17 was time to move to Florida, so that certainly is an im-  
18 pact -- that is, Florida to retire, not to practice.  
19 To ascribe a percentage to it, I would just think it  
20 would be reaching out into the void and trying to pull  
21 out a figure that would mean nothing to you or to me.

22 Q This morning, sir, we heard from Mr. Thornburgh  
23 some very impressive sentences that had been meted out  
24 in the Western District of Pennsylvania, and this, of  
25 course, is not the case from what we have heard from two

1 other witnesses. To what do you attribute this?

2 A I believe the judiciary will also reflect the mores  
3 of the communities they serve. While I haven't been a  
4 resident of the Pittsburgh area and, of course, just a  
5 relatively short time a resident of the Philadelphia  
6 area, I feel on the basis of what I know that the moral-  
7 istic approach to gambling in Philadelphia is somewhat  
8 more liberal than it is in the Pittsburgh area. This  
9 perhaps could account for judges meting out stiffer  
10 sentences in the Western District than they do in the  
11 Eastern District. It seems we see stiffer sentences in  
12 the Middle District than we do in the Eastern District,  
13 and I think as you come from west to east across the  
14 State you see a change in the moral climate as regards  
15 the viewpoint on gambling.

16 Q Since you do not feel that existing sentencing  
17 practices here serve as any deterrent, would you favor,  
18 for example, a mandatory minimum sentence for a recid-  
19 ivist?

20 A It would be my opinion that to obtain some uniform-  
21 ity on a country-wide basis, that some very serious con-  
22 sideration should be given to incorporating this type of  
23 language into any additional legislation.

24 MISS. MARSHALL: Thank you, Mr. Baker.

25 That's all I have.

1 BY MR. FARRELL:

2 Q I think the policy of Federal Government is to  
3 encourage cooperation among State and local prosecutors  
4 with the law enforcement personnel of the FBI. We were  
5 told yesterday by the District Attorney in this City  
6 that he has seen no evidence that leads him to conclude  
7 there is a significant connection between illegal gam-  
8 bling and organized crime in this City. Does that kind  
9 of attitude make it difficult for you to cooperate and  
10 to go about prosecuting gamblers in this City?

11 A I would certainly disagree with his viewpoint on  
12 that, but I don't see that it would have any particular  
13 impact on the cooperative aspects of the relationship be-  
14 tween the Federal Bureau of Investigation and the local  
15 district attorney, because we have had no problems in  
16 that regard. Of course, if we investigate a gambling  
17 operation, we try to establish that it is a Federal  
18 violation. We have certain standards, the five people  
19 or the \$2,000 per day or the 30-day operation. If we  
20 can establish that it falls within the Federal violation,  
21 we of course are going to handle it and would have no  
22 recourse to the local authorities.

23 On the other hand, if it's information  
24 that we pick up through informants or sources, or what-  
25 ever means by which we get it, it would not constitute a

1 Federal violation. We turn it over to the local law en-  
2 forcement authorities, not the prosecutor, and it's  
3 their job from that point on to try and develop a local  
4 violation which they will carry through to local prosecu-  
5 tion.

6 Q This leads to another question. You mentioned in  
7 your statement that your cooperation with the police  
8 department in Philadelphia has been excellent. We have  
9 read the Pennsylvania Crime Commission study to the ef-  
10 fect that the police department in Philadelphia is rife  
11 with gambling corruption and the special prosecutors of  
12 the State of Pennsylvania told us the same thing yester-  
13 day. How do you put these two things together? Isn't  
14 there a national hesitation to cooperate with the police  
15 departments, which apparently is a serious gambling  
16 corruption problem in gambling cases?

17 A As I mentioned in my testimony, there is corruption  
18 in police departments in the area that we serve, and we  
19 recognize this. As far as the Philadelphia Police De-  
20 partment that you are talking about, yes, there is cor-  
21 ruption in the Philadelphia Police Department, and I am  
22 sure they are going to be quick to acknowledge that such  
23 is the case. We have affected working arrangements with  
24 the Philadelphia Police Department that permit us to  
25 deal with individuals in this particular field, in the

1 gambling and also in the organized crime fields, that  
2 we have total confidence in as to their integrity. Over  
3 a period of years this integrity with the people we have  
4 been dealing with in the Philadelphia Police Department  
5 has been established beyond any doubt in our minds, be-  
6 cause we certainly would be quick to sever any such re-  
7 lationship if we found the contrary to be true. I think  
8 the strength of the Philadelphia Police Department is  
9 8,000, or so. Unfortunately, dealing with human beings  
10 as we do, I am sure there are going to be some people  
11 that don't measure up to the standards of the police de-  
12 partment. On the top level of the police department we  
13 have total confidence, and if we have matters that re-  
14 late to corruption in the police department that do not  
15 constitute a Federal offense, it's furnished usually on  
16 a personal basis between myself and the Commissioner.  
17 On the basis of the way he is handling everything since  
18 I have been here and before with my predecessors in the  
19 past, I have a 100 percent confidence in his integrity.

20 MR. FARRELL: Thank you very much.

21 MR. COLEMAN: Mr. Ritchie?

22 BY MR. RITCHIE:

23 Q Mr. Baker, does gambling and the strategies against  
24 the types of gambling which are cleared to be legal  
25 differ from place to place in your experience? That is,

1 in New Haven, Dallas, Miami, and Philadelphia, are there  
2 differences or is it all alike?

3 A There is a different emphasis, Mr. Ritchie, on the  
4 types of gambling you get in different areas. In the  
5 larger suburban centers there is a heavy concentration  
6 on the numbers type of gambling, and in the more subur-  
7 ban areas you find more of the sports betting. Betting  
8 on horse races, it's been my experience, is slowly de-  
9 clining, I think, and perhaps primarily because there  
10 are a lot more tracks around the country today, so the  
11 people who are followers of ponies, instead of having to  
12 deal with bookies, can actually go to the tracks and not  
13 only bet but see the action as well. I think it is more  
14 of a regional thing. I don't believe I can ascribe it  
15 to any geography. I think it's more or less the con-  
16 centration of population which changes. If you have a  
17 large black population in an urban area, you are going  
18 to find a heavy concentration of numbers betting.

19 Q Is that true in Dallas? I don't know when you  
20 were there, but when you were there, was that true?

21 A Actually, I was in Dallas so long ago that the  
22 Bureau wasn't involved. It was prior to the 1961 laws,  
23 so the FBI wasn't in gambling at all then. Just from my  
24 knowledge back then, which of course would be quite out-  
25 dated, there was a normal amount of gambling in Dallas.

1 not an exceptional amount.

2 Q The reason for those questions is the Commission's  
3 job of trying to formulate a national policy and looking  
4 at our responsibility of making recommendations to the  
5 President and Congress on the Federal laws. Would you  
6 advise the Commission to consider perhaps several types  
7 of policies based upon regional appearances as opposed  
8 to one law that was to be uniformly applied to both the  
9 high and low levels of activities that might exist in  
10 different parts of the country?

11 A I don't see how on the Federal level you can have  
12 geographic legislation that is done on a geographical  
13 basis. I don't want to get into the Constitutional  
14 question, because it's not my prerogative to do so, but  
15 I think it would make application extremely difficult.

16 Q We do that in other Federal agencies, such as the  
17 Federal Trade Commission, et cetera. It might be a reg-  
18 ulatory as opposed to a statutory prohibition.

19 A That, of course, is the Federal Trade Commission  
20 dealing with a legalized commercial enterprise, and here  
21 we are dealing with something that we still are talking  
22 about that is an illegal function, so I question as to  
23 whether you can differentiate geographically.

24 MR. RITCHEIE: Thank you.

25

1 BY MR. COLEMAN:

2 Q Mr. Baker, when you make one of these prosecutions,  
3 which is a big operation, after that have you noticed  
4 any decrease in the particular activity, gambling activ-  
5 ity, or is it just switched to another group?

6 A What happens often is this. If we have an investiga-  
7 tion which involves a Title III interception, a telephone  
8 wiretap, when it first comes to public notice that a  
9 wiretap was in operation, we will see a very definite  
10 slowdown in the use of the telephone if we had a Title  
11 III installation and operation. They will be particular-  
12 ly gun-shy for a period of time, and then I guess as is  
13 true in all human nature, that apprehension starts to  
14 wear off again. As a result of a prosecution, you usu-  
15 ally do not see a particular slowdown in the gambling  
16 activity at that time. If you are going to see any  
17 slowdown, it's usually after the apprehension, because  
18 that's the thing that usually stops the operation for a  
19 period of time. You have broken up that operation when  
20 you apprehend them. When you serve your search warrants  
21 or apprehend or both, that operation is brought to the  
22 ground until the people make bail, which, of course, is  
23 usually no more than 24 hours. Then they have to re-  
24 assemble, reorganize, get new space, and sometimes get  
25 new employees, because some of their employees get

1 scared off, and they have to reassemble, so you see the  
2 slowdown at the time.

3 Q Mr. Baker, at the outset you said the primary re-  
4 sponsibility for investigation of illegal gambling lies  
5 with State and local officials. Later on in your state-  
6 ment you indicated it must be very disheartening or  
7 probably would be, to the police officer or police of-  
8 ficers who had expended some considerable time and ef-  
9 fort and saw the case walk away from the Courts with a  
10 \$25 or \$50 fine. Assuming there might be some corrup-  
11 tion which would eliminate some sort of enforcement, do  
12 you think that fact that you brought to us about dis-  
13 heartening features might again be some reason why local  
14 people or State people might not be so willing to prose-  
15 cute? In other words, a wasted effort, so to speak.

16 A On the part of the prosecutor feeling a wasted ef-  
17 fort?

18 Q Yes. Well, the police people, the prosecutors over  
19 them, or the chiefs of police, and so forth.

20 A Taking the different levels, with the police officer  
21 first, if he figures all of his hard work is going to  
22 result in a \$25 fine. he is not going to feel like work-  
23 ing quite as hard, because he thinks his efforts should  
24 merit a little more penalty than a \$25 fine. I think  
25 the same would be true of the prosecutor. If he feels

1 he spent a lot of time in preparing the case and trying  
2 it in Court and all that will result is a \$25 fine, he  
3 feels his time and effort is worth something more down  
4 at the end of the road.

5 I do definitely feel that's a factor.  
6 I don't think we can go at it from that direction. I  
7 think we have to go at it from the penalty direction to  
8 make the penalty sufficiently severe so that the people  
9 who are participating in the judicial process that leads  
10 up to that point will feel that their efforts are being  
11 properly rewarded. I shouldn't say rewarded, because a  
12 police officer is objective if he is a proper police  
13 officer. Still, he wants to feel if the law says the  
14 person is supposed to get a 1-year jail sentence, then  
15 he sure as the devil would not like to see a \$25 fine.  
16 He may not want to see the full year imposed, but he  
17 would like to see that a portion of that penalty, at  
18 least, is imposed and enforced and served.

19 MR. COLEMAN: Are there any other ques-  
20 tions?

21 MR. RITCHIE: If I may.

22 BY MR. RITCHIE:

23 Q The judicial answer to that is if you impose a  
24 mandatory sentence, it causes Courts to dismiss cases,  
25 because they don't want to be placed in the position of

1 having to enforce that, or, in the alternative, causes  
2 an even bigger problem in terms of caseload, because  
3 everyone asks for a jury trial. We are looking forward  
4 to Judge Lord's testimony this afternoon to see if he  
5 can make suggestions to us.

6 Do you really believe that if a sentence  
7 was increased, a potential sentence, a minimum of one  
8 year and a maximum of 10, for a gambling violation,  
9 that that would be a real deterrent or a real incentive  
10 for law enforcement?

11 A From the first standpoint, yes, I believe it would  
12 be if the sentences were imposed. If, on the other hand,  
13 it's subverted by cases being thrown out of Court or  
14 dismissed, as you point out, that of course would negate  
15 any beneficial effect.

16 I recognize the Commission here can't  
17 solve all the problems of the entire judicial system and  
18 that many people would have to address themselves to  
19 that problem, because it is a complex thing. One of the  
20 factors would be if you had a mandatory sentence, would  
21 it overcrowd the Court dockets, and what would be done  
22 to dispel that heavy load? That's another question that  
23 would have to be addressed.

24 Q We have no model, if you will, other than other  
25 countries. We have no model in this country with the

1 possible exception of some type of enforcement in the  
2 State of Nevada. What success do you think the strat-  
3 egy of creating a legal industry that you hope is com-  
4 petitive and earmarking a portion of the total amount  
5 involved in the legal operation to law enforcement to  
6 pay for law enforcement rather than have taxpayers pay  
7 for it? Do you think that bounty system, if you will,  
8 will be successful on a local level?

9 A In combating illegal gambling?

10 Q In combating illegal gambling.

11 A I would have serious reservations it would have any  
12 material effect.

13 Q You don't believe financial reward would have any  
14 material effect?

15 A You are talking about pouring the money back into  
16 the coffers of the law enforcement agencies for law en-  
17 forcement purposes?

18 Q Right.

19 A No, not a reward, per se.

20 Q Well, that's a matter of semantics. Assuming it  
21 were poured back into their efforts to enforce the laws  
22 against the illegal operations, do you think that strat-  
23 egy has any merit to it?

24 A I don't think the money is the problem. I think  
25 the problem is the lack of deterrent. One thing I want

1 to reemphasize, if I can, is that neither I nor the FBI  
2 for which I speak, takes a moral position on gambling  
3 itself as to whether it is right to gamble or it is  
4 wrong to gamble. The main reason that we are interested  
5 in this field is that gambling in this country is the  
6 principal source of income for organized crime. We are  
7 heavily committed to try and do what we can to break up  
8 organized crime in this country, so we are using the  
9 gambling statutes solely to get to the criminal element  
10 of organized crime in this country. We want all the  
11 tools we can get that will help reach those people who  
12 are the "kingpins" of organized crime.

13 MR. RITCHIE: Thank you.

14 BY MR. COLEMAN:

15 Q Mr. Baker, you have a great many years experience  
16 and have certainly investigated a great many gambling  
17 situations, I am sure, and have probably talked with  
18 people who gamble illegally. It has been suggested by  
19 some witnesses here, and at other places, that the only  
20 way you can really stop the illegal gambling and really  
21 put a dent into it is if you made it a criminal act for  
22 the player, the bettor. Do you have any opinion about  
23 if that would have any effect, if there was the same pen-  
24 alty as for the taker of the action?

25 A It's similar to the situation where you have a

1 person who is taking a bribe, and the receiver as well  
2 as the offerer are equally guilty. In some local juris-  
3 dictions they have done the same thing in the prostitu-  
4 tion field, where the prostitute is not only guilty, but  
5 the John is as well. I really haven't given it a whole  
6 lot of thought, but I would suspect it would act as a  
7 deterrent. I think it would be very difficult to en-  
8 force, and I would suspect it would be very unpopular to  
9 take a case into Court from a very practical standpoint  
10 and take it before a judge, who would probably be very  
11 sympathetic to the bettor, because he is figuring he is  
12 not profiting from it. He is just doing it on his own.  
13 He is doing it as a pastime. He is doing it for fun.

14 Q From a club standpoint, so to speak, it might be  
15 the way to compel testimony against people the same way  
16 as you indicated on a bribery case, where the payor of  
17 the bribe comes in and testifies against the political  
18 figures.

19 A Yes. Of course, we are interested in getting the  
20 testimony of the bettor to establish a case on the bet  
21 takers. We are interested in getting higher up the  
22 line, and usually we are going to apply the immunity  
23 statute against the bet receiver to turn him against his  
24 principal. We are trying to get up one or more echelons  
25 in the hierarchy of the betting combine.

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MR. COLEMAN: Mr. Baker, on behalf of the Commission, we appreciate very much your coming, you and your associate, Mr. Howell. We are very appreciative.

MR. BAKER: Thank you.

MR. COLEMAN: We will adjourn for lunch. We were scheduled to come back at 1:30, and it's now 10 minutes to 1:00. We will still attempt to get back as close to that as possible to reconvene the hearings.

(Witness excused.)

MR. CHAIRMAN: I AM RICHARD J. BAKER, SPECIAL AGENT IN CHARGE OF THE PHILADELPHIA OFFICE OF THE FEDERAL BUREAU OF INVESTIGATION. THE PHILADELPHIA OFFICE IS RESPONSIBLE FOR THE SAME GEOGRAPHICAL TERRITORIES THAT ARE COVERED BY THE EASTERN AND MIDDLE JUDICIAL DISTRICTS IN PENNSYLVANIA. IN EFFECT, OUR OFFICE COVERS THE EASTERN AND MIDDLE SECTIONS OF PENNSYLVANIA AS FAR WEST AS STATE COLLEGE. OUR PITTSBURGH OFFICE COVERS THE REMAINDER OF THE STATE.

BEFORE I BEGIN MY TESTIMONY, I WOULD LIKE TO TAKE THIS OPPORTUNITY TO THANK YOU FOR THE PRIVILEGE OF APPEARING BEFORE THE COMMISSION TODAY.

AS THE COMMISSION IS WELL AWARE, PRIMARY RESPONSIBILITY FOR INVESTIGATION OF ILLEGAL GAMBLING LIES WITH STATE AND LOCAL AUTHORITIES. I WOULD THEREFORE LIKE TO CLARIFY THE REASON FOR THE FBI'S PARTICIPATION IN THIS FIELD. SUCH A CLARIFICATION OBVIOUSLY REQUIRES FACTUAL DATA REGARDING THE EVILS AND PROBLEMS INHERENT IN ILLEGAL GAMBLING AS IT PRESENTLY EXISTS AND OPERATES IN THE TERRITORY COVERED BY THE PHILADELPHIA OFFICE OF THE FBI.

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THE FBI IS OPPOSED TO ILLEGAL GAMBLING INASMUCH AS (1) IT HAS BEEN LEGISLATED ILLEGAL AND (2) IT IS FOR THE MOST PART UNDER THE CONTROL OF ORGANIZED CRIME. AS INDICATED IN VARIOUS CONGRESSIONAL REPORTS, FOLLOWING EXHAUSTIVE INQUIRY AND STUDY, THE MAJOR SOURCE OF INCOME FOR ORGANIZED CRIME, BOTH NATIONALLY AND LOCALLY, IS ILLEGAL GAMBLING.

ORGANIZED CRIME HAS BEEN DEFINED AS "THE UNLAWFUL ACTIVITIES OF THE MEMBERS OF A HIGHLY ORGANIZED-DISCIPLINED ORGANIZATION ENGAGED IN SUPPLYING ILLEGAL GOODS AND SERVICES, INCLUDING BUT NOT LIMITED TO GAMBLING, PROSTITUTION, LOAN-SHARKING, NARCOTICS, LABOR RACKETEERING, AND OTHER UNLAWFUL ACTIVITIES OF MEMBERS OF SUCH ORGANIZATIONS". IT IS WITH THE GAMBLING ASPECT THAT I WISH TO DEAL TODAY.

I SHOULD POINT OUT AT THIS JUNCTURE THAT I CANNOT BE AS SPECIFIC AS I WOULD LIKE BECAUSE OF THE PUBLIC NATURE OF THESE HEARINGS AND THAT CERTAIN MATTERS WHICH I WILL MENTION ARE CURRENTLY UNDER ACTIVE INVESTIGATION OR IN THE PROSECUTIVE STAGE.

IN OUR AREA OF RESPONSIBILITY THERE ARE BASICALLY

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FOUR GROUPS FALLING WITHIN THE DEFINITION OF ORGANIZED CRIME. ONE OF THESE GROUPS IS COMMONLY KNOWN TO LAW ENFORCEMENT OFFICIALS AS THE PHILADELPHIA "MOB", OR "SYNDICATE"; THE SECOND GROUP, THE "UP STATE MOB" OR "UP STATE SYNDICATE"; THE THIRD GROUP I WILL REFER TO AS A MAJOR INDEPENDENT GROUP; THE FOURTH GROUP I WILL DEAL WITH WILL BE REFERRED TO AS A SECOND MAJOR INDEPENDENT GROUP.

THE FIRST TWO GROUPS, WHICH I DESCRIBED ABOVE, COOPERATE CLOSELY AND HAVE MUTUAL RESPECT FOR EACH OTHER'S TERRITORIAL AND JURISDICTIONAL AREAS.

THE PHILADELPHIA "MOB" AND THE "UP STATE MOB" HAVE BEEN THE DOMINANT GROUPS IN THIS AREA SINCE THE 1920'S AND AS RECITED IN CONGRESSIONAL HEARINGS PARTS OF A NATIONAL SYNDICATE.

THE FIRST MAJOR INDEPENDENT GROUP I REFERRED TO HAS BEEN PROMINENT SINCE THE LATE 1930'S, PRINCIPALLY IN PHILADELPHIA, BUT HAS DWINDLED SOMEWHAT IN SIZE DURING THE PAST FOUR OR FIVE YEARS. THIS GROUP, OVER THE YEARS, HAS AVOIDED DIRECT CONFLICTS WITH THE TWO "MOBS"; PRIMARILY

THE PHILADELPHIA "MOB", AND ANY PROBLEMS WHICH AROSE WERE USUALLY ARBITRATED AND VIOLENCE FOR THE MOST PART WAS AVOIDED.

THE SECOND MAJOR INDEPENDENT GROUP I REFERRED TO IS A RELATIVELY NEW GROUP WHICH CAME INTO BEING IN THE LATE 1960'S AND EARLY 1970'S. THIS GROUP GREW IN STRENGTH AND SAW ITS POWER PEAKING DURING 1973 AND 1974. THIS GROUP ENGAGED PRIMARILY IN GAMBLING, LOANSHARKING, EXTORTION, AND NARCOTICS WITH ITS INCOME DERIVING PRIMARILY FROM THEIR ILLEGAL GAMBLING AND NARCOTICS ACTIVITIES. THIS GROUP CENTERED ITS ACTIVITIES ALMOST EXCLUSIVELY IN THE GHETTO AREAS OF WEST AND NORTH PHILADELPHIA. THIS GROUP UNHESITATINGLY USED FORCE AND VIOLENCE TO OBTAIN ITS OBJECTIVES. AS I SAID BEFORE, THE VICTIMS WERE USUALLY THE DEPRIVED MEMBERS OF PHILADELPHIA'S GHETTOS. SEVERAL CONFRONTATIONS, RELATING TO THE EFFORTS OF THIS GROUP TO EXPAND ITS GEOGRAPHICAL AREA OF OPERATION, RESULTED IN ARBITRATION, WITH THE PHILADELPHIA "MOB" RETAINING ITS GEOGRAPHICAL SPHERE OF INFLUENCE AND THIS RELATIVELY NEW GROUP BEING CHIEFLY RESTRAINED TO ITS ORIGINAL CONFINES.

DURING THE PAST YEAR, MAINLY AS A RESULT OF FEDERAL PROSECUTIONS, THE MAJORITY OF THE HIERARCHY OF THIS GROUP IS NOW EITHER IN JAIL OR AWAITING SENTENCING. IT APPEARS THAT, AT LEAST TEMPORARILY, A KEY BLOW HAS BEEN DEALT THIS GROUP AND THEIR PARTICIPATION IN ILLEGAL ACTIVITIES HAS BEEN HURT, INCLUDING THEIR ILLEGAL GAMBLING OPERATIONS.

THE FOUR MAIN GROUPS I HAVE REFERRED TO OBTAIN THE MAJORITY OF THEIR INCOME FROM THE SUBJECT WE ARE DISCUSSING TODAY, NAMELY GAMBLING.

ILLEGAL GAMBLING IN OUR GEOGRAPHICAL AREA IS DIVIDED INTO (1) THREE-DIGIT NUMBERS LOTTERY, (2) OFF-TRACK WAGERING ON HORSE RACES, (3) WAGERING ON NATIONAL SPORTS EVENTS, (4) DICE-GAMES, AND (5) CARD GAMES.

THE LARGEST DOLLAR VOLUME IS CONDUCTED IN THE THREE-DIGIT NUMBERS LOTTERY AND WAGERING ON NATIONAL SPORTS EVENTS.

WAGERING EXISTS THROUGHOUT THE AREA OVER WHICH WE HAVE JURISDICTION, BEING MORE CONCENTRATED IN THE URBAN AREAS ONLY BECAUSE OF THE GREATER POPULATION.

IT IS HARD TO STATE WITH A GREAT DEGREE OF ACCURACY

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THE MAGNITUDE OF GAMBLING BUT SURFICE TO SAY IT IS WIDE-  
SPREAD, WELL ENTRENCHED, AND EXISTS GENERALLY IN EVERY AREA.  
OUR INVESTIGATIONS AND TITLE III INTERCEPTIONS HAVE DOCUMENTED  
DEALINGS BY BOOKMAKERS IN THIS AREA WITH BOOKMAKERS ALL OVER  
THE COUNTRY, FROM RHODE ISLAND TO FLORIDA, FROM NEW YORK AND  
PENNSYLVANIA TO CALIFORNIA. IT IS BECAUSE THESE GAMBLING  
OPERATIONS CROSS TOWN, CITY, AND STATE LINES, AND ARE NATIONAL  
IN OPERATION, THAT THE PRESENCE OF THE FEDERAL GOVERNMENT IS  
INDEED NECESSARY IN THE ENFORCEMENT OF GAMBLING LAWS.

IT IS VIRTUALLY IMPOSSIBLE TO STATE ACCURATELY THE  
PERCENTAGE OF THE GENERAL POPULATION IN OUR AREA PARTICIPATING  
IN THE VARIOUS FORMS OF GAMBLING. I KNOW OF NO STATISTICS  
OR SURVEYS INDICATING THE EXTENT OF SUCH PARTICIPATION.

THE BEST MANNER BY WHICH I CAN GIVE YOU AN IDEA OF  
THE VOLUME IS TO EXPLAIN THAT OUR TITLE III ELECTRONIC  
SURVEILLANCES HAVE TOUCHED ONLY A VERY SMALL PERCENTAGE OF  
BOOKMAKERS OPERATING IN THE EASTERN AND MIDDLE SECTIONS OF  
PENNSYLVANIA. THE PROJECTED TABULATION OF THE ANNUAL TOTAL  
OR "HANDLE" FOR THOSE OPERATIONS MONITORED AMOUNTS TO APPROXIMATELY

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TWO HUNDRED MILLION DOLLARS. THESE TITLE III ELECTRONIC SURVEILLANCES, INSTALLED BETWEEN OCTOBER 1969 AND DECEMBER 1974, INVOLVED 60 DIFFERENT GAMBLING OPERATIONS. YOU CAN SEE IF SUCH VOLUME (\$200,000,000) INVOLVED ONLY A SMALL PERCENTAGE OF BOOKMAKERS, THAT THE TOTAL AMOUNT OF WAGERING TAKING PLACE IS POTENTIALLY STAGGERING.

AT THIS POINT, IF I MAY, I WOULD LIKE TO POINT OUT TO YOU THE PROGRESS WE IN THE PHILADELPHIA OFFICE OF THE FBI HAVE MADE IN OUR INVESTIGATIONS INTO GAMBLING SINCE THE PASSAGE OF FEDERAL LEGISLATION ALLOWED US TO GET INVOLVED IN THIS FIELD. AS A RESULT OF THE PASSAGE OF THE FIRST FEDERAL GAMBLING LEGISLATION IN 1961 INTERSTATE OR FOREIGN TRAVEL OR TRANSPORTATION IN AID OF A RACKETEERING ENTERPRISE BECAME A FEDERAL CRIME. THIS STATUTE SPECIFICALLY MENTIONED GAMBLING AS AN UNLAWFUL ACTIVITY ALONG WITH NARCOTICS, UNTAXED LIQUOR, PROSTITUTION OFFENSES, EXTORTION, BRIBERY, AND ARSON. THE FBI WAS GIVEN INVESTIGATIVE JURISDICTION OVER ALL VIOLATIONS EXCEPT NARCOTICS AND LIQUOR.

THE PHILADELPHIA OFFICE WAS THE FIRST FBI OFFICE

IN THE UNITED STATES TO PRODUCE POSITIVE RESULTS UNDER THE THEN NEW LEGISLATION. LARGE SCALE DICE OR "CRAP" GAMES HAVE FOR MANY YEARS BEEN PROMINENT FORMS OF REVENUE FOR ORGANIZED CRIME IN PENNSYLVANIA. THE MOST INSTRUCTIVE EXAMPLE OF SYNDICATE ORGANIZATION OF A PROFESSIONAL CRAP GAME IS OFFERED BY THE "READING CRAP GAME". THE "READING CRAP GAME", COMMONLY KNOWN AT THAT TIME AS THE LARGEST GAME ON THE EAST COAST, WAS OPERATED IN READING, PA., BEGINNING ABOUT 1956. IN 1961, OUR INVESTIGATION DETERMINED THAT THIS GAME WAS LOCATED AT 235 CHERRY STREET, READING, PA.

THE PROFITS FROM THIS GAME WERE TREMENDOUS. AS AN EXAMPLE, THE PRESIDENT OF A BUSINESS CORPORATION ALLEGEDLY LOST \$75,000 DURING ONE NIGHT'S GAMBLING.

THE PROFITS FROM THIS HIGHLY ORGANIZED GAMBLING ENTERPRISE WERE SPLIT FOUR WAYS, WITH 25 PERCENT GOING TO THE OPERATORS, 25 PERCENT TO AN ORGANIZED CRIMINAL ELEMENT IN NEW YORK CITY, 25 PERCENT TO AN ORGANIZED CRIMINAL ELEMENT IN CAMDEN, N.J., AND 25 PERCENT GOING TO A READING, PA., RACKETEER FIGURE.

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ON JANUARY 20, 1962, OVER 100 FBI AGENTS CONDUCTED A RAID ON THE "READING CRAP GAME". THERE WERE 150 OPERATORS AND PATRONS PRESENT. THERE WERE OVER 35 EMPLOYEES ON THE PAYROLL, INCLUDING STICKMEN, LUGGERS, TELLERS, LOANSHARKS, DICE DETECTIVES, AND SECURITY PERSONNEL, WITH A WEEKLY PAYROLL OF OVER \$7,800. OUR INVESTIGATION DETERMINED THAT MOST OF THE EMPLOYEES WERE FROM THE ATLANTIC CITY, N. J., AREA. OVER \$50,000 IN CASH WAS SEIZED AT THE TIME OF THE RAID, APPROXIMATELY \$30,000 FROM THE "HOUSE" AND \$20,000 FROM THE PLAYERS.

THE ABOVE GAME INVOLVED THREE CRAP TABLES WITH SIX EMPLOYEES PER TABLE. APPROXIMATELY 20 LUGGERS WERE BRINGING PLAYERS FROM VARIOUS LOCATIONS IN PENNSYLVANIA AND NEW JERSEY, INCLUDING PHILADELPHIA. THE GAME OPERATED EVERY NIGHT WITH "MATINEES" ON SATURDAY AND SUNDAY. BETS WERE COVERED FROM A MINIMUM OF \$2.00 TO A MAXIMUM OF \$200.00. ALL BETS WERE COVERED BY THE "HOUSE" AND PLAYERS WERE NOT ALLOWED TO BET AMONG THEMSELVES.

AS A RESULT OF FBI INVESTIGATION AND THE RAID OF THE "READING CRAP GAME", 10 INDIVIDUALS WERE INDICED AND

CHARGED WITH TRAVELLING INTERSTATE WITH THE INTENT TO FACILITATE THE CARRYING ON OF A BUSINESS ENTERPRISE INVOLVING GAMBLING IN VIOLATION OF THE LAWS OF PENNSYLVANIA AND ALSO CONSPIRACY TO VIOLATE SUCH LAWS. FIVE RACKET FIGURES AND EIGHT EMPLOYEES IN THE GAME WERE CONVICTED IN FEDERAL COURT. THE EFFECTS WERE FAR REACHING AND LED EVENTUALLY TO THE INDICTMENT OF THE CHIEF OF POLICE AND OTHER PUBLIC OFFICIALS IN READING, PA.

IN SEPTEMBER 1965, INVESTIGATION BY THE PHILADELPHIA OFFICE OF THE FBI DEVELOPED FACTS CONCERNING A SYNDICATE CONTROLLED CASINO TYPE OPERATION HEADQUARTERED IN SOUTH PHILADELPHIA. THE DIRECTION OF THIS CASINO INVOLVED REGULAR TRAVEL BY THE OPERATORS BETWEEN ATLANTIC CITY, N. J., AND PHILADELPHIA, PA.

ON SEPTEMBER 5, 1965, FBI AGENTS CONDUCTED A RAID AT 1237 SOUTH 7TH STREET, PHILADELPHIA, PA., A VACANT STORE BEING USED FOR THE OPERATION OF THIS EXTREMELY LARGE SCALE CASINO. RESULTS OF THE RAID INDICATED THAT APPROXIMATELY \$35,000 A DAY WAS BEING WAGERED IN THIS OPERATION.

AMONG THOSE ARRESTED WERE FOUR RANKING PHILADELPHIA "MOB" MEMBERS. ALL RECEIVED TWELVE MONTH SENTENCES, WHICH WERE SUSPENDED, AND EACH WAS PLACED ON TWELVE MONTHS PROBATION AND FINED \$1,200. AS DISRUPTIVE AS THE PROSECUTION WAS TO THE UNDERWORLD, IT NEVERTHELESS HIGHLIGHTS THE NEED I SHALL DISCUSS LATER FOR MORE STRINGENT SENTENCING IF WE HOPE TO DEFER CRIMINALS FROM ENGAGING IN THIS TYPE OF VIOLATION.

SINCE ARMED WITH FEDERAL LEGISLATION, THE PHILADELPHIA OFFICE OF THE FBI HAS BEEN MAKING SUBSTANTIAL INROADS IN THE INVESTIGATION OF ILLEGAL GAMBLING OPERATIONS IN OUR AREA.

OUR RESULTS CAN PERHAPS BEST BE VIEWED IN THE FOLLOWING FIGURES WHICH REFLECT THE NUMBER OF GAMBLING AND ORGANIZED CRIME FIGURES WHO HAVE BEEN CONVICTED UNDER FEDERAL GAMBLING STATUTES AS A RESULT OF INVESTIGATIONS BY OUR AGENTS.

- 1964-2
- 1965-21
- 1966-8
- 1967-7
- 1968-2

474

1969 - 15

1970 - 24

1971 - 17

1972 - 36

1973 - 49

1974 - 57

AS OF APRIL 15, 1975, 49 CONVICTIONS HAVE BEEN OBTAINED FOR GAMBLING VIOLATIONS SINCE JULY 1, 1974, AND IT IS ANTICIPATED BY JUNE 30, 1975, THIS FIGURE WILL BE EXPANDED TO APPROXIMATELY 60 BASED ON SEVERAL CASES NOW IN THE LATER STAGES OF PROSECUTION.

AT THE PRESENT TIME 14 INDIVIDUALS ARE UNDER INDICTMENT AND 11 INDIVIDUALS ARE AWAITING SENTENCING IN THE EASTERN AND MIDDLE JUDICIAL DISTRICTS FOR VIOLATIONS OF FEDERAL GAMBLING STATUTES. IT IS ANTICIPATED THAT AN ADDITIONAL 55 PERSONS WILL BE INDICTED ON SIMILAR CHARGES IN THE NEAR FUTURE.

A REVIEW OF THE ABOVE FIGURES CLEARLY REFLECTS A DEFINITE TREND OF INCREASED CONVICTIONS SINCE THE PASSAGE OF THE "OMNIBUS CRIME CONTROL AND SAFE STREETS ACTS OF 1968",

WHICH ALLOWED, UNDER TITLE III, COURT AUTHORIZED ELECTRONIC SURVEILLANCES. ENACTMENT OF THIS LAW ELIMINATED THE ABSOLUTE NECESSITY FOR LIVE WITNESSES IN ORDER TO OBTAIN A SUCCESSFUL PROSECUTION. BY OBTAINING SUFFICIENT PROBABLE CAUSE, A TITLE III INTERCEPTION COULD BE HAD AND THE EVIDENCE NECESSARY FOR A SUCCESSFUL PROSECUTION COULD BE OBTAINED. IT IS AN INVALUABLE AID IN THE INVESTIGATION AND PROSECUTION OF THESE CASES, INASMUCH AS ORGANIZED CRIME HAS A LONG-STANDING REPUTATION FOR INTIMIDATING AND ON OCCASION KILLING LIVE WITNESSES.

OTHER ADVANTAGES FLOW FROM ELECTRONIC SURVEILLANCE. IT IS ESSENTIAL THAT BOOKMAKERS UTILIZE TELEPHONES IN THEIR OPERATIONS. TELEPHONES ARE A MUST IN ORDER TO OBTAIN LINE DATA AND FOR THE LAYOUT OF WAGERS. AN INTERCEPTION PROVIDES THE MEANS BY WHICH ALL MEMBERS OF THE OPERATION CAN BE IDENTIFIED. IT PROVIDES DETAILED EVIDENCE OF THE SCOPE OF THE OPERATION. IT PROVIDES THE POSSIBILITY FOR INTERCEPTING THE PRINCIPALS WHO MAKE POLICY DECISIONS AND GIVE DIRECTIONS TO THE OFFICE WORKERS.

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A SECOND VITAL LAW WAS PASSED SUBSEQUENT TO THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968 WHICH HAS GREATLY ASSISTED OUR INVESTIGATIONS. IN LATE 1970, THE "ORGANIZED CRIME CONTROL ACT OF 1970" WAS ENACTED BY CONGRESS AND THIS LEGISLATION PROVIDED THE FBI WITH ADDITIONAL METHODS OF DEALING WITH VIOLATORS OF THE FEDERAL GAMBLING STATUTES AS IT MADE A GAMBLING OPERATION INVOLVING FIVE OR MORE PERSONS WHO EITHER GROSSED \$2,000 DAILY OR REMAINED IN CONTINUOUS OPERATION FOR A PERIOD IN EXCESS OF 30 DAYS IN VIOLATION OF THIS FEDERAL STATUTE AND NO INTERSTATE ASPECT W.A.S. NECESSARY.

I FEEL THAT THESE TWO STATUTES HAVE BEEN OF TREMENDOUS HELP IN OUR WORK AND OUR STEADILY INCREASING NUMBER OF CONVICTIONS ARE DIRECTLY ATTRIBUTABLE TO THE PASSAGE OF THESE TWO STATUTES. THE IMMUNITY PROVISIONS OF THE ORGANIZED CRIME CONTROL ACT OF 1970 HAVE BEEN UTILIZED ON SEVERAL OCCASIONS IN OUR CASES. THESE SITUATIONS INVOLVED PRIMARILY INDIVIDUALS WORKING FOR THE PRIME OPERATOR WHO HAD KNOWLEDGE OF THE OPERATION, BUT WHO WERE INVOLVED DAILY ON A LOWER LEVEL WITHIN THE OPERATION. THESE INDIVIDUALS, ON WHOM SEARCH

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WARRANTS WERE SERVED, WERE SUBSEQUENTLY SUBPOENAED BEFORE A FEDERAL GRAND JURY FOR INQUIRY AS TO IDENTITIES OF THE PRINCIPALS BEHIND THE OPERATION. THESE PERSONS PLED THE FIFTH AMENDMENT, WERE GRANTED IMMUNITY, AND CONTINUED TO REFUSE TO TESTIFY. AFTER BEING GRANTED IMMUNITY. AS A RESULT THEY WERE IMPRISONED FOR CONTEMPT.

ANOTHER EXAMPLE OF THE USE OF IMMUNITY IS THE INSTANCE OF PHILIP CHARLES TESTA, WHO HAS BEEN DESCRIBED AS THE NUMBER TWO MAN IN THE PHILADELPHIA "MOB" AND WHO, FOLLOWING THE GRANTING OF IMMUNITY IN SEPTEMBER 1973, WAS FOUND IN CIVIL CONTEMPT OF COURT FOR REFUSING TO TESTIFY BEFORE A FEDERAL GRAND JURY. HE WAS REMANDED TO THE CUSTODY OF THE U. S. ATTORNEY GENERAL AND WAS INCARCERATED UNTIL JANUARY 1975.

ANOTHER MATERIAL AID TO A SUCCESSFUL PROSECUTION IS THE WITNESS PROTECTION ACT. OUR INVESTIGATIONS HAVE DEFINITELY SHOWN THAT GAMBLERS WHO INCUR DEBTS ARE COMMONLY REFERRED TO LOANSHARKS. THE AVERAGE BOOKMAKER HAS A READY LIST OF SUCH INDIVIDUALS AVAILABLE TO HIM. WE HAVE FOUND THAT IT IS VERY COMMON DURING OUR GAMBLING INVESTIGATIONS TO FIND



**CONTINUED**

**5 OF 7**

A DIRECT TIE-IN BETWEEN THE PERSONS WE ARE INVESTIGATING AND LOANSHARKS BECAUSE OF THE NATURE OF THE BUSINESS IN WHICH THEY ARE INVOLVED. IT IS NOT UNUSUAL FOR LOANSHARKS TO SELL THE INDEBTEDNESS OF AN INDIVIDUAL TO ANOTHER LOANSHARK. INDIVIDUALS TIED-IN WITH ORGANIZED CRIME IN MANY CASES EARN THEIR LIVING BY COLLECTING DEBTS THROUGH STRONGARM TACTICS. THE LOANSHARK USUALLY RESORTS TO THREATS WHEN HE WANTS HIS MONEY, IS NOT INTERESTED IN HOW THE DEBTOR OBTAINS THESE FUNDS, CARES LESS WHETHER HE STEALS, ROBS, OR WHATEVER, AND VERY CLEARLY IMPRESSES ON THE DEBTOR THAT IF THE MONIES ARE NOT FORTHCOMING, HE, THE DEBTOR, WILL BE SUBJECT TO VIOLENCE OF ONE SORT OR ANOTHER. IN MOST CASES SUCH THREATS CAUSE THE DEBTOR TO FEAR FOR HIS WELL-BEING OR PERHAPS EVEN HIS LIFE, AND AS A RESULT THE DEBTOR OFTEN WILL COMMIT OTHER CRIMES TO OBTAIN MONEY TO APPEASE THE LOANSHARK.

THREATS ARE USUALLY EXPLICIT AND THE INTENTIONS OF THE LOANSHARKS TO THE POINT. AN EXAMPLE OF THIS WOULD BE STATEMENTS INTERCEPTED DURING TITLE III COVERAGE OF THE NUMBER THREE RANKING MEMBER OF PHILADELPHIA'S "MOB", WHO WHILE

SPEAKING TO AN ASSOCIATE IN NOVEMBER 1970, REGARDING A LOAN OWED HIM BY A PHILADELPHIA AREA WOMAN, STATED "I'M GOING TO RIP HER FACE APART, GIRL OR NO GIRL". THE ASSOCIATE RESPONDED BY STATING THAT "I'M GONNA HIT HER OVER THE HEAD WITH A SLEDGE HAMMER, I'M GONNA HIT HER CAUSE SHE GOT NO BUSINESS DOING THIS. SHE MAKE \$500 A WEEK..." DURING THE COURSE OF THE EXECUTION OF A SEARCH WARRANT ON THE MOBSTER'S AUTOMOBILE AT THE CONCLUSION OF THE AFOREMENTIONED TITLE III COVERAGE, A BASEBALL BAT WAS LOCATED UNDER THE FRONT SEAT OF HIS AUTOMOBILE.

IN CONNECTION WITH ANOTHER LOANSHARK CASE HANDLED BY OUR OFFICE, CONCLUDED IN MARCH OF THIS YEAR, DURING A MONITORED CONVERSATION BETWEEN ALEXANDER HARTZELL, A CLOSE ASSOCIATE OF THE PHILADELPHIA "MOB" WHO WAS A PARTNER IN THIS PARTICULAR LOANSHARK VENTURE WITH A RANKING "MOB" MEMBER AND THE VICTIM, A NEW JERSEY BUSINESSMAN, HARTZELL TOLD THE VICTIM DURING A CONVERSATION IN WHICH HARTZELL HAD DEMANDED PROMPT PAYMENT OF MONEY DUE "IF I HAVE TO GET THIS, 'THEY' WILL TELL ME TO DO SOMETHING. I AM GOING TO TELL YOU, I, DON'T. IT

MIGHT NOT BE TODAY, A MONTH, AH, TWO MONTHS FROM NOW. I AM, I AM GOING TO GIVE YOU, ON MY CHILDREN. I'VE, I'VE GOT FIVE OF THEM...I HOPE THEY GET CANCER OF THEIR EYES, THEIR THROAT, I WILL DO WHAT I HAVE TO DO. WHEN YOU MESS WITH MY FAMILY...THAT'S THE END OF IT. I AM JUST GOING TO TELL YOU THE WAY I FEEL. I AM GOING TO DO WHAT I HAVE TO DO, WHATEVER 'THEY' TELL ME TO DO." DURING A SUBSEQUENT CONVERSATION BETWEEN HARTZELL AND THE VICTIM FOLLOWING A TELEPHONE CALL FROM THE VICTIM'S WIFE TO HARTZELL, HARTZELL TOLD THE VICTIM "SHE HAS TO GO. SHE HAS TO GO. THERE AIN'T NO SHING, THERE AIN'T NO WAY. HEY, THEY'RE GOING TO LET THE WOMAN COME IN AND TESTIFY AGAINST ME!! AND PUT HIM AWAY FOR TEN, TWENTY YEARS?...SHE HAS TO GO. NOW I'M NOT SAYING YOUR WIFE, I'M JUST NOT. BUT I'M TELLING YOU THE TRUTH, WHAT YOU'RE DOING TO ME, IF THEY GIVE ME THE WORD, GO, I'LL TELL YOU. AND THAT'S THE WAY I FEEL TOWARD LIFE. 'CAUSE I AIN'T GOING TO GET TAKEN A HOLE IN THE HEAD FOR YOU...I COULD BUST YOU UP RIGHT NOW. BUT WHAT GOOD WOULD IT DO?...BUT, IF THEY SAY TO ME, AL, 'PUT HIM AWAY', I AM GOING TO PUT YOU AWAY... THIS IS THE PRESSURE I GET.

YOU'RE NOT, YOU'RE NOT JUST THE ONE CUSTOMER...YOU, YOU ARE JUST A PAWN." DURING THE ENSUING TRIAL THE VICTIM, AFTER TESTIFYING TO THE AFOREMENTIONED THREATS, WAS ASKED IF ANY OTHER THREATS WERE MADE TO HIM. HE RESPONDED FROM THE STAND BY STATING THAT HE WAS TOLD BY HARTZELL THAT "THEY" KNEW THE BUS DRIVER AND THE BUS ROUTE WHICH HIS CHILDREN TOOK ON THEIR WAY TO AND FROM SCHOOL. VICTIM STATED FROM THE STAND THAT IT WAS CLEAR TO HIM THAT HAD HE NOT FURNISHED THE MONEY TO HARTZELL WHICH HE OWED, HIS CHILDREN WERE TARGETS FOR RETRIBUTION BY THE LOANSHARKS.

VARIOUS CONGRESSIONAL HEARINGS INVOLVING GAMBLING IN ORGANIZED CRIME REFLECT THAT IN ADDITION TO GAMBLING BEING A PRIME SOURCE OF REVENUE FOR ORGANIZED CRIME, THIS ACTIVITY HAS ALSO RESULTED IN THE CORRUPTION OF POLITICAL AND POLICE OFFICIALS. ACCORDING TO INFORMATION AVAILABLE, THERE CONTINUES TO BE SOME CORRUPTION ON THE PART OF SOME POLITICAL AND POLICE FIGURES. DETERRENENTS TO CORRUPTION, I

BELIEVE, CONSIST OF SEVERAL FACTORS; THE FEDERAL GOVERNMENT'S INTENSIFIED EFFORT IN GAMBLING INVESTIGATIONS UNDER SECTIONS 1955 AND 1511; LOCAL POLICE ARE DEFINITELY AWARE OF THE FEDERAL GOVERNMENT'S PRESENCE; THE FACT INVESTIGATIVE EFFORTS AND GRAND JURY INQUIRIES ARE BEING MADE TO UNCOVER CORRUPTION. I THINK THAT THE EXISTENCE OF SUCH LEGISLATION HAS DEFINITELY SERVED AS A DETERRENT, BOTH BECAUSE THE POLICE OFFICER IS AWARE OF THE FEDERAL GOVERNMENT'S INTENTION TO PURSUE CORRUPTION AND BECAUSE THE BOOKMAKER UNDERSTANDS THAT PROTECTION TO LOCAL POLICE IS BY NO MEANS ANY GUARANTEE OF NOT BEING RAIDED, ARRESTED, OR CONVICTED. A LARGE SCALE PARTICIPATION IN ILLEGAL GAMBLING EXTENDS FAR BEYOND CORRUPTION. IT IS MY OPINION THAT THERE IS GENERAL APATHY ON THE PART OF SOME POLICE AND OTHER GOVERNMENT OFFICIALS WHO DO NOT THINK IT IS A CRIME TO ALLOW THE PUBLIC TO GAMBLE, THE "VICTIMLESS CRIME" TYPE OF THINKING. THERE APPEARS TO BE FRUSTRATION ON THE PART OF SOME POLICE OFFICERS WHO HAVE THEIR INVESTIGATIVE EFFORTS REWARDED BY THE BOOKMAKER BEING FINED \$25.00 OR \$50.00. THE AVERAGE POLICE OFFICER, UNLESS HE IS WORKING A GAMBLING OR VICE UNIT, DOES NOT HAVE THE

OPPORTUNITY TO ARREST THE PRINCIPALS CONTROLLING AN ILLEGAL GAMBLING OPERATION; THE PRINCIPALS WHO HAVE THE MONEY TO CORRUPT SENIOR OFFICERS WHO MAY ON OCCASION DISCIPLINE THE OFFICER ARRESTING THE LOW LEVEL BOOKMAKER.

OUR INVESTIGATIONS TO DATE HAVE NOT DEVELOPED ANY EVIDENCE WHICH WARRANTS PROSECUTION FOR CORRUPTION UNDER SECTION 1511. I BELIEVE THAT IT IS POSSIBLE THAT THE TYPE OF EVIDENCE NEEDED TO PROVE SUCH VIOLATIONS IS OBTAINABLE THROUGH TITLE III ELECTRONIC INTERCEPTIONS BUT MORE PROBABLY BY THE SUCCESSFUL PROSECUTIONS OF KEY PRINCIPALS IN THE VARIOUS GAMBLING OPERATIONS. THEIR COOPERATION, AFTER CONVICTION AND SENTENCING, COULD PROVIDE THE NECESSARY EVIDENCE AS IT HAS IN OTHER AREAS. GENERALLY, THE PRINCIPAL IN AN OPERATION WILL PROVIDE FOR ANY PROTECTION BEING PURCHASED.

SINCE OUR ENTRY INTO THE INVESTIGATION OF VIOLATIONS OF FEDERAL GAMBLING STATUTES, WE HAVE AS MENTIONED BEFORE, OBTAINED THE CONVICTIONS OF 287 INDIVIDUALS. OF THESE INDIVIDUALS, THE VAST MAJORITY HAVE BEEN PLACED ON PROBATION FOR PERIODS RANGING FROM 3 MONTHS TO 5 YEARS; FINES ASSESSED

RANGED FROM \$100.00 TO \$10,000; JAIL SENTENCINGS HAVE RANGED FROM 6 WEEKENDS TO ONE YEAR AND A DAY. I STRONGLY FEEL WHEN AN INDIVIDUAL FACES A SUBSTANTIAL PERIOD OF INCARCERATION, A DETERRENT FACTOR IS ENCOUNTERED.

BOOKMAKERS HAVE BEEN ACCUSTOMED TO FINES AND SHORT PERIODS OF PROBATION. NEITHER OF THESE PENALTIES SUBSTANTIALLY HURT OR SERVE AS A DETERRENT. JAIL SENTENCES AND THE USE OF THE IMMUNITY STATUTE, WHERE KEY EMPLOYEES HAVE ACTUALLY BEEN CONFINED FOR PERIODS OF 18 MONTHS, I BELIEVE ARE THE TYPE OF DETERRENTS REQUIRED TO CREATE A REAL IMPACT ON THE BOOKMAKING COMMUNITY.

I WOULD LIKE THE COMMISSION TO BE AWARE THAT IN CONNECTION WITH OUR GAMBLING INVESTIGATIONS, IT HAS BEEN OUR PRACTICE TO MAKE RECORDS SEIZED IN GAMBLING RAIDS AVAILABLE TO THE INTERNAL REVENUE SERVICE. THAT AGENCY'S SEIZURES, ASSESSMENTS, AND PROSECUTIONS ALSO HAVE HAD AN IMPACT. INTERNAL REVENUE SERVICE ASSESSMENTS HAVE BEEN IN THE MILLIONS. IN ADDITION TO FURNISHING INFORMATION TO THE INTERNAL REVENUE SERVICE IN CONNECTION WITH OUR INVESTIGATIONS, WHEN INFORMATION IS DEVELOPED DURING THE COURSE OF GAMBLING RAIDS AND SUCH ITEMS AS NARCOTICS OR WEAPONS ARE SEIZED THE DRUG ENFORCEMENT

AGENCY AND THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS ARE ALSO PROMPTLY ADVISED AND THE NATURE OF EVIDENCE SEIZED MADE AVAILABLE TO THEM. WHEN PERTINENT, EVIDENCE AND DATA OF INTEREST TO OTHER AGENCIES ARE PROMPTLY FURNISHED TO THESE RESPECTIVE AGENCIES.

IN ADDITION TO OUR DEALINGS WITH THE AFOREMENTIONED FEDERAL AGENCIES, WE WORK CLOSELY WITH LOCAL POLICE DEPARTMENTS IN THE ENFORCEMENT OF GAMBLING LEGISLATION AND ALMOST DAILY DISSEMINATE INFORMATION PERTAINING TO BOOKMAKERS WHICH OFTEN RESULTS IN RAIDS AND ARRESTS BY THE LOCAL DEPARTMENTS. WE HAVE ENGAGED IN MANY COOPERATIVE VENTURES WITH LOCAL LAW ENFORCEMENT AND, WHEN APPROPRIATE, INCLUDE LOCAL POLICE IN OUR RAIDING TEAMS. COOPERATION WITH LOCAL POLICE DEPARTMENTS, INCLUDING THE PHILADELPHIA POLICE DEPARTMENT, HAS BEEN EXCELLENT.

I FEEL THE COMMISSION SHOULD KNOW THAT OUR INVESTIGATIONS AND OUR INTELLIGENCE INFORMATION INDICATE THAT THE LEGALIZED LOTTERY IN PENNSYLVANIA HAS HAD LITTLE OR NO EFFECT ON ILLEGAL GAMBLING. IT WOULD APPEAR THAT LOCAL LOTTERIES ARE NOT GEARED TO COMPETE WITH ILLEGAL GAMBLING. I BELIEVE

THAT THE GENERAL PUBLIC IS APATHETIC TOWARD ENFORCEMENT OF GAMBLING LAWS. ALL TOO MANY PEOPLE LOOK AT ILLEGAL GAMBLING AS A VICTIMLESS CRIME. UNFORTUNATELY, WHAT THEY DO NOT REALIZE IS THE BRUTALITY THAT IS EXERCISED BY ORGANIZED CRIME IN PROMOTING GAMBLING AND OTHER ILLEGAL ACTIVITIES. I HOPEFULLY DO NOT FEEL THAT THEY HAVE ANY UNDERSTANDING OF THE FACT THAT GAMBLING REMAINS THE SINGLE MAJOR SOURCE OF INCOME FOR ORGANIZED CRIME. THESE SAME PEOPLE SELDOM, IF EVER, SEE THE SUFFERING INCURRED BY VICTIMS OF LOANSHARKS WHO FEED OFF THE PROFITS OF GAMBLING.

IT DOES NOT SEEM POSSIBLE TO COMPLETELY ELIMINATE ALL FORMS OF ILLEGAL GAMBLING. I THINK THAT WE IN LAW ENFORCEMENT HAVE FOUND THAT GAMBLING LAWS DO NOT STOP GAMBLING FROM TAKING PLACE. IT WOULD APPEAR THAT A MORE REALISTIC GOAL WOULD BE TO ATTEMPT TO CONTROL ILLEGAL GAMBLING. IF THE PRINCIPALS AND EMPLOYEES INVOLVED IN ILLEGAL GAMBLING WERE GIVEN JAIL TERMS, LONG PERIODS OF PROBATION, AND STEADY PENALTIES, ASSESSMENTS AND FINES BY THE INTERNAL REVENUE SERVICE, THE PROFIT PICTURE WOULD NOT BE SO APPETIZING. THERE

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WOULD THEN BE THE SERIOUS QUESTION ON THE PART OF EMPLOYEES WITHIN THE BOOKMAKING EMPIRE AS TO WHETHER THE CHANCE WAS WORTH WHAT THEY WERE BEING PAID. ORGANIZED CRIME NEEDS THE EMPLOYEES TO EFFECTIVELY OPERATE A BOOKMAKING OPERATION. MAJOR OPERATIONS CAN BE PUT OUT OF BUSINESS AS THEY HAVE IN THE PAST. THE SMALLER GROUPS WILL LACK THE POWER, POLITICAL AFFILIATIONS, AND RICHESNESS OF THE GROUPS NOW IN CONTROL. THERE WILL BE INDIVIDUALS WILLING TO TAKE THE CALCULATED RISK TO MOVE INTO THE VOIDS CREATED, BUT THROUGH CONTINUED PRESSURE THESE NEW PRINCIPALS WILL HAVE DIFFICULTY IN RECRUITING EMPLOYEES TO BUILD THEIR VENTURE INTO A MAJOR GAMBLING OPERATION. GAMBLERS FEAR INCARCERATION AND STIFF PRISON SENTENCES.

I BELIEVE THAT CONGRESS HAS GIVEN THE FBI THE EQUIPMENT TO DO THE JOB, GIVEN THE TIME WE SHALL DO THE JOB.

REGARDING THE QUESTION WHETHER LEGALIZED GAMBLING WOULD HAVE AN IMPACT ON ILLEGAL GAMBLING, IT IS OUR EXPERIENCE THAT IN THOSE AREAS WHERE LEGALIZED GAMBLING EXISTS IT IS A DETERRENT TO THE ILLICIT OPERATIONS OF THE UNDERWORLD. WE HAVE ALSO FOUND THAT THERE IS LITTLE OR NO IMPACT ON SUCH

RELATED AREAS AS GRAFT AND CORRUPTION OR THE ASSOCIATED  
CRIMES OF BURGLARY AND ROBBERY. BECAUSE CONVENIENT COLLECTION  
SERVICES ARE AVAILABLE WITH THEIR READY CREDIT SITUATIONS,  
THE WIDE VARIETY OF WAGERS AND TAX ADVANTAGES OFFERED BY THE  
CRIMINAL GROUPS, LEGALIZED COMPETITORS ARE NOT ABLE TO LURE  
AWAY THOSE INDIVIDUALS DEALING WITH ILLEGAL GAMBLING.

I WANT TO THANK YOU AGAIN FOR THE OPPORTUNITY TO  
APPEAR BEFORE THE COMMISSION TODAY, AND I HOPE THAT WE HAVE  
MADE A WORTHY CONTRIBUTION.

1 (Hearing recessed 12:50 p.m.; reconvened  
2 1:30 p.m.)

3 MR. COLEMAN: Welcome back to the Commis-  
4 sion meeting. This is the Commission on the Review  
5 of the National Policy Toward Gambling, the second  
6 day of hearings being held here in Philadelphia.

7 The next witness is Joseph O'Neill.

8 Mr. O'Neill is the Police Commissioner in  
9 Philadelphia. Mr. O'Neill has also been the Chief  
10 Inspector of the Detectives Bureau. We welcome you,  
11 Mr. O'Neill. You have a prepared statement, which  
12 you can either read or summarize as you see fit.

13 MR. O'NEILL: Yes, sir. I would like to  
14 formally introduce to the group Chief Inspector  
15 Frank Scafidi, who is responsible for our Internal  
16 Affairs Bureau within the Department.

17 Gambling has been a reality almost from  
18 the beginning of recorded history.

19 Certainly, during the lifetimes of the  
20 members of this panel, we all are aware of the im-  
21 pact exerted by this activity on our daily lives.

22 From time to time, campaigns have been  
23 launched to eradicate gambling. Laws have been  
24 passed. Speeches have been made. Investigations  
25 have been conducted. I feel safe in saying that

1 all this activity on the part of law enforcement  
2 has not dimmed the enthusiasm of our citizenry who  
3 wish to gamble.

4 This problem is one that we should attempt  
5 to revise and turn into an asset for use by the  
6 entire community. This inborn desire on the part  
7 of so many people to win or lose on a game of chance--  
8 should turn around to the advantage of our govern-  
9 ment and our people. By suppressing this activity,  
10 we are driving these people into the hands of the  
11 criminal to find an outlet for this activity; they  
12 must go to those who offer an opportunity for them  
13 to do so. The community thereby loses control of  
14 the operation. No tax revenues are derived from  
15 the millions of dollars wagered and no efficient  
16 way has been found to keep undesirables, criminals  
17 and other opportunists out of this business.

18 It is difficult for law enforcement and  
19 especially the police to effectively enforce gambling  
20 laws.

21 Contrast the public attitude against  
22 robbery, burglary and rape as against those laws  
23 regulating gambling. Very few people favor the  
24 robber or the rapist. On the other hand, great  
25 numbers of people see no real threat to them or

3

1 their community from gambling or from those who  
2 take part in the gambling operation.

3 We, the police, do not have the public  
4 support for the fight against gambling that is  
5 experienced in the criminal field. The so-called  
6 "victim" is difficult to pinpoint in the gambling  
7 area, thus we have few people who are actively  
8 involved in the activity that give us a legitimate  
9 cause for action. People gamble because they want  
10 to do so. There are those who should not gamble,  
11 just as there are those who should not drink alcohol  
12 or smoke tobacco because these actions are particu-  
13 larly harmful to them as individuals. These people  
14 cannot be effectively protected against themselves  
15 under our present system.

16 "Victimless" crimes is a term tossed about  
17 by those who wish to abolish all vice laws. In  
18 reality, there are no such categories as "victim-  
19 less" crimes.

20 If an activity is criminal--there is a  
21 victim. Prostitution has a victim--the prostitute--  
22 or sometimes--the patron. These people may not  
23 consider themselves as "victims" but in reality they  
24 are. Narcotics, liquor violations, gambling, and  
25 sexual displays in print or in person all have

1 victims just the same as if these people were  
2 attacked with a weapon. Sometimes, the end effect  
3 on them and their families is in some ways more  
4 devastating than the physical attack.

5 I single out gambling for special con-  
6 sideration because I believe that we, as a community,  
7 can live with some form of legalized gambling. It  
8 would be beneficial to us as a community in many  
9 ways:

10 1. It is estimated that several million  
11 dollars a year is wagered by illegal gambling  
12 activities in Philadelphia each year. This money  
13 could be channelled into legalized activities  
14 resulting in some portion being diverted to govern-  
15 ment for the benefit of all.

16 2. Most of our manpower now being expended  
17 on investigating, arresting and presenting evidence  
18 against gamblers and related activities could be  
19 diverted to suppression of violent crime and other  
20 services to the people.

21 3. Last year, only six persons of 2,937  
22 arrested charged with gambling went to prison on  
23 that charge. The time of the police, the prosecutors,  
24 witnesses and the Courts and Judges could be  
25 re-channelled toward more meaningful objectives.

5

1                   4. Legalization would set standards for  
2 all gambling activities. The operators would be  
3 known. Rules of operation could be set. Everyone,  
4 including the police, would know what the rules were  
5 and they could be applied equally and fairly to all.

6                   5. We should review the possibilities  
7 of a 2-year moratorium on the enforcement of cer-  
8 tain gambling laws. During this period, state  
9 authorities could grant interim licensing privi-  
10 leges to permit "bookmakers" to operate under  
11 carefully-controlled conditions.

12                   Today, we tolerate certain non-profit  
13 organizations resorting to gambling ostensibly to  
14 raise funds. The same type gambling for others is  
15 illegal. These operations must all be uniform and  
16 they must adhere to the same guidelines--if we are  
17 to treat all people the same.

18                   These then, are my ideas and recommenda-  
19 tions relative to gambling. Give them some thought  
20 and use them in your deliberations to reach a  
21 decision.

22                   Let no one harbor the thought that because  
23 of anything stated here today, that the Philadelphia  
24 police will permit any laxity or let-up in the en-  
25 forcement of the present laws against gambling--we

1 will not.

2 MR. COLEMAN: Thank you, Commissioner.

3 BY MR. COLEMAN:

4 Q Attached to your written statement you have kindly  
5 supplied us with some figures on gambling arrests start-  
6 ing with the year 1969 and the results of the arrests.  
7 I suppose most significantly going down to last year,  
8 1974, there appears to have been a gradual decline in  
9 the number of arrests. Can you comment on that?

10 A Yes, sir. We have tried to be more effective in  
11 the arrest of gamblers, persons involved in the opera-  
12 tion. As a result of this, we have been more selective,  
13 and we have had a higher rate held for court.

14 Q Now, on the last page you divide the categories  
15 into "lottery" and "horse wager." I may not be entirely  
16 familiar with the court system here, but just for 1974  
17 the total cases in lottery, 2,408; held for court 1,885,  
18 and discharged at the hearing the balance. Now, what  
19 does that mean where you say "discharged at hearing"?  
20 They didn't get to trial?

21 A That's correct. They were discharged probably at  
22 arraignment court in these situations.

23 Q The others were held for court. Now, they all went  
24 to trial?

25 A Yes, sir.

7

1 Q We heard from the District Attorney yesterday that  
2 those discharged at hearing would be on the recommenda-  
3 tion of the District Attorney's Office. Is that correct?

4 A More often than not, yes.

5 Q Just so we understand it, are there some that are  
6 discharged merely by the District Attorney's Office,  
7 saying that they are to be dismissed, or must they all  
8 go before the court?

9 A No. They make a recommendation to the arraignment  
10 court judge. The arraignment court is the first step.  
11 That is in the Police Headquarters Building.

12 Q Those discharged at the hearing would be at that  
13 level?

14 A Yes, primarily. Some would go into other areas.

15 Q Speaking yesterday with the District Attorney,  
16 either I or someone proposed a question. After the  
17 arrest has been made by your police officers, was there  
18 any discussion prior to the recommendation of the dis-  
19 missal with your Department, and the answer was no.

20 A More frequent than not, this is the case.

21 Q What effect would you say that procedure has on the  
22 willingness to continue men in the street, your police  
23 officers, to go out and make arrests?

24 A I would say it makes it more difficult for us to  
25 keep up the enthusiasm among the people out in the street.

8

1 Q The figures we got yesterday indicated that the  
2 convictions were comparatively fewer, and as you have  
3 just told us, after that, sentences were even fewer.  
4 What does the average fine consist of where there is not  
5 a sentence?

6 A I dare say it would be \$100 or less.

7 Q Would that be for something like lottery numbers or  
8 runners?

9 A It could be either lottery or bookmaking. While we  
10 are on the subject, I must preface my comments by saying  
11 that under the Pennsylvania Supreme Court ruling we can-  
12 not identify individuals by names unless their case is  
13 totally completed. I have here a 54-year old male, for  
14 example, who I know of from having been the inspector in  
15 the South Division in years past. He has had 101 total  
16 arrests. 94 of these have been for gambling. He has  
17 been convicted 15 times, and he went to prison five times.  
18 Now, his prison terms were one month to 12 months on one  
19 occasion and six months to 12 months on four occasions,  
20 meaning he did the minimum.

21 We have another one, 63 years of age. The  
22 total arrests were 115. 49 of those were for gambling;  
23 6 convictions. He went to prison one time for six to  
24 12 months.

25 We have a 57-year old male with 71 total

9

1 arrests. 62 of these were for gambling; 19 convictions.  
2 He went to prison 13 times, each and every case under  
3 six months.

4 Q What is the minimum he would serve then?

5 A He served the minimum, probably. Also, he was some  
6 kind of a hardship case, and so forth. They all have  
7 heart trouble, diabetes, et cetera, very conveniently.  
8 We have a 60-year old who has 63 arrests, 55 of them  
9 for gambling and 20 convictions. He never went to jail.

10 Q Are these numbers violations, basically?

11 A Numbers and horses, both. In these particular  
12 instances they are primarily numbers. Illegal lotteries  
13 we call them. I have another one, 61 years of age. He  
14 has been arrested 59 times. 34 of these were for  
15 gambling and 19 convictions. He went to prison three  
16 times, 30 days, 60 days to 12 months, and 3 to 12 months.

17 I have another one, 57 years of age, 59  
18 arrests, 51 gambling arrests with 15 convictions. He  
19 went to prison three times 6 to 12 months. If you will  
20 just eliminate the names, sir, I will pass one of these  
21 up if you are interested.

22 Q We are very interested in the statistics.

23 A I just have one more. I don't want to burden you  
24 with these. This happens to be a female, 64 years of  
25 age, who all of her adult life has been involved in this,

1 as most of these people are. She has 59 gambling arrests  
2 of 71 total and was convicted 7 times, but never went to  
3 jail.

4 Q Commissioner, as you put it in your statement here  
5 and just testified to, you intend to continue. There  
6 will be no laxity or letup in the enforcement of the  
7 present laws, and that will be despite what you have  
8 just told us here and just showed us by case evidence  
9 that apparently the conviction rate is very slim, despite  
10 all your efforts.

11 A Correct.

12 Q What's the answer, in your opinion? What about  
13 mandatory sentences? What would you think of that?

14 A I think we have to deal with the problem realistically  
15 as I stated, and I think we have to have gambling permit-  
16 ted, some kind of legal gambling. I fail to see where  
17 gambling per se is wrong. In the interim, we will con-  
18 tinue to make arrests. In fact, on this very date I am  
19 certain there is somebody being arrested for gambling.  
20 We will try to concentrate on those people whom we  
21 believe are the "higher-ups." Despite all of the nonsense  
22 you hear about the concentration of higher-ups, the  
23 probability of ever getting to the head of any gambling  
24 syndicate is extremely remote. We would like very much  
25 to see the courts start putting these people away who

1 are "the little fish." If you continue to get the little  
2 fish, ultimately the big fish have to fall by the way-  
3 side, because it's kind of an unwritten theory of when  
4 the little fish go to jail, the individuals they are  
5 working for continue to pay their salaries. Now he has  
6 got a double problem. He has got to pay the salary for  
7 the individual in jail, and he also has to pay for the  
8 replacement. Ultimately, we will get to them.

9 Q Commissioner, has it been your experience in these  
10 so-called little people when they are locked up, that the  
11 same bondsman appears in rather short order, and do they  
12 pay their own bond fees or own legal fees, to your knowl-  
13 edge, or their own fines?

14 A I haven't researched that, sir. I just don't know.

15 Q I think New Jersey is about to try or is trying a  
16 pick-your-own three-digit number in the course of their  
17 State Lottery. Assuming you were to put that in the  
18 State of Pennsylvania alone, with nothing further, no  
19 change of tax laws or anything like that, no extension  
20 of credit, do you think that would combat the present  
21 illegal numbers at all?

22 A We have a legal lottery here in Pennsylvania, and I  
23 would say it will put a dent into the illegal operation,  
24 but not too much of one, because you have to do that  
25 which the bookmaker or the number writer will do. You

1 have to extend credit to them, give them some kind of a  
2 note for payment. I, of course, advocate setting up  
3 bookmaking shops as businesses.

4 Q Licensed by the State?

5 A Yes, sir, absolutely. I have never played a horse  
6 or a number in my entire life, but if I felt like bet-  
7 ting on a horse today and happened to be off from work,  
8 I could go up to the track right here in Pennsylvania  
9 and go ahead and bet, go right up to the window. Yet,  
10 if I happen to be stuck, if I am one of the working  
11 people, in order for me to place a bet, I have to go to  
12 the bookmaker. Now, he has committed an illegal act,  
13 and so have I. It seems to be absolutely ludicrous. It  
14 seems to me I should be able to go to a legitimately-  
15 licensed bookmaker and say, "Here is my money; here is  
16 the horse; this is the race," et cetera, or play a num-  
17 ber with him.

18 MR. COLEMAN: Mr. Ritchie, do you wish to  
19 question for the Commission?

20 MR. RITCHIE: Yes, if I may proceed.

21 BY MR. RITCHIE:

22 Q Commissioner, without any reference to the indi-  
23 viduals' names that had those startling numbers of ar-  
24 rests, was there any pattern to the nongambling arrests  
25 or were they usually vagrancy-type arrests, or something?

1 A No. I am certain we would find that some arrests  
2 were made because payments were not made for gambling  
3 debts or possibly they were involved in illegal liquor  
4 licenses. They seem to go hand in hand. Some of these  
5 people, in addition to this, run speakeasies. They have  
6 a combination of illegal activities.

7 Q Despite the fact that they are constantly arrested  
8 by your Department, that does not seem to deter them  
9 from becoming constantly involved in the illegal activ-  
10 ities?

11 A No, sir. It's a way of life. You have to remember  
12 in the particular area where they live and, in fact, in  
13 some of our so-called higher class areas in this City  
14 and in other communities, the bookmaker and the number  
15 writer is not frowned upon or looked down upon. As a  
16 matter of fact, I can recall many years ago as a kid I  
17 lived in a section of the City where the number writer  
18 was a daily visitor to many of the houses, just like the  
19 milkman came. He would come along. Now, I think we  
20 have pretty much put a dent in.

21 Q Do you have any statement of the amount of cost  
22 that your Department is presently encountering in enforc-  
23 ing these gambling laws?

24 A Nearly \$3 million a year.

25 Q Is that based upon the number of men that you have

1 assigned to enforce it or is that strictly your cost  
2 excluding their time in court? Is that cost up to the  
3 time of the arrest?

4 A No. It's a total of the salaries of the individuals  
5 involved, plus the court time involved, plus the over-  
6 time for court time involved, plus the overtime for  
7 investigations.

8 Q I wonder if there is nothing confidential about  
9 those types of records if you could share with the Com-  
10 mission what your method of arriving at those particular  
11 costs is?

12 A Certainly. We will supply it.

13 Q Thank you, Commissioner. We are trying to conduct  
14 a cost-benefit analysis of what is happening presently,  
15 and those records would be very valuable.

16 Would you also explain the reduction in  
17 number of arrests based upon your selectivity? Do you  
18 attribute that to any particular success that you are  
19 diminishing the supply of illegal operators, or is it the  
20 supply may have increased but you are just being more  
21 discriminating about those people that you wish to arrest?

22 A When you talk about supply, sir, you are talking  
23 about logistics and numbers, I would presume. In reality,  
24 I don't think anybody in this City can tell you how many  
25 people are involved in the illegal gambling operations.

1 They just don't know. You don't know whether I, as a  
2 number banker or as a horse banker, have six people  
3 working for me at six distinct locations, or whether I  
4 have two working with me, or whether I have two today and  
5 six tomorrow, or if I am taking sports bets. You don't  
6 know how I hire people.

7 For example, the Flyers just went  
8 through a victory. Do I hire a dozen people? Do I hire  
9 a hundred people for a short period of time? Nobody, to  
10 my knowledge, can give you an exact figure. I doubt it  
11 will ever be available, even if we legalize gambling.  
12 Presumably, we will know the number of legal employees,  
13 but I am also certain there will be some illegal gambling  
14 just as we have bootlegging, so I wouldn't even hazard  
15 a guess, sir.

16 Q Would you agree in the event the Commission adopts  
17 your recommendations and there are legal forms of gam-  
18 bling instituted and, agreeing with you that there might  
19 be a possible residual effect of the illegal operators,  
20 would you agree that it would be a good strategy to  
21 take money from the legal operations to pay for the  
22 enforcement of the anti-gambling laws against the il-  
23 legal operations; that is, take revenue from the legal  
24 operation and give it to law enforcement for whatever  
25 it costs to enforce the law so that the taxpayers

1 do not bear the expense of the continued enforcement of  
2 the anti-gambling laws?

3 A It sounds to me like an excellent idea, particularly  
4 in view of the fact that the probability of the fact that  
5 the people involved in the legal gambling area would  
6 hopefully be very prone to turn in those that they know  
7 are involved in illegal gambling, just as today we have  
8 people who are involved in the liquid refreshment busi-  
9 ness, alcoholic beverages, beverage licensees, and they  
10 frequently are a source of information on illegal opera-  
11 tions, because it is their buck you are spending.

12 Q I take it the \$3 million figure is an annual figure?

13 A It's an approximate annual figure, yes.

14 Q Could you give us some kind of an idea of how many  
15 officers out of the 8,000 plus, I believe you said, in  
16 your force that you allocate to this type of enforcement,  
17 if you can separate gambling from the rest of the vices  
18 in your enforcement?

19 A I would say approximately 200 would be a reasonable  
20 figure.

21 Q That is all shifts? Is that approximately 200 men  
22 per month?

23 A No. That's on any given day, on a five-day basis,  
24 and sometimes they vary their shifts. They work a  
25 Saturday or Sunday when necessary, and so forth.

1 Now, each and every one of them, of course,  
2 is responsible for the enforcement of the gambling laws.  
3 I would say the probability of your finding open gambling  
4 on the streets is remote. I think you have to remember  
5 we are in the electronics age. We are in the age of the  
6 telephone, and many of these major operations come out  
7 of business and factory areas. You have people right  
8 within a stone's throw, possibly right within this build-  
9 ing, who pick up the telephone and call in their horse  
10 wager and never make contact with anyone.

11 Q Possibly within the room?

12 A Could be, sir.

13 Q Your statistics, Commissioner, on the number of  
14 people who are arrested for gambling and using the  
15 examples you gave us that are committed to some type  
16 of incarceration, do you find any similarity between  
17 that particular phenomenon relating to gambling and  
18 other crimes? Are your courts putting people in jail  
19 for other offenses?

20 A Well, you are hitting on a delicate subject. Not  
21 to the degree we would like them to, and if they are  
22 putting them in, they are not putting them in long  
23 enough. We are going off on a tangent. However, in my  
24 opinion, entirely too many prison criminals are walking  
25 the streets of this City. Of course, now they are

1 walking the streets of the surrounding communities, too.

2 Q You understand the purpose of my question is not to  
3 invite any type of controversy between you and the  
4 courts. It's just if, in fact, there is a requirement  
5 for some different type of treatment of gambling sen-  
6 tences, it has to be based on the fact that they alone are  
7 not being sentenced. If criminals are not going to jail  
8 for anything, including murder, then it does us little  
9 good to recommend a different treatment for gambling.

10 A I would think percentagewise you would find many  
11 more criminals if we for a moment imagine these people  
12 are not hardened criminals, as such, are going to jail  
13 or at the very least are being convicted. Let me put  
14 it that way. Of those convicted, they are going to jail.

15 Q You mentioned several types of tolerated gambling  
16 activities, whether it be by law tolerated or by policy  
17 tolerated. Directing your attention to bingo as it  
18 exists in the City of Philadelphia, does that provide a  
19 morale problem or an enforcement problem for your  
20 officers about enforcing other types of laws?

21 A I don't believe so, because here we tolerate bingo  
22 that is presumably run for charitable purposes. Of  
23 course, the thing that concerns us is that we feel some  
24 of the professionals who run these games take entirely  
25 too much percentagewise from them; but this is between

1 them and the church and the groups they are running it  
2 for. This is another area, incidentally, where we have  
3 been waiting for a long, long time for legislation to  
4 be passed in legalizing that which is tolerated.

5 Q Do you sense there is any current interest in  
6 legalizing bingo and subjecting it to perhaps regula-  
7 tion that may or may not be required?

8 A Well, I can speak for myself. I am very much  
9 interested in it.

10 Q The impact of the legal state-conducted lottery on  
11 the illegal lottery or numbers operations has been a  
12 subject of some dispute. You indicated that you felt  
13 it had made a dent in it. Is it a significant dent?  
14 Are people likely to buy a lottery ticket from the  
15 corner drug store because it benefits the elderly in the  
16 State of Pennsylvania as opposed to taking a chance on  
17 the illegal lottery, which might result in a great benefit  
18 for themselves, should they win?

19 A No. I am inclined to think in all probability they  
20 go to the local store because it happens to be convenient,  
21 and there is no problem with it. They don't have to go  
22 chasing after any illegal numbers writer or bookmaker,  
23 or what-have-you. They go in; they buy their groceries;  
24 they buy their cigarettes, whatever they purchase at the  
25 same time and buy the ticket. Therefore, the reason I

1 state it probably made a dent is that they spend that  
2 50 cents or dollar, or whatever it is now. They don't  
3 have that to spend on the illegal numbers. I don't  
4 think the gambler really thinks about where does the  
5 money go. You know, the guy that is playing that par-  
6 ticular number or buying that lottery ticket, I think he  
7 is interested in winning. When people are selling  
8 chances on an automobile, the first thing you are inter-  
9 ested in is winning the car. The second thing you are  
10 interested in is the fact that this goes to help some  
11 home, some boys' home, or what-have-you.

12 Q Do you have any evidence which you have developed  
13 through the illegal lottery operators that you have  
14 arrested, and perhaps those who have collaborated, which  
15 would indicate from their standpoint that the legal  
16 state-conducted lottery is a threat to their business?

17 A No, I do not, sir.

18 Q Regarding the institution of pari-mutuel wagering  
19 on horse races as it exists in this area, has that pro-  
20 vided an incentive to be interested in enforcing the  
21 laws against illegal horse betting, horse rooms, or  
22 enforcing those types of laws, or has it in fact resulted  
23 in a disinclination to involve one's self in that from  
24 your observations, not from any policy questions? Have  
25 your officers been more interested or less interested in

1 working on horse rooms since pari-mutuel wagering has  
2 been legalized?

3 A I would say their interest has neither abated nor  
4 has it increased. With them, it's a job. They are told  
5 to do it; they do it.

6 Q This question can be directed to either one of you,  
7 the Chief Inspector or the Commissioner. You have an  
8 internal security section. Is it independent and report-  
9 ing only to the Commissioner or is it an integral part  
10 of the force?

11 A Independently reports directly to me.

12 Q How large is your internal security section, sir,  
13 if you can say?

14 A Well, I prefer not to say, sir.

15 MR. RITCHIE: I yield to Mr. Farrell or  
16 Dr. Allen.

17 BY MR. FARRELL:

18 Q Could one reason why you are in favor of legaliza-  
19 tion be because you think it would help ease the problem  
20 of corruption that stems from gambling in a large city?

21 A I am reasonably sure it would. As I stated, I  
22 would like to see a moratorium on it, and let us see  
23 just what happens.

24 Q Sort of a trial basis?

25 A Sort of a trial basis. I might be proven totally

1 wrong. If so, I will say I was wrong, or I may be proven  
2 right. In that case I would say, "Well, those of us who  
3 feel that way were right."

4 Q Are police officers out on the street being placed  
5 in a very difficult situation now because of public  
6 apathy and the amount of money they are offered by  
7 gamblers? It seems it is difficult to enforce the law.  
8 Does it make it reduce their desire to prosecute? Are  
9 they being put in a very tough situation by gambling  
10 laws?

11 A No, I don't really think so. I would say we have  
12 out there some people who would do or not do their job,  
13 depending on how much is offered to them. Conversely,  
14 I dare say of the over 8,000 men we have, the vast  
15 majority of them do the best they can, day in and day out  
16 under the law. Despite some of the statements made,  
17 like "open wide" and "widespread," I defy anybody in this  
18 room to go out as a stranger and find a bookmaker that  
19 will take their bet or find a numbers writer that will  
20 take a number for you.

21 Q You would not adopt a policy of not arresting  
22 gamblers on your own? You don't feel this is appropriate;  
23 is that correct?

24 A Absolutely not. We are responsible to uphold the  
25 law. The law in this State states it is illegal, and,

1 therefore, we will continue our efforts to arrest those  
2 people who are violating the law.

3 Q If the District Attorney told you that he wasn't  
4 going to prosecute any gamblers and made it public,  
5 would that change your position at all?

6 A It would. It would be a lessor in frustration. We  
7 certainly wouldn't go out and arrest them if he wasn't  
8 going to prosecute them. I may have mentioned this to  
9 you in our conversation before. We now have some screen-  
10 ing by the D.A., and there are instances where we arrest  
11 people with X number of numbers, and the D.A. in his  
12 opinion says, "I don't feel this is prosecutable. This  
13 individual has no prior arrest record or his arrest  
14 record is minimal. I would suggest that we don't follow  
15 it through." This is what we do. We don't. We listen  
16 to them. We also do this in the area of narcotics  
17 when we have a minimal amount of marijuana, for example.

18 Q I feel compelled to give you a chance to respond to  
19 some of the testimony we had yesterday about police  
20 corruption in Philadelphia. Is there anything that you  
21 wish to respond to by saying you don't think it's a  
22 severe a problem as we have heard or don't you feel any  
23 comment is necessary?

24 A Well, I don't know totally what you have heard, but  
25 I have a little quote here from Mr. Walter Phillips.

1 "Illegal gambling is open and widespread in Philadelphia  
2 and flourishing because of paid for protection by mem-  
3 bers of the Philadelphia Police Department." Well, this  
4 in my opinion is certainly erroneous on its very face.  
5 We in the Department are cognizant of the fact in any  
6 large organization, and indeed in fact in any small  
7 organization, that there are people who succumb to tempta-  
8 tion. We are aware of that. However, "open" implies  
9 that specific, easily-identifiable paraphernalia is  
10 used in our lottery material, and there is open sollicita-  
11 tion on the streets, and these open operations are easily  
12 identifiable and susceptible to the men of this Depart-  
13 ment, and I say it is not true. I suggest he offer  
14 proof or evidence to support the allegation.

15 In fact, he stated, I think, on occasion,  
16 clearly and emphatically that, just as I stated, most of  
17 the gambling activity is done by phone, and it is dif-  
18 ficult to break up. We also know, of course, they use  
19 flash paper, rice paper, code name, numbers, and they  
20 also all suggest strongly they are concerned about the  
21 police. Otherwise, why would they go to this trouble?  
22 Why bother with flash paper, rice paper, code names, and  
23 numbers? Why not do what they did in New York? They  
24 give you a duplicate slip. In Philadelphia when you  
25 play a number, the fellow doesn't write it down and say,

1 "Here is your copy." There just is no such thing.

2 Q Francis Schafer, who is going to testify later on  
3 today, proposes that if gambling were legalized, part of  
4 the money should be used to raise police salaries. Do  
5 you think this would help make the police less likely  
6 victims of pressure to be corrupt in gambling-related  
7 encounters?

8 A Well, I don't know. When you get into this salary  
9 issue, all you have to do is take a look at some of the  
10 people in this nation who have fallen by the wayside and  
11 look at the salary scales they have, so I'm not so sure  
12 that is the answer. I would be perfectly willing to see  
13 some of the folks who aren't benefiting now, like the  
14 older folks and the deprived folks, benefit from these  
15 funds.

16 MR. FARRELL: Thank you very much.

17 MR. COLEMAN: Dr. Ethel Allen, who,  
18 Commissioner, I am sure you know is a member of the  
19 City Council, is here. We welcome you. I am sorry  
20 you couldn't be here earlier.

21 BY DR. ALLEN:

22 Q Commissioner, how many cases of corruption relative  
23 to gambling would you say that your internal security  
24 squad has had to investigate over the last ten years?

25 A I can't take it back that far, Doctor, but I think

1 Frank has the figures for the last few years.

2 MR. SCAFIDI: We did a quick analysis of  
3 1971-1974 inclusive. We brought formal disciplin-  
4 ary charges against 108 police officers strictly on  
5 gambling-related corruption.

6 DR. ALLEN: That is the thrust of my ques-  
7 tion.

8 MR. SCAFIDI: 10 of those 108 were found  
9 not guilty. The other 98 were punished to some  
10 extent, either through arrest and dismissal or  
11 dismissal, resignation under charges, and suspen-  
12 sion in the lesser cases.

13 BY DR. ALLEN:

14 Q You don't accord them the same degree of treatment  
15 that you accord a citizen who is participating in  
16 gambling? In other words, even though he is guilty of  
17 corruption under a gambling circumstance, he is strictly  
18 under the jurisdiction of the Police Department and is  
19 not remanded to the prosecutor's office for punishment  
20 in most cases?

21 A He may or may not be. It all depends on the type  
22 of situation. In most of the circumstances, indeed, I  
23 would say, in all of them, we conferred with the District  
24 Attorney.

25 MR. SCAFIDI: Where there was evidence of

1 criminality, and in most cases there was, it was  
2 discussed fully with the District Attorney, and we  
3 abided by his recommendation. That did not pre-  
4 clude us from taking departmental action against  
5 the officer.

6 Q What do you evidence as criminality? Bribery?  
7 Extortion? What?

8 MR. SCAFIDI: That's right, ma'am. The  
9 two major categories are seeking a payoff, which I  
10 think you can see is difficult to prove and, two,  
11 the association with gamblers, which falls short  
12 of criminality but is against the departmental  
13 regulations.

14 Q Then you are running 10 percent, which is a much  
15 higher ratio of activity than is exhibited by virtue of  
16 the Municipal Court records limited to the police who  
17 are arrested versus the number of convictions, which you  
18 say run about two percent; so you are running about ten  
19 times their ratio on your treatment of corruption in  
20 the Department?

21 A 93 percent conviction rate compared to 10 percent  
22 stated.

23 Q Do you confer with the District Attorney in the  
24  
25

1 initial phases after that investigation is completed and  
2 you feel you have some finding, or do you wait until  
3 after the formal inquiry is held and adjudication is  
4 made by the Police Inquiry Board?

5 A It will depend on the particular investigatory  
6 board. There are some that go like that, where you have  
7 data today of a payoff going to take place tomorrow.  
8 The probability is it will go through, and you make the  
9 apprehensions, and then we confer with them. Then you  
10 also have other situations where you get information  
11 that is going on with specifics. This requires some  
12 investigation to determine whether or not there is any  
13 accuracy to the complaint, to the information given to  
14 you, and frequently you find there isn't.

15 Where there is, then you get to the stage  
16 where you confer with the D.A. to determine whether or not  
17 in his opinion criminality is evident.

18 Q What percentage of your total manpower is your vice  
19 and gambling squad?

20 A Each and every individual in the Department is  
21 responsible for the enforcement of all laws. Now, if  
22 we take approximately 200 people here specifically in-  
23 volved in this and then we compare that with the 8,000  
24 that we have, then 80 would be one percent and 160 would  
25 be two percent. It would be about 2.5 percent.

1 Q How many women are utilized in those activities?

2 A They are utilized periodically when the need arises  
3 for them. If today, for example, we were going to go  
4 after an operation in which women were involved in the  
5 illegal aspect of it, where we felt a woman could be  
6 beneficial to us, she would be utilized. The women, of  
7 course, are absolutely utilized in the search of the  
8 person, of the females we take into custody.

9 Q Are they utilized on the Inquiry Board?

10 A If a woman comes before the Board, yes.

11 Q Inspector Scafidi, you said 108 cases were brought  
12 to the attention of the Department over the period be-  
13 tween 1971 and 1974. Were the predominance of these  
14 cases in the latter two years or predominant in the  
15 other two years?

16 A (Inspector Scafidi) I believe the earlier two  
17 years had the higher figures. Unfortunately, I cate-  
18 gorized it by the result of the police action; that is,  
19 arrest and dismissal, rather than by years.

20 Off the top of my head, I would think the  
21 greater activity was in the earlier two years, 1971-1972.

22 DR. ALLEN: We will take a recess at this  
23 point.

24 (Ten-minute recess.)

25 Q I don't know whether anyone has asked this before

1 or not, Commissioner, but do you feel in the period of  
2 your tenure with the Police Department that there has  
3 been or there is now any correlation between organized  
4 crime or the syndicate, however you wish to label it,  
5 and police corruption in the City of Philadelphia?

6 A I think it's an extremely broad question. When you  
7 say "organized crime," particularly in view of the fact  
8 that my time in the Department has been primarily in  
9 investigative work, I also ask the questions who, why,  
10 what, when, and where. We read about "organized crime,"  
11 and a lot of this cannot be neither supported nor refuted.  
12 That is the difficulty sitting right here in this chair  
13 and you sitting there. We probably believe that there  
14 are certain people who are involved in syndicates or  
15 organized crime, but believing it and proving it are very  
16 far apart, particularly in this world of rights that we  
17 live in today. I dare say neither you nor I would be so  
18 bold to say that this one or that one is engaged in it.

19 Q One final question. Do you feel the legalization  
20 of gambling would free your men who are involved in the  
21 activity relative to the enforcement of gambling statutes  
22 to the extent that you would be able to make any viable  
23 or visible impact on the other violent crimes that are  
24 commonly referred to as victim crimes?

25 A Yes.

1 Q You do? Then what segment of your budget would you  
2 say at the present time is devoted to the enforcement of  
3 the gambling statutes?

4 A We gave that prior to your coming in.

5 DR. ALLEN: Thank you very much.

6 Mr. Ritchie?

7 BY MR. RITCHIE:

8 Q Commissioner, your counterpart in Boston urged the  
9 Commission, not unlike yourself, to consider legalization  
10 for many of the same reasons. We have had additional  
11 testimony from other levels of law enforcement who have  
12 urged the Commission to continue prohibition of gambling;  
13 that is, the anti-gambling laws we have for many of the  
14 same reasons. Have you made your views known to a  
15 political process? Is there any interest on the part of  
16 your legislature in making some sense of this hodgepodge  
17 of laws that we presently have?

18 A Yes. Some few years ago we had a committee here  
19 from the State. At that time I made my views very clear,  
20 and the then Mayor made his views, and the present Mayor  
21 is of the same opinion as I. I don't advocate we just  
22 legalize it, period. I maintain we should give it a try.  
23 Nothing excepting death is irreversible. If it did not  
24 work, then we could always go back to enforcement of the  
25 law. I don't mean to be repetitious, but the way it is

1 now it is a lesson in frustration. We are arresting  
2 people over and over again, and they are seldom being  
3 convicted. Those being convicted are not going to jail  
4 for long periods of time, and we are not really getting  
5 to the heart of it.

6 MR. RITCHIE: Commissioner, on behalf of  
7 the staff, we wish to thank you for your coopera-  
8 tion and your participation.

9 I would like to have the record reflect  
10 that ours is a continuing request. We will be  
11 developing a great deal of information. We frankly  
12 would like to have the fine judgment of candid  
13 officials such as yourself in the future, if you  
14 would not mind continuing to take time from your  
15 busy schedule to work with us.

16 MR. COLEMAN: I might ask, Commissioner,  
17 those case histories that you gave us, which I  
18 found to be very interesting, to say the least, if  
19 there is some way you could clip off the names and  
20 send it to us, I am sure it would be quite helpful  
21 to us.

22 COMMISSIONER O'NEILL: I would be perfectly  
23 willing to leave them with you. I certainly have the  
24 confidence in you to know you would eliminate the  
25 names. It's very simple, if that would be your

1 pleasure.

2 MR. COLEMAN: It would be very interesting.  
3 I would appreciate it.

4 DR. ALLEN: On behalf of the Commissioners,  
5 Commissioner O'Neill, I would like to thank you for  
6 your presentation and taking the time to be with us.

7 COMMISSIONER O'NEILL: Thank you for ask-  
8 ing.

9 MR. COLEMAN: For the record, Dr. Allen  
10 will chair the meeting.

11 DR. ALLEN: Our next witness is Dr.  
12 Donald Cox.

13 DR. COX: Madam Commissioner and other  
14 members of the Commission, I want to thank you for  
15 putting me on here as a pinch-hitter for the dis-  
16 tinguished Judge Lord on short notice. I was not  
17 on your agenda, but as one of the five members of  
18 the Pennsylvania State Lottery Commission appointed  
19 by the Governor, I was out in Lancaster this morn-  
20 ing at an official State Drawing, and I read in the  
21 paper about your hearings, and I thought I would  
22 come by and make a brief statement. I have no  
23 printed statement.

24 As you know, we are appointed by the  
25 Governor to serve in a three and a half-year-old



4722

CITY OF PHILADELPHIA

POLICE DEPARTMENT  
HEADQUARTERS, FRANKLIN SQUARE  
PHILADELPHIA, PENNSYLVANIA 19106

JOSEPH F. O'NEILL  
Commissioner

POLICY TOWARD GAMBLING

JOSEPH F. O'NEILL  
POLICE COMMISSIONER  
PHILADELPHIA, PA.

WM. J. GREEN, JR. FEDERAL BLDG  
600 ARCH STREET  
MAY 29, 1975

GAMBLING HAS BEEN A REALITY ALMOST FROM THE BEGINNING OF RECORDED HISTORY.

CERTAINLY, DURING THE LIFETIMES OF THE MEMBERS OF THIS PANEL, WE ALL ARE AWARE OF THE IMPACT EXERTED BY THIS ACTIVITY ON OUR DAILY LIVES.

FROM TIME TO TIME, CAMPAIGNS HAVE BEEN LAUNCHED TO ERADICATE GAMBLING. LAWS HAVE BEEN PASSED. SPEECHES HAVE BEEN MADE. INVESTIGATIONS HAVE BEEN CONDUCTED. I FEEL SAFE IN SAYING THAT ALL THIS ACTIVITY ON THE PART OF LAW ENFORCEMENT HAS NOT DIMMED THE ENTHUSIASM OF OUR CITIZENRY WHO WISH TO GAMBLE.

THIS PROBLEM IS ONE THAT WE SHOULD ATTEMPT TO REVISE AND TURN INTO AN ASSET FOR USE BY THE ENTIRE COMMUNITY.

THIS INBORN DESIRE ON THE PART OF SO MANY PEOPLE TO WIN OR LOSE ON A GAME OF CHANCE - SHOULD TURN AROUND TO THE ADVANTAGE OF OUR GOVERNMENT AND OUR PEOPLE.

474

BY SUPPRESSING THIS ACTIVITY, WE ARE DRIVING THESE PEOPLE INTO THE HANDS OF THE CRIMINAL TO FIND AN OUTLET FOR THIS ACTIVITY, THEY MUST GO TO THOSE WHO OFFER AN OPPORTUNITY FOR THEM TO DO SO. THE COMMUNITY THEREBY LOSES CONTROL OF THE OPERATION. NO TAX REVENUES ARE DERIVED FROM THE MILLIONS OF DOLLARS WAGERED AND NO EFFICIENT WAY HAS BEEN FOUND TO KEEP UNDESIRABLES, CRIMINALS AND OTHER OPPORTUNISTS OUT OF THIS BUSINESS.

IT IS DIFFICULT FOR LAW ENFORCEMENT AND ESPECIALLY THE POLICE TO EFFECTIVELY ENFORCE GAMBLING LAWS.

CONTRAST THE PUBLIC ATTITUDE AGAINST ROBBERY, BURGLARY AND RAPE AS AGAINST THOSE LAWS REGULATING GAMBLING. VERY FEW PEOPLE FAVOR THE ROBBER OR THE RAPIST. ON THE OTHER HAND, GREAT NUMBERS OF PEOPLE SEE NO REAL THREAT TO THEM OR THEIR COMMUNITY FROM GAMBLING OR FROM THOSE WHO TAKE PART IN THE GAMBLING OPERATION.

WE, THE POLICE, DO NOT HAVE THE PUBLIC SUPPORT FOR THE FIGHT AGAINST GAMBLING THAT IS EXPERIENCED IN THE CRIMINAL FIELD. THE SO CALLED "VICTIM" IS DIFFICULT TO PINPOINT IN THE GAMBLING AREA, THUS WE HAVE FEW PEOPLE WHO ARE ACTIVELY INVOLVED IN THE ACTIVITY THAT GIVE US A LEGITIMATE CAUSE FOR ACTION. PEOPLE GAMBLE BECAUSE THEY WANT TO DO SO. THERE ARE THOSE WHO SHOULD NOT GAMBLE, JUST AS THERE ARE THOSE WHO SHOULD NOT DRINK ALCOHOL OR SMOKE TOBACCO BECAUSE THESE ACTIONS ARE PARTICULARLY HARMFUL TO THEM AS INDIVIDUALS. THESE PEOPLE CANNOT BE EFFECTIVELY PROTECTED AGAINST THEMSELVES UNDER OUR PRESENT SYSTEM.

"VICTIMLESS" CRIMES IS A TERM TOSSED ABOUT BY THOSE WHO WISH TO ABOLISH ALL VICE LAWS. IN REALITY, THERE ARE NO SUCH CATEGORIES AS "VICTIMLESS" CRIMES.

IF AN ACTIVITY IS CRIMINAL - THERE IS A VICTIM.

PROSTITUTION HAS A VICTIM - THE PROSTITUTE - OR SOMETIMES - THE PATRON. THESE PEOPLE MAY NOT CONSIDER THEMSELVES AS "VICTIMS" BUT IN REALITY THEY ARE. MARCOTICS, LIQUOR VIOLATIONS, GAMBLING, AND SEX'AL DISPLAYS IN PRINT OR IN PERSON ALL HAVE VICTIMS JUST THE SAME AS IF THESE PEOPLE WERE ATTACKED WITH A WEAPON. SOMETIMES, THE END EFFECT ON THEM AND THEIR FAMILIES IS IN SOME WAYS MORE DEVASTATING THAN THE PHYSICAL ATTACK.

I SINGLE OUT GAMBLING FOR SPECIAL CONSIDERATION BECAUSE I BELIEVE THAT WE AS A COMMUNITY CAN LIVE WITH SOME FORM OF LEGALIZED GAMBLING. IT WOULD BE BENEFICIAL TO US AS A COMMUNITY IN MANY WAYS:

1. IT IS ESTIMATED THAT SEVERAL MILLION DOLLARS A YEAR IS WAGERED BY ILLEGAL GAMBLING ACTIVITIES IN PHILADELPHIA EACH YEAR.

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THIS MONEY COULD BE CHANNELLED INTO  
LEGALIZED ACTIVITIES RESULTING IN SOME  
PORTION BEING DIVERTED TO GOVERNMENT FOR  
THE BENEFIT OF ALL.

2. MOST OF OUR MANPOWER NOW BEING EXPENDED ON  
INVESTIGATING, ARRESTING AND PRESENTING  
EVIDENCE AGAINST GAMBLERS AND RELATED  
ACTIVITIES COULD BE DIVERTED TO SUPPRESSION OF  
VIOLENT CRIME AND OTHER SERVICES TO THE PEOPLE.
3. LAST YEAR, ONLY SIX PERSONS OF 2,937  
ARRESTED CHARGED WITH GAMBLING WENT TO PRISON  
ON THAT CHARGE. THE TIME OF THE POLICE, THE  
PROSECUTORS, WITNESSES AND THE COURTS AND JUDGES  
COULD BE RE-CHANNELLED TOWARD MORE MEANINGFUL  
OBJECTIVES.

4. LEGALIZATION WOULD SET STANDARDS FOR ALL GAMBLING ACTIVITIES. THE OPERATORS WOULD BE KNOWN. RULES OF OPERATION COULD BE SET. EVERY ONE, INCLUDING THE POLICE WOULD KNOW WHAT THE RULES WERE AND THEY COULD BE APPLIED EQUALLY AND FAIRLY TO ALL.
5. WE SHOULD REVIEW THE POSSIBILITIES OF A 2-YEAR MORATORIUM ON THE ENFORCEMENT OF CERTAIN GAMBLING LAWS. DURING THIS PERIOD, STATE AUTHORITIES COULD GRANT INTERIM LICENSING PRIVILEGES TO PERMIT "BOOKMAKERS" TO OPERATE UNDER CAREFULLY-CONTROLLED CONDITIONS.

TODAY, WE TOLERATE CERTAIN NON-PROFIT ORGANIZATIONS RESORTING TO GAMBLING OSTENSIBLY TO RAISE FUNDS. THE SAME TYPE GAMBLING FOR OTHERS IS ILLEGAL. THESE OPERATIONS MUST ALL BE UNIFORM AND THEY ALL MUST ADHERE TO THE SAME

GUIDELINES - IF WE ARE TO TREAT ALL PEOPLE THE SAME.

THESE THEN, ARE MY IDEAS AND RECOMMENDATIONS  
RELATIVE TO GAMBLING. GIVE THEM SOME THOUGHT AND USE  
THEM IN YOUR DELIVERATIONS TO REACH A DECISION.

LET NO ONE HARBOR THE THOUGHT THAT BECAUSE OF  
ANYTHING STATED HERE TODAY, THAT THE PHILADELPHIA  
POLICE WILL PERMIT ANY LAXITY OR LET-UP IN THE  
ENFORCEMENT OF THE PRESENT LAWS AGAINST GAMBLING - WE  
WILL NOT.

GAMBLING ARRESTS

<u>BOOKMAKING</u>	<u>MALE</u>	<u>FEMALE</u>	<u>TOTAL</u>
1969	468	31	499
1970	436	24	460
1971	358	27	385
1972	365	40	405
1973	219	10	229
1974	163	21	184

NUMBERS & LOTTERY

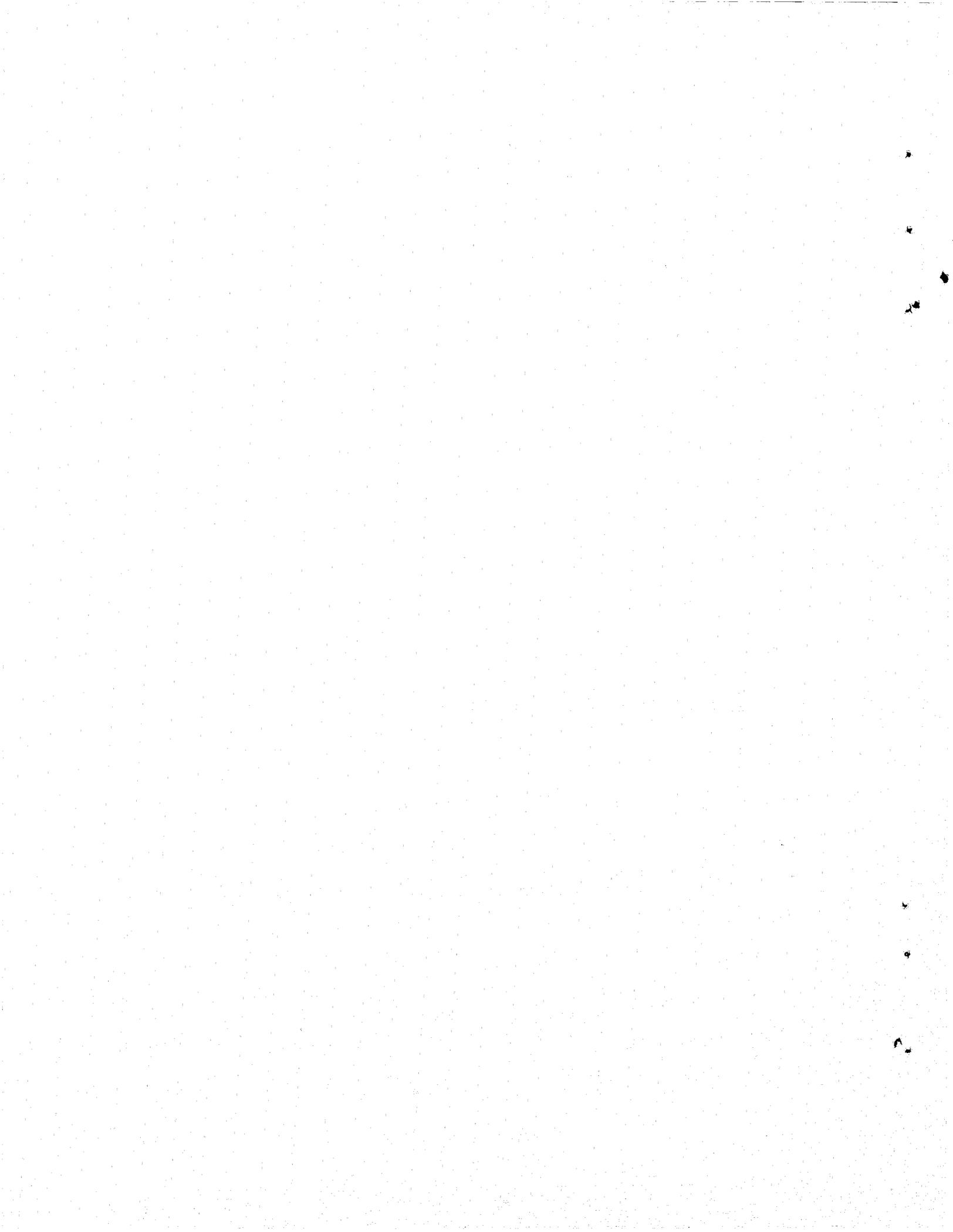
1969	3037	830	3867
1970	3195	800	3995
1971	3385	594	3979
1972	2641	520	3161
1973	1814	624	2438
1974	1683	724	2407

ALL OTHER

1969	1887	88	1975
1970	1447	71	1518
1971	1553	39	1592
1972	1222	45	1267
1973	535	17	552
1974	335	11	346

TOTAL GAMBLING

1969	5392	949	6341
1970	5078	895	5973
1971	5296	660	5956
1972	4228	605	4833
1973	2568	651	3219
1974	2181	756	2937



GAMBLING  
COURT DISPOSITIONS  
MUNICIPAL - COMMON PLEAS COURTS

<u>YEAR</u>	<u>CASES HEARD</u>	<u>GUILTY</u>	<u>PRISON TERM</u>	<u>PROBATION/ SUSPENDED SENTENCE</u>	<u>FINED</u>
1969	5099	561 (11.0%)	28 (5.0%)	246 (43.9%)	287 (51.1%)
1970	4943	607 (12.3%)	6 (1.0%)	180 (29.7%)	421 (69.4%)
1971	4601	357 (7.8%)	8 (2.2%)	120 (33.6%)	229 (64.1%)
1972	3606	332 (9.2%)	13 (3.9%)	159 (47.9%)	160 (48.2%)
1973	2542	413 (16.2%)	4 (1.0%)	176 (42.6%)	233 (56.4%)
1974	2683	274 (10.2%)	6 (2.2%)	113 (41.2%)	155 (56.6%)
<b>TOTAL</b>	<b>23,474</b>	<b>2544 (10.8%)</b>	<b>65 (2.6%)</b>	<b>994 (39.1%)</b>	<b>1485 (58.3%)</b>

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LOTTERY

<u>YEAR</u>	<u>TOTAL CASES</u>	<u>HELD FOR COURT</u>	<u>DISCHARGED AT HEARING</u>
1969	3865	1529	2336
1970	3964	1587	2377
1971	3887	1373	2514
1972	3142	1211	1931
1973	2453	1703	750
1974	2408	1885	523
<u>TOTAL</u>	<u>19,719</u>	<u>9277</u>	<u>10,431</u>

HORSE WAGER

<u>YEAR</u>	<u>TOTAL CASES</u>	<u>HELD FOR COURT</u>	<u>DISCHARGED AT HEARING</u>
1969	587	170	417
1970	557	148	409
1971	484	108	376
1972	404	131	273
1973	274	190	84
1974	216	168	48
<u>TOTAL</u>	<u>2522</u>	<u>915</u>	<u>1607</u>

1 lottery in an advisory capacity, only we do not make  
2 policy. I understand from Mr. Ritchie you formerly  
3 took testimony from our first executive director,  
4 Mr. Kaplan, who has moved on to higher and better  
5 things.

6 I am not here in any official capacity.  
7 I am not directed by our new director, Mr. Nelson,  
8 or our chairman, Mr. Ter Horst. I am here as a private  
9 citizen who has been doing some research in the  
10 past six months into organized gambling.

11 One thing I would like to take issue with  
12 is the question Mr. Ritchie asked our Police Commis-  
13 sioner. Could we use any of the net income from  
14 legal gambling, such as the lottery, to help in law  
15 enforcement? On paper, as a citizen, I would be all  
16 for that; but, unfortunately, I am privy to the  
17 facts of our commission, and I hate to tell you,  
18 and I will not divulge how far down we are this year  
19 in the net income as against last year in millions  
20 of dollars. I can say at this stage we are down  
21 about a third, and that income has been committed  
22 by State Statute of the Legislature to benefit  
23 exclusively senior citizens of the Commonwealth.  
24 That money has already been committed for free bus  
25 transportation, rent subsidies, and property tax

1 subsidies. Now, where the money is going to come  
2 from to make up from that deficit that has been  
3 committed to by the end of the year, I don't know,  
4 but I would like to offer one alternative plan, if  
5 I might.

6 I understand it was a major issue at your  
7 hearings in Washington, and that is sports gambling.  
8 I understand Mr. Kuhn and Mr. Rozelle testified  
9 against it, and I gather from the New York Times  
10 stories on organized sports, professional sports  
11 gambling, and college sports, that this is probably  
12 the biggest gambling business in America today,  
13 bigger than the numbers game. It's anywhere from a  
14 \$20 to \$25 billion operation. I can name you stores  
15 within a block of this courthouse where it is going  
16 on with respect to college sports, football, basket-  
17 ball, and professional sports.

18 Now, in the six months I have been on the  
19 Commission I have done some exploration into the  
20 legitimacy of organized sports gambling. Remember  
21 that I am now speaking as an individual citizen.  
22 I have come to the conclusion it can be done and  
23 done, hopefully, in the open and legally if you draw  
24 the line, and that is to get Federal legislation to  
25 approve sports gambling at the professional level

1 only. That is, hockey, basketball, football, and  
2 baseball, and to keep the college players out of  
3 it, because those hardship cases in college might  
4 be susceptible to bribe. Now, the reason I say  
5 draw the line at the professional sports level is  
6 because I have talked to several professional foot-  
7 ball players, both active and retired. Two of them  
8 are from the Eagles, who are former all pros. I  
9 will not mention their names, but they are distin-  
10 guished players. They both think this can be ac-  
11 complished. It's going on right now. In fact, these  
12 two players admitted while they were playing with  
13 the Eagles they were betting on other teams. They  
14 were never caught. They would look up at the score-  
15 board and see which of the two other teams playing  
16 in other towns were up or down by how many points.  
17 Of course, you know several football players like  
18 Paul Hornung and Alex Karras were caught betting a  
19 few years ago. Since then the sports players have  
20 been pretty honest, and the reason for it is they  
21 are paid too well. They are paid so well that it  
22 would jeopardize their careers if they accepted any  
23 bribe of \$10,000 or \$20,000, because they would be  
24 blackballed for life.

25 You take the hockey players in our Flyers.

1 If any of them accepted a bribe to throw the game,  
2 such as the goalie, why he would lose a chance of  
3 upwards of a million or two million dollars of pay  
4 and bonuses in his career. The feeling is among  
5 those I have talked to that the professional players  
6 are now paid so well that the first string players  
7 would probably not be susceptible to big bribes  
8 from professional gamblers, either if you had it  
9 legal or illegal as it is today.

10 In college it is a different ballgame,  
11 where you have students who are scratching their  
12 way through and might bow to a bribe attempt. That's  
13 why I say we should draw the line.

14 Now, this is probably going to take  
15 Federal legislation, because you are talking about  
16 interstate sports between teams in one or more  
17 states. Even though the betting might take place  
18 intrastate, you are talking about a no-man's land  
19 where there is really a whole new area of law. I  
20 have talked to a law student who is on the lottery  
21 staff, who is going into this in detail. He filled  
22 me in this morning with some of the points. One of  
23 the points would be a player who is over the hill,  
24 who is in his last year, and he has only got a year  
25 or two to go as a professional player, he might bow

1 to a gambler to throw a game. By the way, the type  
2 of player who would throw a game, interestingly  
3 enough, is not the quarterback; it's the corner  
4 back, the one who could drop and fall, not intercept  
5 the pass or conveniently fall and let the opposition  
6 win back, capture a pass for the winning touchdown.  
7 He is the one who is most susceptible to gambling  
8 in football.

9 To conclude my brief statement, I feel we  
10 must get professional sports gambling out into the  
11 open and get it from undercover. I understand the  
12 F.B.I. at your other hearings announced half of  
13 their arrests were for illegal sports gambling and  
14 numbers gambling. You just heard the Police Com-  
15 missioner of Philadelphia. I don't know how many  
16 of his arrests are for sports gambling, but I know  
17 it's going on wide open in this City. I can name  
18 the stores where it is taking place, and I would  
19 like to see it come above-board for two reasons.  
20 One is to get increased revenue for this Common-  
21 wealth, and we need it. We could make good use of  
22 the net income to benefit our senior citizens. Two, I  
23 think in the long run it will reduce the illegal  
24 betting and the crime that comes out of it.

25 That is the end of my testimony. Thank you.

1 DR. ALLEN: Thank you very much, Dr. Cox.

2 BY DR. ALLEN:

3 Q I notice in your testimony you made no reference to  
4 exempting the winnings from taxation. How do you feel on  
5 that point?

6 A Well, the problem with the illegal numbers and the  
7 illegal sports betting is they are exempt from taxation.  
8 That is why they occur. That is a problem all over, and  
9 we are waiting to see what happens in New Jersey, which  
10 was the first state to start the numbers betting legally.

11 The greatest advantages of the illegal  
12 sports better, whether its organized sports or numbers  
13 or even bookmaking or the horses, is that you have  
14 instant winnings, instant payoffs, and no tax. Now, on  
15 our new numbers game in Pennsylvania that just went into  
16 effect yesterday, which is halfway to the numbers, you  
17 write your own number, you have an instant winning, but  
18 you get taxed. You get taxed if you have a big winning,  
19 and there is no way around it, because we have your name.  
20 No matter how you do it, you will get taxed.

21 Q The thrust of my question is should it be taxed or  
22 should it not be if you are trying to be competitive  
23 with the illegal operation, which is not taxed? Then  
24 doesn't it follow that you would not tax the winnings in  
25 a legal operation so that you could thus be competitive?

1 A To compete with the illegal, the answer should be  
2 yes, don't tax them; but I can't see how the Common-  
3 wealth can dare pass such legislation that would be tax-  
4 free. If not the Commonwealth, the Federal government  
5 would step in on the big winnings, the \$10,000 and above  
6 winnings.

7 Q Suppose it was a recommendation of this Commission  
8 that the Federal government also exempt the winning from  
9 taxation? What is your opinion relative to that?

10 A I haven't thought that one through, Dr. Allen. I  
11 would disagree with Senator Scott. I think it's a Fed-  
12 eral problem, because of the interstate nature. Because  
13 of that, I think the Federal government must think  
14 through that question of taxation. I don't know the  
15 answer. I know we have to face up to it.

16 Further reflection on your question  
17 might lead me to conclude that it would probably be in  
18 the best interest of the Federal government to tax win-  
19 nings of sports pool betting but at the same time to put  
20 strong teeth into penalties for illegal operations of  
21 the same type. By this I mean, heavy fines and jail  
22 penalties, with no early probation, until the underworld  
23 gets the message that the government means what it says.

24 In the long run, putting illegal sports  
25 and numbers betting into the goldfish bowl of public

1 scrutiny could be the best single move that your Com-  
2 mission could make in its recommendations to Congress.

3 DR. ALLEN: Thank you very much.  
4 Commissioner Coleman?

5 MR. COLEMAN: I have no questions. By  
6 the way, I appreciate your coming, sir.

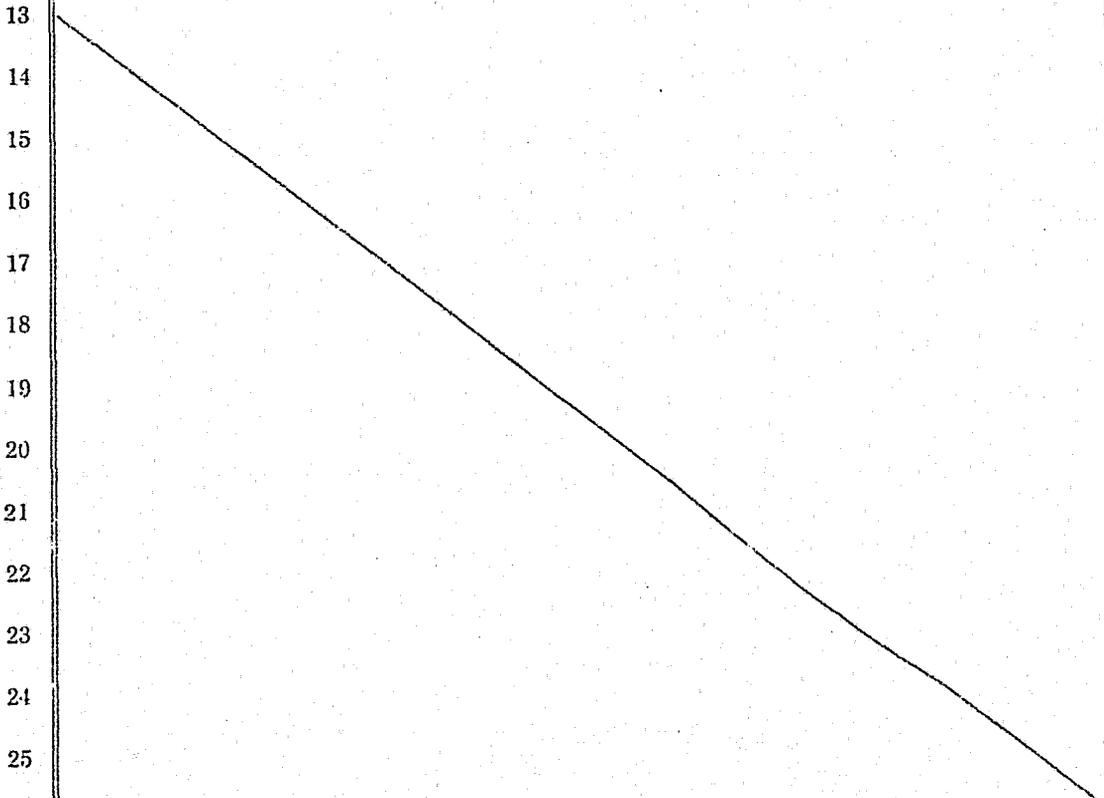
7 DR. ALLEN: Mr. Ritchie?

8 MR. RITCHIE: I have no questions.

9 MISS MARSHALL: No questions.

10 DR. ALLEN: Thank you very much.

11 Next will be Charles Brown, president  
12 of the Pennsylvania District Attorneys' Association.



1 MR. BROWN: Good afternoon. I am Charles  
2 C. Brown, Jr., District Attorney of Centre County,  
3 Pennsylvania, and President of the Pennsylvania  
4 District Attorneys' Association.

5 By way of a little background, Centre  
6 County is largely a rural county located in Central  
7 Pennsylvania with a population in excess of 100,000,  
8 which includes approximately 30,000 students at the  
9 Pennsylvania State University, which is the principal  
10 employer in the county and the county's best known  
11 institution.

12 I am in my tenth year as District Attorney  
13 of Centre County, having been elected three times.  
14 I have one full-time assistant and one part-time  
15 assistant. I employ one full-time secretary and one  
16 part-time secretary. I also maintain a private  
17 practice. The State Legislature has set my salary  
18 (and the salary of other Fifth Class County District  
19 Attorneys) at \$13,500.00.

20 I have served as President of the District  
21 Attorneys' Association since March, 1974, and will  
22 terminate my tenure in office this July. Our  
23 Association includes all 67 counties in the Common-  
24 wealth and has a headquarters near Harrisburg. We  
25 presently have an executive director, a training

1 co-ordinator and an office secretary. We are hope-  
2 ful of obtaining funds to continue the headquarters.

3 In light of the impressive array of  
4 experts who have testified--and who will testify--  
5 particularly from urban areas--and the statistics  
6 that are already in the Commission's possession, I  
7 will limit my remarks to those areas and subjects  
8 with which I am most familiar.

9 In communities throughout Pennsylvania,  
10 such as those in Centre County, gambling is part of  
11 everyday living. I dare say this is true every-  
12 where. Organizations such as fire companies,  
13 church groups, scouts, little leagues, fraternal  
14 organizations, high school athletic booster clubs,  
15 ball teams, etc., rely heavily upon bingo games,  
16 raffles and lotteries for income. Without this  
17 income many of these groups could not exist. Police  
18 officers do not look "the other way" for these money  
19 raising projects to go on. The sales of tickets and  
20 the games flourish in their presence. To attempt  
21 to enforce the gambling laws in such a situation  
22 is impractical. To get elected, and to remain in  
23 office, public officials--including judges and  
24 District Attorneys--find it necessary to buy lottery  
25 and raffle tickets to keep the good will of the

1 many, many people involved. Police officers often  
2 find it a political and social necessity to do the  
3 same. Frankly, local prosecutors are constantly  
4 fearful that someone will file charges against one  
5 of these groups that is running a bingo game or a  
6 raffle. Obviously the situation is saturated with  
7 hypocrisy and selective law enforcement.

8 Further, local police forces, the state  
9 police, and District Attorneys' offices do not have  
10 the manpower or finances available to pursue prosecu-  
11 tions of gambling on this level--let alone the  
12 desire to do so. Indeed, these limitations also  
13 adversely affect investigations and prosecutions  
14 aimed at organized crime.

15 My fellow District Attorneys largely feel  
16 the same about this matter. On several occasions  
17 the Pennsylvania District Attorneys' Association  
18 has passed a resolution favoring legislation permit-  
19 ting bingo where the proceeds will benefit an  
20 educational, fraternal or charitable group. It  
21 has also been suggested by District Attorneys that  
22 raffles and lotteries be legalized where these  
23 groups benefit. This would prevent situations where  
24 priests are prosecuted for bingo and bingo games  
25 are stopped at county fairs. This has happened in

1 Pennsylvania.

2 I realize full well that gambling pro-  
3 ceeds are a major source of income for organized  
4 crime. Gambling proceeds provide the bank roll  
5 for other criminal activities. Thus the dilemma!  
6 How do we prevent the hypocrisy and permit deserv-  
7 ing organizations to raise funds and yet effectively  
8 fight the criminal elements in our society?

9 The following suggestions are not meant  
10 to be official pronouncements in the Pennsylvania  
11 District Attorneys' Association, but do reflect the  
12 thinking of many District Attorneys:

13 1. Legalize bingo, lotteries and raffles  
14 where the organization receiving the proceeds is an  
15 educational, fraternal, public service or charitable  
16 organization. This no doubt will require licensing  
17 by the state and/or local municipality.

18 2. Permit state-wide lotteries, and per-  
19 haps some other forms of gambling, for revenue  
20 raising purposes. Perhaps local municipalities  
21 ought to be given this opportunity also. If not,  
22 they should be allowed to share in the proceeds.

23 I have said little about the legalization  
24 of gambling as a means of raising funds for govern-  
25 ment because I have not really studied this question.

1           However, if the adverse effects of the bureaucracy  
2           created to operate the lotteries, etc., do not out-  
3           weigh the benefits, then I see no reason for not  
4           permitting gambling to raise revenues.

5                     3. Take the handcuffs off law enforce-  
6           ment efforts to combat organized crime. I will  
7           defer to my colleagues in the urban areas to define  
8           what exactly is needed. However, I do have these  
9           questions: a) Wire-taps and electronic eaves-  
10          dropping should be permitted; b) District  
11          Attorneys should be given full power to grant  
12          immunity to key persons to obtain their testimony  
13          before grand juries and at trial; c) To facili-  
14          tate the investigation and preparation of cases,  
15          full subpoena power should be given to District  
16          Attorneys.

17                     4. Gambling on sports, such as baseball,  
18          football, hockey, basketball and soccer, should not  
19          be legalized. The risk of tampering is too great.  
20          The Black Sox scandal of 1919 and the college  
21          basketball scandals are ample evidence of this fact.

22                     5. Legalization should be approved that  
23          would professionalize the District Attorney's office.  
24          In Pennsylvania this means such things as raising  
25          the salaries of District Attorneys so a private

1 practice is not necessary, granting tenure to the  
2 District Attorney's staff and providing retention  
3 election for District Attorneys. This, of course,  
4 will provide more effective law enforcement leader-  
5 ship in all phases of crime fighting. Legislation  
6 has recently been drafted and will be presented to  
7 the Pennsylvania legislature to further these ends.

8 Law enforcement must be careful that it  
9 does not run counter to the flow of an activity--  
10 gambling, in this case--which is accepted by a very  
11 large majority of the public. This creates an  
12 impossible situation as the tide will surely over-  
13 whelm us. On the other hand, organized crime is a  
14 cancer in our society and should be removed. To do  
15 both is a delicate matter.

16 I hope my remarks will be helpful to the  
17 Commission. Thank you very much for permitting me  
18 to appear.

19 DR. ALLEN: Thank you very much, District  
20 Attorney Brown.

21 BY DR. ALLEN:

22 Q What is your assessment of the accuracy of the  
23 investigating and recording done by the Pennsylvania  
24 Crime Commission?

25 A My only comment on that is, number one, I am not

1 completely familiar with the statistics. I would have  
2 no statistical gathering apparatus or function in our  
3 operation that I could say, "Well, I think they are  
4 wrong." I do know that there is at times conflict in-  
5 volving local prosecutors and local law enforcement  
6 agencies with the Crime Commission personnel, particu-  
7 larly those that come into an area and carry on opera-  
8 tions and investigations. While that does not address  
9 myself directly to your question, I do feel there is  
10 some conflict that happens. Maybe it is just person-  
11 alities. It's one of misunderstanding of functions.  
12 It's one of overlapping of functions. Therefore, I am  
13 not sure there is the cooperation among these agencies  
14 that there should be to get accurate statistics. I  
15 can't honestly address myself to the facts and figures.  
16 I am familiar with them and I feel they are accurate.  
17 I am sort of begging off the question a little with that  
18 comment, I am afraid.

19 DR. ALLEN: Thank you very much.

20 Commissioner Coleman, as the prosecuting  
21 attorney of Monmouth County, New Jersey, do you  
22 have any questions to pose to Mr. Brown?

23 BY MR. COLEMAN:

24 Q Mr. Brown, in the area where you are, which you have  
25 told us somewhat about, is there any organized numbers as

1 we have in the metropolitan areas?

2 A I think I could safely say no. I would not say  
3 there are not elements of organized crime.

4 Q How about bookmaking?

5 A Not really. Of course, I am talking on behalf of  
6 State Police and in terms of their investigations.  
7 Like the State College borough has maybe 30,00 people.  
8 The next biggest borough is Bellefonte. That has about  
9 8,000. You know, it is really a rather small area.  
10 Therefore, we are with small police forces.

11 I think the answer is pretty safe that  
12 in rural areas such as Centre County, those things do  
13 not exist to any great degree.

14 Q Just one other question. You mentioned something  
15 about the legalization of sports betting, and you defi-  
16 nitely say it should not be legalized, and you referred  
17 to certain prior scandals in the sports field. Now, we  
18 heard a great deal of testimony in the past with regard  
19 to professional sports, witnesses saying they should not  
20 be legalized. Whether that means they can live with the  
21 illegal, I am not sure. Assuming the bribery and going  
22 back to the one you mentioned of 1919, I assume it is  
23 similar to the more recent basketball scandal. I wasn't  
24 around then, and I am sure you weren't either.

25

1 Assume those bribes were committed by gamblers, not by  
2 bookmakers. In other words, gamblers bribed the basket-  
3 ball or baseball players. Would it really make any dif-  
4 ference if it was legal or not if the bettors are the  
5 ones who are going to do the bribing?

6 A I would address myself to the problem involving the  
7 bribery, the possibility of bribery from any source. I  
8 feel it would be virtually impossible to isolate, or  
9 insulate I guess is a better word, the professional or  
10 the college athlete from any bribery attempt no matter  
11 from whom. That is what I am concerned about, not  
12 whether it's the bettors that are doing it or the book-  
13 makers that are doing it. I feel we try to keep the  
14 sports figures, the teams, away from any kind of tamper-  
15 ing. That is my concern. It would make no difference  
16 to me whether it was the bettor doing it or the book-  
17 maker, or whoever.

18 MR. COLEMAN: Thank you very much, sir.

19 DR. ALLEN: Thank you, Commissioner

20 Coleman.

21 Miss Marshall?

22 MISS MARSHALL: No questions.

23 DR. ALLEN: Mr. Ritchie?

24 BY MR. RITCHIE:

25 Q Mr. Brown, is there wagering of football games at

1 Penn State presently, in your judgment?

2 A I am sure, of course, excluding the bets that go on  
3 all week long by people who work side by side and people  
4 in the bars where someone bets \$5 saying they can or  
5 can't win, because that goes on all the time...

6 Q I am not excluding social wagering.

7 A The answer, first of all, on that level is it cer-  
8 tainly does. It goes on just like, unfortunately, the  
9 same kind of betting that goes on, such as can Belle-  
10 fonte High School beat Clearfield High School football  
11 teams. That happens, yes.

12 Q Do you see any adverse effect of that type of wager-  
13 ing upon sporting events?

14 A Not of that kind of wager that is normally done by  
15 people who are taking a guess at what might happen. They  
16 are going to put a few bucks on it to make it interest-  
17 ing. It doesn't involve that much money, and it doesn't  
18 go to the football player.

19 Q If you will, understand that professional bookmakers  
20 describe their activities identical to that.

21 A I would understand that, but I think that is just  
22 not so. You can substitute A and B in any kind of situa-  
23 tion and say A is Mr. Brown and B is Mr. Smith, and they  
24 are betting over a beer at the bar, and that's all we are  
25 doing. The point of it is when you get the kind of figures

1 and numbers involved and the amounts of money, the  
2 temptation is to bribe or fix, to get involved in the  
3 decision and the outcome is not really a gamble.

4 Q Again, if our experience is of any merit, that  
5 would occur by the alumni of Penn State who are placing  
6 wagers not by bookmakers. Do you agree that it is the  
7 player who is trying to get an edge on the bookmaker?  
8 That would be the person who would offer the bribe.  
9 That normally is alumni who say, "Look Coach. I just  
10 want to know how the quarterback's feeling. Then we  
11 will talk about superturf for your stadium next year."  
12 Do you agree that that type of pressure might not be  
13 present?

14 A Oh, yes. I certainly do agree. I agree with that.

15 Q Have you had occasion to have brought to your  
16 attention sports pools or parlay card operations at  
17 Penn State?

18 A Not specifically at Penn State. When I was at  
19 college, which was a much smaller college not so far  
20 away at Huntingdon, Juniata College, there was always  
21 during the week the football slips. I know they are  
22 available at the various places of business and work in  
23 Centre County. They basically cover all the football  
24  
25

1 teams, let alone just Penn State. I don't detect in  
2 Centre County that there is any great amount of betting  
3 going on just involving the Penn State teams.

4 Q Do you see anything that is harmful to sports from  
5 your experience from the parlay card or the pool card  
6 type of wager?

7 A If I thought that they were going no further than  
8 the local area, which involves the people of Centre  
9 County or Bellefonte, or whatever community it might be,  
10 I guess I would say no, because I don't think there is  
11 enough involved that anybody is going to illegally  
12 tamper with the teams or the game, and this sort of  
13 thing.

14 I have a feeling, and I must admit it's  
15 not much more than that, because nobody has come and  
16 told me this is so; but I have a feeling back somewhere  
17 along the line this gets into organized crime, organized  
18 gambling.

19 Q Assuming it's not organized crime, let us just  
20 consider the integrity of college football. Wouldn't  
21 it be necessary to fix ten games in order to prevail on  
22 one of those cards to any appreciable amount of money?

23 A When I used to be more aware of what was happening  
24 you could do it three out of three. Your point is well  
25 taken, yes. It would take more than just a game.

1 Q Then your position is not only as an active District  
2 Attorney but one who is speaking for a great number of  
3 District Attorneys in this State on the legalization of  
4 sporting wagering as one against sports events wagering  
5 and not sports by a sports pool operation?

6 A Well, I guess that is true. I am greatly concerned,  
7 and I know there is a great concern and a problem when  
8 we are talking about the gambling that you talk about.  
9 Yes, gamble on anything. Gamble on nothing. Gambling on  
10 these things I don't think is particularly realistic.  
11 Somewhere along the line it seems to me there has to be  
12 some lines drawn. My personal feeling is that I would  
13 like there to be no gambling and no permitted gambling,  
14 no legal gambling, on sports, because I see the possible  
15 effects of this to be very adverse in both college and  
16 amateur and professional sports, so that's the line I  
17 have drawn.

18 I suppose if there was some protections  
19 along the lines you have talked about in terms of pool-  
20 ing and everything, it might not affect the integrity  
21 of the sport. I would be interested in seeing how  
22 that would work and for that reason could say yes, I  
23 think I would favor that if the proceeds would go to  
24 proper beneficial organizations.

25 Q As a former prosecutor, I am empathic with the

1 position the present laws have placed you in as a prose-  
2 cutor and particularly since you are involved in the  
3 political process. Could you tell us about what has hap-  
4 pened with the resolution to the Legislature by the  
5 District Attorneys? Was it put by the wayside. Was  
6 there no attention paid to it?

7 A That is virtually true Usually our resolutions,  
8 which sometimes suggest there be something put into the  
9 hopper by a legislator, and it's often something already  
10 put in there and we take a stand on it, normally get  
11 sidetracked somehow. I think in each session there  
12 seems to be a feeling that we are getting a little  
13 closer to something being enacted, but the legislature  
14 just backs off.

15 Q Would you think there would be any different result,  
16 assuming the Commission made a recommendation to the  
17 State of Pennsylvania? Would they pay any more atten-  
18 tion to this Commission than they have paid to your  
19 Association?

20 A I think the answer to that question is yes. I  
21 think anything like that would help. Pennsylvania is  
22 not immune from this factor. It takes some ground to  
23 support. Each legislator has to know when he goes back  
24 home he is not going to be accosted by voters on the  
25 streets, let alone be defeated by the people who disagree.

1 Then, of course, there is the fear of being defeated. We  
2 have seen that with income tax. At one time a politician  
3 couldn't talk about it without having to duck. Then  
4 all of a sudden it became the thing to talk about.

5 I am quite sure if the Commission,  
6 along with District Attorneys and the public saw what  
7 the benefits might be from legalization of bingo and  
8 other games like that, yes, I think it would happen.  
9 So I would welcome the Commission's support in that.  
10 Absolutely.

11 Q Regarding bingo, sir, is it an every night occur-  
12 rence in your district?

13 A Absolutely every night, and I feel that's probably  
14 true of the 67 counties in the Commonwealth. Every  
15 night in Centre County you can find a bingo game, and  
16 during the summers when there are firemen's carnivals  
17 and things like that, probably two, maybe three, in the  
18 county going on all the time.

19 Q Is this participated in by a particular group of  
20 people? I am not asking for a market survey, but we  
21 have been told that generally little old ladies of both  
22 sexes are involved in bingo games moreso than persons  
23 who are younger and more vital and who would rather go  
24 to a saloon.

25 A I don't agree with that in Centre County. I must

1 say that being the District Attorney in a county like  
2 I am, it is like having a neon light on top of your  
3 head. I get kidded a lot of times, and lots of times,  
4 frankly, I just don't go where I might go otherwise.  
5 From my observation,-- and I do go to carnivals and  
6 county fairs, and once in a while to firehalls,-- no,  
7 the bingo players in Centre County are of all ages. I  
8 mean if "son" or "daughter" can understand the numbers  
9 and put a little piece of corn down, he will be playing,  
10 too. Usually, of course, he has momma or dad alongside.

11 Q Why, if we are told that bingo is paying off  
12 mortgages of churches and sending people to school and  
13 accomplishing all types of worthwhile objectives in the  
14 City of Philadelphia, and if it is that constant an  
15 event outside the urban area, then why hasn't the legis-  
16 lature seen fit to grace it with some type of regulation  
17 which would insure that it is run correctly?

18 A Of course, that is my question, also. I suspect to  
19 some degree it is because of the experience that I have.  
20 Now, Centre County happens to be divided. We are not  
21 that big numerically, certainly, and geographically we  
22 are a little larger than the normal county. We have  
23 five legislators that have a little piece of Centre County.  
24 I suspect all of them feel as I do. It goes on anyway,  
25 and why do I have to take a stand on it? Nobody in

1 Centre County seems to be complaining about it, so I  
2 will say or do nothing. Beyond that, as a guess, I  
3 don't know why the Legislature would not act in this  
4 regard. It seems silly, of course.

5 MR. RITCHIE: Thank you.

6 DR. ALLEN: Mr. Farrell?

7 MR. FARRELL: Thank you.

8 BY MR. FARRELL:

9 Q Have you noticed any change in public attitude  
10 since the beginning of the State Lottery which might  
11 make people more tolerant of illegal gambling, such as  
12 your juries and your citizens?

13 A Well, I think they aren't any more tolerant. I  
14 think they continue to be the same. They sort of point  
15 to the lottery and say, "See, the State now does it.  
16 Why can't we? Why is there any problem? Should there  
17 be any?"

18 I must be honest with my remarks, be-  
19 cause I do represent the District Attorneys' Association.  
20 In Centre County raffle tickets for a half-ton pickup  
21 truck for a fire company are being sold all the time. I  
22 know because I got tickets yesterday, because I am a  
23 member of the fire company. They say, "Sell your tickets,  
24 or buy them." This goes on all the time. My wife is  
25 in the women's club, and my son is in the little league.

1 and all this goes on. You get the idea in Centre County  
2 there really hasn't been any change in attitude with the  
3 type of gambling we have, because the proceeds go for a  
4 proper purpose. I am a little isolated from some of the  
5 problems in the more urban areas where the organized  
6 crime element and involvement is a little more obvious.

7 Q You would probably not go along with having manda-  
8 tory jail sentences for gambling offenses for the very  
9 reason that someone who is running a bingo operation  
10 might be brought before the court, and the judge would  
11 have no choice but to sentence him.

12 A The only kind of prosecution we have had in the  
13 almost 10 years I have been District Attorney has been  
14 usually of stewards or bartenders of a club where the  
15 Liquor Control Board has found out that a one-armed  
16 bandit or punchboard, or some such operation like that  
17 is going on, and they swoop down. In about half the  
18 time all they will do is cite the license holder for a  
19 violation of liquor control laws. The other half will  
20 be brought to my attention, and they will file charges.  
21 Usually the steward comes in, and he is given a very  
22 light fine. He is never given a jail sentence. The  
23 judge really doesn't say anything. He said, "\$200 and  
24 probation and costs," and that is it. Nobody even bats  
25 an eye, and it doesn't happen very often.

1 Q There is no investigatory subpoena for District  
2 Attorneys, is there?

3 A There is none.

4 Q Are there other states that have this?

5 A Well, there are those that have the power, yes.  
6 District Attorneys have the power to issue a subpoena.  
7 We have it now in terms of the grand jury presentments.  
8 So long as there were grand juries in Pennsylvania, that  
9 was used by many District Attorneys as the time to get  
10 the witness in to prepare their cases and find out what  
11 is going on. But if there is no grand jury, and that  
12 is likely now, particularly if a county makes that  
13 decision, because there will be that option, then  
14 up until the time of trial you have no power to get  
15 them in. You either go find them or guess.

16 If you would ask me what state has  
17 them, I might defer to my colleague, Mr. Coleman, be-  
18 cause I am not sure.

19 Q I meant to say probably most states do have that  
20 power.

21 A I would guess they do. It is a problem D.A.'s  
22 have been raising and pointing out to the legislature  
23 and to the Rules Committee, that all the rules and  
24 statutes that followed the amendment wiping out, so to  
25 speak, or permitting, the option, that we should have the

1 subpoena power. So far, we haven't gotten too far.

2 Q Just one last question from an evidentiary stand-  
3 point. Are these hard gambling cases? Are they hard  
4 cases to try? Are they difficult to get convictions?

5 A My experience is they have been just guilty pleas.  
6 We have never tried a gambling case in Centre County.

7 Q You have never tried a case in Centre County?

8 A No. We usually have it right there. There is your  
9 punchboard or whatever, and there is no attorney or  
10 defendant going to ask a jury to say, "I didn't have  
11 them in my possession." I think the police in ques-  
12 tionable situations sort of turn their backs and say,  
13 "I am going to come back in here in two minutes, and  
14 those things better be away." I think a lot of that  
15 happens.

16 I must say, speaking for my colleagues  
17 where there are prosecutions, yes, I know from them they  
18 are difficult, very, very difficult.

19 MR. FARRELL: Thank you.

20 DR. ALLEN: Thank you Mr. Farrell and  
21 Mr. Coleman. Thank you Mr. Brown.

22 (Witness excused.)

23 DR. ALLEN: Mr. Matthew P. Boylan will  
24 be our next witness. Mr. Boylan is the director of  
25 the Division of Criminal Justice for the New Jersey

## STATEMENT OF

CHARLES C. BROWN, JR.

PRESIDENT, PENNSYLVANIA DISTRICT ATTORNEYS' ASSOCIATION  
DISTRICT ATTORNEY OF CENTRE COUNTY

I am Charles C. Brown, Jr., District Attorney of Centre County, Pennsylvania, and President of the Pennsylvania District Attorneys' Association.

Centre County is largely a rural county located in central Pennsylvania. The population is slightly in excess of 100,000, which includes over 30,000 students at the Pennsylvania State University, which is the principal employer in the county and the county's best known institution.

I am in my tenth year as District Attorney of Centre County, having been elected three times. I have one full-time assistant and one part-time assistant. I employ one full-time secretary and one part-time secretary. I also maintain a private practice. The state legislature has set my salary (and the salary of other Fifth Class County District Attorneys) at \$13,500.00.

I have served as President of the District Attorneys' Association since March, 1974, and will terminate my tenure in office this July. Our Association includes all 67 counties in the Commonwealth and has a headquarters near Harrisburg. We presently have an executive director, a training co-ordinator and an office secretary. We are hopeful of obtaining funds to continue the headquarters.

In light of the impressive array of experts who have testified -- and who will testify -- particularly from urban areas -- and the statistics that are already in the Commission's possession, I will limit my remarks to those areas and subjects with which I am most familiar.

In communities throughout Pennsylvania, such as those in Centre County, gambling is part of everyday living. I dare say this is true everywhere. Organizations such as fire companies, church groups, scouts, little leagues, fraternal organizations, high school athletic booster clubs, ball teams, etc., rely heavily upon bingo games, raffles and lotteries for income. Without this income many of these groups could not exist. Police officers do not look "the other way" for these money raising projects to go on, the sales of tickets and the games flourish in their presence. To attempt to enforce the gambling laws in such a situation is impractical. To get elected, and to remain in office, public officials -- including judges and District Attorneys -- find it necessary to buy lottery and raffle tickets to keep the good will of the many, many people involved. Police officers often find it a political or social necessity to do the same. Frankly, local prosecutors are constantly fearful that someone will file charges against one of these groups that is running a bingo game or a raffle. Obviously the situation is saturated with hypocrisy and selective law enforcement.

Further, local police forces, the state police, and District Attorney's offices do not have the manpower or finances available to

pursue prosecutions of gambling on this level -- let alone the desire to do so. Indeed, these limitations also adversely affect investigations and prosecutions aimed at organized crime.

My fellow District Attorneys largely feel the same about this matter. On several occasions the Pennsylvania District Attorneys' Association has passed a resolution favoring legislation permitting bingo where the proceeds will benefit an educational, fraternal or charitable group. It has also been suggested by District Attorneys that raffles and lotteries be legalized where these groups benefit. This would prevent situations where priests are prosecuted for bingo and bingo games are stopped at county fairs. This has happened in Pennsylvania.

I realize full well that gambling proceeds are a major source of income for organized crime. Gambling proceeds provide the bank roll for other criminal activities. Thus the dilemma! How do we prevent the hypocrisy and permit deserving organizations to raise funds and yet effectively fight the criminal elements in our society?

The following suggestions are not meant to be official pronouncements of the Pennsylvania District Attorneys' Association, but do reflect the thinking of many District Attorneys:

1. Legalize bingo, lotteries and raffles where the organization receiving the proceeds is an educational, fraternal, public service or charitable organization. This no doubt will require licensing by the state and/or local municipality.

2. Permit state-wide lotteries, and perhaps some other forms of gambling, for revenue raising purposes. Perhaps local municipalities ought to be given this opportunity also. If not, they should be allowed to share in the proceeds.

I have said little about the legalization of gambling as a means of raising funds for government because I have not really studied this question. However, if the adverse effects of the bureaucracy created to operate the lotteries, etc., do not outweigh the benefits, then I see no reason for not permitting gambling to raise revenues.

3. Take the handcuffs off law enforcement efforts to combat organized crime. I will defer to my colleagues in the urban areas to define what exactly is needed. However, I do have these suggestions:

a) Wire-taps and electronic eavesdropping should be permitted; b) District Attorneys should be given full power to grant immunity to key persons to obtain their testimony before grand juries and at trial; c) To facilitate the investigation and preparation of cases, full subpoena power should be given to District Attorneys.

4. Gambling on sports, such as baseball, football, hockey, basketball and soccer, should not be legalized. The risk of tampering is too great. The Black Sox scandal of 1919 and the college basketball scandals are ample evidence of this fact.

5. Legislation should be approved that would professionalize the District Attorney's office. In Pennsylvania this means such things

as raising the salaries of District Attorneys so a private practice is not necessary, granting tenure to the District Attorney's staff and providing retention election for District Attorneys. This, of course, will provide more effective law enforcement leadership in all phases of crime fighting. Legislation has recently been drafted and will be presented to the Pennsylvania legislature to further these ends.

Law enforcement must be careful that it does not run counter to the flow of an activity -- gambling, in this case -- which is accepted by a very large majority of the public. This creates an impossible situation as the tide will surely overwhelm us. On the other hand, organized crime is a cancer in our society and should be removed. To do both is a delicate matter.

I hope my remarks will be helpful to the Commission. Thank you for permitting me to appear.

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Department of Law and Public Safety. He is a  
former

1 U.S. Attorney who received the Special Award of  
2 Attorney General Robert Kennedy for prosecutorial  
3 efforts, organized crime, and labor lecturing,  
4 including conviction of first International Vice  
5 President of Teamsters, Anthony "Tony Pro" Provenzano.

6 In 1968 he was the special Deputy Attorney  
7 General for prosecution of Kavanaugh-DeFranco murder  
8 trials on recommendation of the New Jersey State  
9 Bar Association. Appointed by Governor Brendan  
10 Byrne, he is a former Assistant of the United States  
11 Attorney of Newark and a private practitioner of  
12 law in New Jersey and has worked for major Federal  
13 efforts against organized crime.

14 Mr. Boylan, we welcome you to the Commis-  
15 sion on the Review of the National Policy Toward  
16 Gambling.

17 MR. BOYLAN: I have prepared some remarks  
18 addressed to the legalization of gambling based on  
19 our experiences in New Jersey. Rather than just  
20 read my statement, if you have no objection, I would  
21 paraphrase it.

22 Recently we introduced a daily lottery.  
23 We had since 1971 a weekly and a monthly lottery,  
24 and on May 22 we began a daily lottery called  
25 "Pick-It." I think Governor Byrne, who was

1 responsible for the Lottery Commission for making  
2 this innovation in our lottery program, put forward  
3 one of the best and perhaps commonly-held reasons  
4 for justifying legalized gambling when he said,  
5 "This new game will make inroads into the illegal  
6 numbers racket."

7 He also recognized, and I cite later on  
8 in my brief remarks, that although additional  
9 revenue will be generated for State Aid to Educa-  
10 tion and Institutions, no legalized gambling pro-  
11 gram is in and of itself a solution to the fiscal  
12 crisis of a major metropolitan area. The other  
13 reasons normally advanced for legalizing gambling  
14 are in the areas Dr. Allen touched upon; namely,  
15 corruption. I myself have had very little direct  
16 experience either as a prosecutor or as a criminal  
17 defense lawyer in gambling. My field was in  
18 governmental corruption on both sides of the table.  
19 However, when casino gambling was an issue in the  
20 State, I did read ironically enough at the request  
21 of John Goldstein, United States Attorney, a series  
22 of reports prepared by the Hudson Report, which you  
23 are probably familiar with. As far as I am con-  
24 cerned, it is the most impressive work in the field  
25 in terms of justification for legalizing gambling.

1 It was submitted in 1973 to the New York Gambling  
2 Commission when they were considering legalizing  
3 gambling, and particularly casino gambling.

4 Unfortunately, the one form of gambling  
5 which they did not recommend was casino gambling,  
6 which converted me from a proponent of it into a  
7 neutral on the issue which was overwhelmingly re-  
8 jected by the voters of New Jersey. The one solid  
9 reason for legalizing casino gambling as advanced  
10 by Governor Byrne, which I shared, was intro-  
11 duced in a limited fashion in Atlantic City, and  
12 that reason was that if it worked, it would help  
13 the ailing resort industry and therefore create a  
14 labor incentive in allied fields; namely, hotels  
15 and restaurants in Atlantic City.

16 Atlantic City has a tremendous unemploy-  
17 ment problem, had a tremendous unemployment problem  
18 in the range of 40 percent. The Governor said in  
19 recommending casino gambling for that particular  
20 county at that time, which provided for all kinds  
21 of options to guarantee the interests, was that it  
22 would help the unemployment situation.

23 In New Jersey we feel there has been this  
24 vigorous battle against organized crime. We feel  
25 New Jersey has received in some ways a "black eye"

1 because it has been rather successful in the battle.  
2 When you travel around the country, people constantly  
3 ask you why we have so much corruption and/or  
4 organized crime in New Jersey, and, of course, my  
5 answer has always been that we have exposed in New  
6 Jersey more than many other states have. I don't  
7 know that human nature is any more venal or corrupt  
8 in New Jersey than it is in any of the other states.  
9 Certainly on the governmental corruption level the  
10 successful prosecutions, Thompson in Chicago and  
11 Beale in Maryland and Mann in Florida, show that  
12 if you look, you will find governmental corruption  
13 at least in many areas.

14 In the area that concerns us, it was a  
15 revelation to me that the Hudson people recommended  
16 legalizing all forms of gambling. I don't know if  
17 they touched upon sports gambling, which has been  
18 a late starter in our society. The recommendation  
19 was based on the facts, and it was made by law  
20 enforcement people who were on the panel or study  
21 group. That recommendation was basically that the  
22 law enforcement group has found it wasn't effective,  
23 had been corrupted, and consequently they urged  
24 legalizing gambling to remove this temptation, at  
25 the same time increasing the law enforcement agency

1 efforts against illegal gambling.

2 In New Jersey we have, as Prosecutor  
3 Coleman can tell you better than I, 21 prosecutors.  
4 In different counties you have different successes  
5 of different problems associated with gambling in  
6 the populated populous counties in the northern  
7 part of the State.

8 It is very difficult to get a conviction  
9 for many forms of the numbers operations, as the  
10 most prevalent gambling crime that is brought to  
11 the attention of the court. In fact, we had a trial  
12 in Hudson County a few weeks ago where they had it  
13 on a tape. The jury threw it out. Hudson County  
14 is probably unique in that it is sociographically  
15 more amenable to gambling than many others because  
16 of the particular complexion of values and people.  
17 In any event, in New Jersey we try to follow the  
18 recommendation of the Hudson Institute and combine  
19 both vigorous law enforcement against it on the one  
20 hand, and legalize that aspect of gambling which can  
21 be legalized under the present methods available  
22 for handling, on a legal basis, gambling.

23 We have the numbers, and we have, of course,  
24 the tracks. We don't have off-track betting, such  
25 as New York had. Of course, I read Paul Screvane's



**CONTINUED**

**6 OF 7**

1 remarks to you with great interest, because in this  
2 whole picture is an economic issue which must be  
3 addressed by Congress in terms of how much surplus  
4 income is actually available and how do you tap it,  
5 if you will, on the one hand, and at what point do  
6 you draw off income from more productive economic  
7 activity into gambling. The theory as everyone  
8 knows is that you are dealing with surplus dispos-  
9 able income, and that hopefully that is what is  
10 used as a form of what Screvane calls "entertain-  
11 ment." It is certainly a prevalent activity. We  
12 have recognized it in the State of New Jersey. We  
13 have not encouraged gambling, but we feel we have  
14 provided some sufficient number of outlets in order  
15 to at least meet what we perceive to be the public  
16 desire. We have gotten some revenues, but, again,  
17 that is not the principal reason behind the legaliza-  
18 tion of the numbers. Over the three-year period on  
19 which figures are available, \$205 million was made  
20 available for state aid to education, which wouldn't  
21 have otherwise been available. No one can give you  
22 in this field, I don't think, hard judgments on  
23 what the impact is on organized crime, gambling,  
24 if that is the correct term.

25 In sports betting, which has become a

1 major source of gambling, there are what I would  
2 consider independent operators free of organized  
3 crime. On the other hand, it can't be denied that  
4 gambling has over the last 25 or 35 years been a  
5 principal source of funds for organized crime.

6 In broad outline, you have the economics  
7 of gambling. It is on an illegal basis and is  
8 unregulated except by prohibition. If you don't  
9 have legalized gambling, therefore, it is  
10 assessed on the basis of the return for the invest-  
11 ment as against the risk.

12 We followed Lacey's policy in 1970 on  
13 the premise that you could drive organized crime  
14 out of existence if you had a vigorous law enforce-  
15 ment program. We have had a vigorous law enforce-  
16 ment program, and we haven't driven it out. We  
17 have contained it; perhaps we have hurt it. We  
18 have made it expensive; but gambling at least is  
19 an aspect of organized crime that continues to  
20 exist in New Jersey.

21 Basically, that summarizes my remarks to  
22 the Commission, and I would answer any questions  
23 that you have.

24 DR. ALLEN: Thank you, Mr. Boylan. We  
25 will start with Commissioner Coleman.

1 DR. COLEMAN: For the record, it will be  
2 very difficult for me to ask Director Boylan ques-  
3 tions, because, in fact, he is my boss.

4 BY MR. COLEMAN:

5 Q I want to mention with regard to the remarks of  
6 Hudson County that Hudson was the only other county to  
7 vote for casino gambling besides Atlantic City, where  
8 they were going to put it. Perhaps, Director, if you  
9 could tell us, for the record, during that period follow-  
10 ing Judge Lacey's recommendations back in 1970, then  
11 Chief Justice Joseph Weintraub directed gambling violators  
12 be put in jail.

13 A Yes.

14 Q In fact, they were put into jail?

15 A Yes. That was the policy, from draconian policy,  
16 which I think may have accounted for the reaction of  
17 the juries in the counties to acquit, because it be-  
18 came known publicly anyone convicted of a gambling  
19 offense was likely to get a minimum of a year in jail,  
20 possibly two or three depending, and it was followed,  
21 and the impact in my judgment was minimal.

22 Q We have heard a lot, Director, about wiretapping.  
23 Of course, I know you are pleased that the New Jersey  
24 Senate just passed, a few days ago, some sort of wiretap  
25 bill. Did you feel both before and during your time that

1 you have been director that it was absolutely essential  
2 to have this continued as an effective tool in enforce-  
3 ment in the gambling field?

4 A Yes. In gambling and narcotics where wires have to  
5 be used for the communication of information as an  
6 essential tool, it has been very helpful. It was a  
7 package of tools created in 1970 together with the Divi-  
8 sion of Criminal Justice addressed to organized crime  
9 and gambling.

10 I think one experience you and I are both  
11 aware of is in Union County where a good number of wire-  
12 taps were used, at least a good number more than any  
13 other counties. You probably could wiretap every corner  
14 grocery store in the county if you wanted to, so perva-  
15 sive is gambling. The point is essentially it is,  
16 Prosecutor Coleman, and the point I make on Union County  
17 in terms of allocating resources is there is a point you  
18 must draw back and say, "How much is enough?"

19 Gambling is there. If you want to meet  
20 it, you can meet it in the Ford plant. Any major  
21 industrial group of men will have somebody who will  
22 take the numbers. Today, in the affluent society in  
23 which we live, any construction site with well-paid  
24 workers will probably have someone who will take a sports  
25 bet. Gambling started as a sport or horse racing as a

1 sport of kings, which implied you had that excess money  
2 to use. In an affluent society many people have excess  
3 money, and they choose, apparently wisely or unwisely,  
4 to use it in gambling. This seems to be a fact of life.

5 Q Just one other thing. In addition to your super-  
6 visory capacity of all the 21 prosecutors, who, unlike  
7 in other states, in New Jersey your department has  
8 criminal jurisdiction, and, of course, your office  
9 prosecutes gambling cases.

10 A Yes.

11 Q And has the state grand jury presented them locally?

12 A Yes, that is true. We have jurisdiction, and we  
13 have in many offices a special prosecution section that  
14 has-I would hate to tell you-how many matters to be  
15 presented to that state-wide grand jury based on wiretaps  
16 of gambling. Prosecutors have the primary jurisdiction  
17 and do enforce the gambling laws. However, we have  
18 complete criminal jurisdiction in the division, and we,  
19 of course, have responsibility for enforcing all of the  
20 regulatory agencies, banking, insurance, labor, the  
21 executors, all of the counterparts of what you would  
22 consider the Federal Regulatory Agencies when violations  
23 are brought to our attention. We have an anti-trust  
24 section. We supervise all the appeals from the prosecutors  
25 We have an appellate section. We have consolidated every

1 county's appeal through it. We have a variety of sec-  
2 tions, and we have a full arsenal of tools and a full  
3 arsenal of sections, and we still have gambling.

4 MR. COLEMAN: For the record, I want to  
5 thank the Director.

6 DR. ALLEN: Mr. Ritchie, the executive  
7 director of the Commission.

8 BY MR. RITCHIE:

9 Q Mr. Boylan, the situation that you have described,  
10 the luxury of having the type of latitudes that your  
11 office has as opposed to other attorney general offices  
12 who must have clear evidence of obstruction or inability  
13 to enforce the laws, would you explain how this came  
14 about? Was this a Constitutional effort? Was it some-  
15 thing that is of recent origin?

16 A It came about, Director Ritchie, in 1968 and 1969.  
17 Our Attorney General's Office had no broad criminal  
18 jurisdiction. At that time there was a feeling in the  
19 Legislature that organized crime for some reason was  
20 flourishing in New Jersey. The prosecutors were confined  
21 to their own geographic counties. Most gambling was  
22 intercounty, and, consequently, it was felt they, the  
23 prosecutors' offices themselves, didn't have the tools.  
24 There was no immunity statute. There was no wiretap  
25 statute. Like many matters, there was an explosion

1 around that time where someone made a statement in the  
2 Attorney General's Office to the effect that too many  
3 legislators were comfortable with organized crime, which  
4 produced a number of hearings legislative-wide. The  
5 press, of course, picked that up properly and focused  
6 on it, and out of those hearings came other testimony  
7 indicating that the absence of coordinated efforts in  
8 the law enforcements had perhaps contributed to more  
9 infiltration of organized crime in New Jersey than else-  
10 where.

11                   Henry Ruth, who is the current special  
12 prosecutor in Washington, testified about his experiences  
13 in New Jersey. Attorney General Sills at the time was  
14 not pleased with what he had to say about New Jersey.  
15 There was a groundswell legislatively, and out of that  
16 came the Division of Criminal Justice in 1970 with very  
17 broad powers and a state-wide grand jury, immunity  
18 statutes and wiretapping. Efforts then began to coordin-  
19 ate activity in this "organized crime" area. Of course,  
20 a prominent aspect of that is gambling. That is how it  
21 developed.

22 Q     Would you describe since 1970 the efforts of your  
23 office and the efforts of the Federal Authorities in  
24 their fight against gambling to be an ideal marriage of  
25 forces both on a State and Federal level against this

1 particular problem?

2 A Yes. The Federal effort since 1970 picks up the  
3 interstate feature of gambling, which is primarily in  
4 the sports area now. You have to get odds from dif-  
5 ferent out-of-state locations, in Rhode Island or  
6 Massachusetts, and again you have to draw a distinction.  
7 There is a Federal strike force and the United States  
8 Attorney's Office. The United States Attorney's Office,  
9 which everyone is very familiar with, under Lacey, Stern &  
10 Goldstein, has concentrated on political corruption  
11 and has done an outstanding job in that field beginning  
12 in 1969. The Strike Force group in the State has done  
13 a very effective job in a group of areas, one of which  
14 is gambling. The main thrust, though, has been on the  
15 State level against gambling. Together, it is an ideal  
16 marriage.

17 We have one other agency. We have the  
18 State Commission of Investigation, which is a very dif-  
19 ficult body to describe. It is a creature of the  
20 legislature with nonpartisan appointees, whose function  
21 it is to investigate areas where legislation may be  
22 needed, and that also has an impetus.

23 Q The policy of your Chief Justice of imposing jail  
24 sentences is viewed with a good deal of jealousy by  
25 those states where no jail sentences are ever imposed.

1 Your sister state of New York has put one millionth of  
 2 one percent of the people in jail for the past ten years  
 3 for illegal gambling, however it may not be that extreme.

4 A It is extreme. It is in that report.

5 Q If we were looking at the efforts of law enforce-  
 6 ment against illegal gambling from a multilevel, aided  
 7 by the judiciary who says we are going to put people in  
 8 jail, we would be looking at probably, in your judgment,  
 9 and certainly those of the staff, at the optimum  
 10 experience of law enforcement in this field. In light  
 11 of all that, do you feel your impression that there  
 12 has been no impact upon illegal gambling despite these  
 13 successes, despite all of the deficiencies that normally  
 14 are attributed to whatever failures law enforcement  
 15 might suffer, is it something that from that we should  
 16 conclude that law enforcement is absolutely incapable  
 17 under any circumstances of controlling organized crime  
 18 influence on gambling or gambling influenced through  
 19 organized crime?

20 A No. I don't think I went so far as to say it had  
 21 no impact. I said it contained it and made it costly.  
 22 I think if you are dealing with organized crime, jail  
 23 sentences ought to be meted out. You are operating in  
 24 one of the fields where a rationale policy should include  
 25 jail sentences, because you are dealing with a criminal

1 venture which is a quasibusiness, and one of the  
2 factors in any business judgment is the risk of loss.  
3 The argument was that the imposition of fines was a  
4 license fee. I don't think putting people in jail has  
5 had the impact that, say, Fred Lacey thought it would  
6 have or the Chief Justice; but it sure had an impact,  
7 because when you did get key people, it was like any  
8 other business. You disrupted that business while they  
9 are being replaced.

10 Q Did that have any effect?

11 A Yes, it had some impact. I would not want to leave  
12 the impression with you it had no impact.

13 Q Did it have any impact upon the person who wanted  
14 to participate in this activity not as an operator?

15 A The gambler?

16 Q Yes.

17 A No. I mean as a bettor?

18 Q Yes.

19 A No.

20 Q Would you suggest there be alternate strategies  
21 developed which would assist law enforcement aimed at  
22 the player rather than the operator?

23 A You mean in order to discourage the player from  
24 using the illegal and converting to the legal?

25 Q Yes.

1 A Well, I think the economics of that should produce  
2 that result. One of the great problems for the legalized  
3 system is that you get less dollars generally out of the  
4 legal system than you do out of the illegal system on  
5 one level of activity. For instance, I had a state  
6 trooper tell me earlier in the North that our present  
7 daily "Pick-It" odds are 800 to 1 today, 650 to 1 the  
8 other day, 700 to 1. Now, he didn't tell me he bet.  
9 You can get the numbers. Now, the daily lottery in that  
10 is 650, 700, and you will get dollars because you will  
11 be offering more than the illegal operation.

12 We haven't had enough experience to know  
13 what the impact is. If your objective is to drive out  
14 the illegal numbers, then you must give up some of the  
15 revenue. You must give up some of the other benefits,  
16 because you can never give credit in the numbers or you  
17 can never take the nickels and the dimes which are  
18 essential to a way of life, just as gambling is,  
19 essentially, to many people, a way of life. It is the  
20 adventure that makes the game. The State can't do that,  
21 but the State could certainly license an agent in a big  
22 plant or on a construction site. However, if you are  
23 going to stick them in office buildings in the downtown  
24 area, just making available to the middle class a new  
25 form of entertainment which they may not have had before,



1 some of the scandals, not going back to 1919; Prosecutor  
2 Coleman, and I am aware that Paul Hornung lost a year  
3 at Green Bay because he bet, and Karras was knocked out  
4 of Detroit because he bet. I think it's pretty bloody  
5 professional right now.

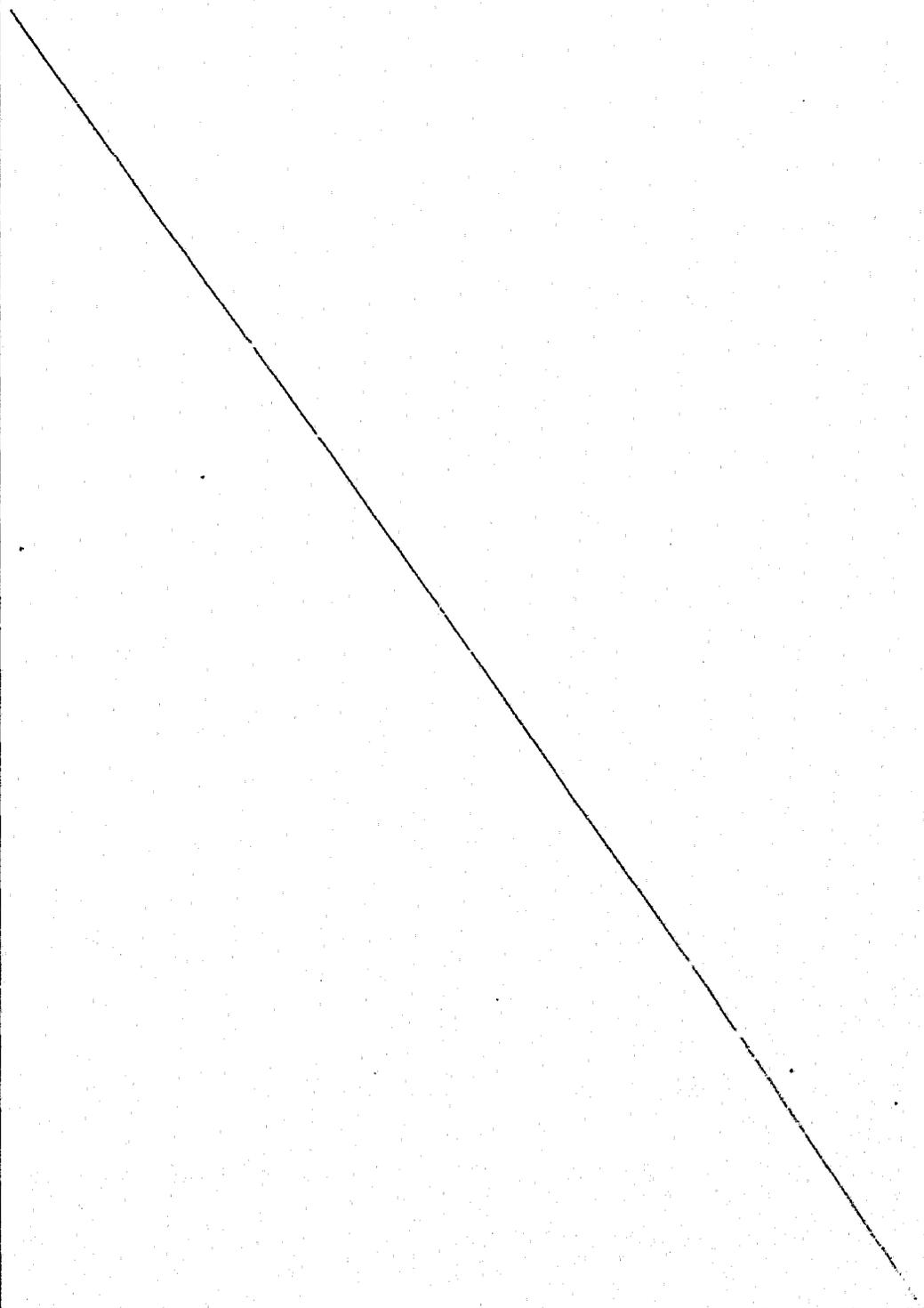
6           The side feature of college sports is  
7 that it is professional on a purely sports basis. There  
8 is very little difference between the Big Ten and Notre  
9 Dame and what you see on Sunday, and the scandal is going  
10 to erupt on sports. It is going to be on the recruit-  
11 ment level, if one wants to call that a scandal. There  
12 is always saving grace in getting people into school who  
13 might not otherwise be there, and one has to balance  
14 that out. I don't see that legalizing sports betting  
15 poses any greater problem than the illegal sports bet-  
16 ting that you have now. I just don't see it. All the  
17 sports leagues have their own ex-FBI agents watching out  
18 to insure integrity. As long as human nature is human  
19 nature you are going to have somebody somehow devising a  
20 scheme which will make it attractive to try to corrupt  
21 somebody. I mean you had the doctor from the Giants who  
22 allegedly was telling who had a bad leg and who had a bad  
23 arm. I think vigilance on their end will be the same  
24 whether it is legal or illegal. I don't follow the argu-  
25 ment, but I don't profess to be an expert on it. I mean

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I just



1 heard it.

2 MR. RITCHIE: Dr. Allen, on behalf of the  
3 staff, I want to thank Director Boylan for the  
4 cooperation your office has provided us. The  
5 voluminous documents emanating from your office are  
6 very helpful. Our staff is busily trying to digest  
7 them in Washington, and we look forward hopefully  
8 to continue to work with you on a very close basis.

9 That concludes my questions.

10 DR. ALLEN: Thank you very much, Mr.  
11 Boylan.

12 (Witness excused.)

13 DR. ALLEN: Francis J. Schafer is the  
14 executive director of the Pennsylvania Chiefs of  
15 Police Association and has been since September of  
16 1963. He has had a long career with the Pittsburgh  
17 Police Department prior to his appointment, and he  
18 can be expected to approach the subject of gambling  
19 from the standpoint of a police officer. Mr.  
20 Schafer?

21 MR. SCHAFFER: Yes, Dr. Allen. I would  
22 like to ask one question before I begin. I won't  
23 be too long. Is the purpose of this to recommend  
24 laws, and so forth?

25 DR. ALLEN: Mr. Ritchie, would you care

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TESTIMONY

OF

MATTHEW P. BOYLAN

DIRECTOR OF THE DIVISION OF CRIMINAL JUSTICE

OF THE

STATE OF NEW JERSEY

BEFORE

THE COMMISSION ON THE REVIEW OF THE NATIONAL POLICY TOWARD GAMBLING

MAY 29, 1975

PHILADELPHIA, PA.

DIVISION OF CRIMINAL JUSTICE  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
WILLIAM F. HYLAND, ATTORNEY GENERAL

MR. CHAIRMAN. I THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE THIS COMMISSION TO EXPRESS MY VIEWS ON LEGALIZED GAMBLING BASED UPON THE EXPERIENCE OF THE STATE OF NEW JERSEY.

IN ANY DISCUSSION OF LEGALIZED GAMBLING IT IS ESSENTIAL TO PUT IN PERSPECTIVE THE DIFFERENT JUSTIFICATIONS WHICH UNDERLIE THE VARIOUS ARGUMENTS SUPPORTING THE LEGALIZATION OF GAMBLING.

GOVERNOR BRENDAN BYRNE OF MY STATE HAS ADVANCED THE MOST COMMONLY HELD JUSTIFICATION FOR LEGALIZED GAMBLING WHEN HE STATED ON MAY 20, 1975 IN ANNOUNCING THE INTRODUCTION ON A TEST BASIS OF "PICK-IT" - A DAILY LOTTERY - THAT "THIS NEW GAME WILL MAKE INROADS INTO THE ILLEGAL NUMBERS RACKET."

THE REASON BEHIND THE EXPRESSED HOPE OF GOVERNOR BRENDAN BYRNE THAT INROADS WILL BE MADE INTO THE ILLEGAL NUMBERS RACKET IS THAT THE STATE WAS NOW ABLE TO OVERCOME ONE OF THE TRADITIONAL HANDICAPS OF ALL LEGALIZED GAMBLING, NAMELY, CONVENIENCE: "ONE OF THE BIG ADVANTAGES OF THE ILLEGAL NUMBERS GAMES HAS BEEN THE OPPORTUNITY IT OFFERS PEOPLE TO CHOOSE THEIR OWN NUMBER COMBINATIONS, WHETHER

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BASED ON HUNCHES, DREAMS, BIRTHDAYS OR WHATEVER APPEALS TO THEM," HE SAID. "NOW, THE STATE LOTTERY CAN OFFER THE SAME OPPORTUNITY, WITH THE ADDITIONAL ADVANTAGES OF LEGALITY AND GUARANTEED PRIZE PAYOFFS."

THE BALANCE OF THE JUSTIFICATIONS ADVANCED FOR THE LEGALIZATION OF VARIOUS FORMS OF GAMBLING ARE, IN ADDITION TO REDUCING THE FINANCIAL BASE OF ORGANIZED CRIME, REMOVAL OF A MAJOR SOURCE OF OFFICIAL CORRUPTION, AN INCREASE IN STATE REVENUE, AND A RECOGNITION THAT THE COMMUNITY MORES NO LONGER VIEW GAMBLING AS IMMORAL.

THE MOST COMPREHENSIVE RESEARCH EFFORT IN THIS AREA, UNDERTAKEN BY THE HUDSON INSTITUTE STUDY IN 1973, RECOMMENDED THE LEGALIZATION OF GAMBLING IN THE STATE OF NEW YORK BECAUSE OF THE TOTAL INEFFECTIVENESS OF LAW ENFORCEMENT AGAINST ILLEGAL GAMBLING. "INCREASED LEGAL GAMBLING IN NEW YORK, A POLICY ANALYSIS, REPORT BY HUDSON INSTITUTE TO THE NEW YORK GAMBLING COMMISSION - JANUARY 12, 1973."

THE STATE OF NEW JERSEY HAS ADOPTED SINCE, THE CREATION OF THE DIVISION OF CRIMINAL JUSTICE IN 1970, AND THE NEW JERSEY STATE LOTTERY COMMISSION IN 1971 WHAT IT CONSIDERS TO BE AN APPROACH TO LEGALIZED GAMBLING WHICH INCORPORATES THE BEST OF BOTH WORLDS. WE HAVE VIGOROUSLY PROSECUTED ILLEGAL GAMBLING IN AN ATTEMPT TO IMPLEMENT THE JUDGMENT IN 1970 OF FREDERICK B. LACEY, UNITED STATES ATTORNEY FOR THE STATE OF NEW JERSEY, THAT ORGANIZED CRIME CAN BE DRIVEN FROM THE FIELD OF GAMBLING IF "INDICTMENTS ARE BEING RETURNED AND PROSECUTED VIGOROUSLY, AND PUNISHMENT IS SUFFICIENTLY SEVERE." LACEY, FREDERICK B.; RECOMMENDATIONS TO THE 1970 SESSION OF THE NEW JERSEY LEGISLATURE (1970), P. 19.

THEN CHIEF JUSTICE JOSEPH WEINTRAUB DIRECTED THAT THERE SHOULD BE A JUDICIAL POLICY OF JAIL SENTENCES FOR THOSE CONVICTED OF PARTICIPATING IN VARIOUS GAMBLING OPERATIONS.

BOTH OF THESE POLICIES HAVE RESULTED IN AN EXTREMELY EFFECTIVE LAW ENFORCEMENT EFFORT AGAINST ILLEGAL GAMBLING. BUT IT CAN BE SAID

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WITH CERTAINTY THAT FIVE YEARS OF VIGOROUS LAW ENFORCEMENT HAS NOT ELIMINATED ILLEGAL GAMBLING, ALTHOUGH IT MAY HAVE CONTAINED IT AND MADE IT MORE COSTLY.

DURING THE SAME PERIOD OF TIME THE NEW JERSEY STATE LOTTERY COMMISSION, SINCE JANUARY 7, 1971, HAS RUN A VERY EFFECTIVE WEEKLY, AND BEGINNING NOVEMBER 29, 1972, DAILY, LOTTERY WHICH HAS PROCESSED APPROXIMATELY 450 MILLION DOLLARS IN LOTTERY BETS THROUGH JUNE, 1974. APPROXIMATELY <sup>205</sup>242 MILLION DOLLARS OF THIS TOTAL HAS BEEN ALLOCATED TO STATE AND TO EDUCATION AND INSTITUTIONS. APPROXIMATELY 292 MILLION DOLLARS HAS BEEN DISTRIBUTED IN PRIZES, 3,500,000 WINNERS. THE BALANCE OF THE LOTTERY PROCEEDS HAVE BEEN USED IN THE ADMINISTRATION OF THE PROGRAM, INCLUDING DIRECT EMPLOYMENT OF APPROXIMATELY 120 EMPLOYEES AND THE USE OF MORE THAN 4,000 INDEPENDENT CONTRACTORS TO PROCESS THE SALE OF THE LOTTERY TICKETS. THE OPERATION HAS BEEN SCANDAL FREE AND HAS BECOME THE MODEL FOR APPROXIMATELY 13 OTHER STATES WHICH ARE CONSIDERING THE ADOPTION OF A SIMILAR LOTTERY PROGRAM. IN ADDITION, AS I INDICATED EARLIER, A NOVEL DAILY LOTTERY ("PICK-IT") WAS

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INTRODUCED ON MAY 22, 1975, IN A TEST PROGRAM AT 350 LOCATIONS  
THROUGHOUT THE STATE FOR A SIX MONTH PERIOD.

THE 205 MILLION DOLLARS GENERATED FOR STATE AND TO EDUCATION  
AND INSTITUTIONS UNDER NEW JERSEY'S LOTTERY OPERATION BETWEEN  
JANUARY 7, 1971 AND JUNE 30, 1974 SHOULD NOT BE CONSTRUED AS AN  
ENDORSEMENT OF THE REVENUE GENERATING JUSTIFICATION PREVIOUSLY  
DESCRIBED AS AN ARGUMENT IN SUPPORT OF LEGALIZED GAMBLING. AS  
GOVERNOR BYRNE STATED AT THE TIME HE ANNOUNCED THE NEW LOTTERY,  
"ALTHOUGH WE HAVE HIGH HOPES THAT THIS GAME WILL GENERATE ADDITIONAL  
REVENUE FOR THE STATE, NO ONE SHOULD LOOK ON IT AS A SOLUTION TO OUR  
FISCAL CRISIS."

THIS REALISTIC ASSESSMENT OF NEW JERSEY'S SUCCESSFUL LOTTERY  
OPERATION IS ALSO A REALISTIC ASSESSMENT OF GAMBLING REVENUES IN  
WHATEVER FORM AS A SOLUTION TO THE FISCAL NEEDS OF ANY MAJOR  
METROPOLITAN STATE OR REGION. THE SURFACE ATTRACTION OF ADDITIONAL  
REVENUE SHOULD NOT BLIND PROPONENTS OF LEGALIZED GAMBLING TO THE  
ECONOMIC ANALYSIS WHICH IS NECESSARY TO AN UNDERSTANDING OF THE  
USES TO WHICH INCOME SHOULD BE PUT TO ACHIEVE THE MAXIMUM ECONOMIC

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ADVANTAGE FOR A STATE.

IN ADDITION TO THE STATE LOTTERY, WHICH WAS INTRODUCED IN 1971, WE HAVE HAD PARI-MUTUEL WAGERING AT STATE LICENSED RACE TRACKS, BOTH THOROUGHBRED AND STANDARD BRED, FOR MORE THAN 20 YEARS IN THE STATE OF NEW JERSEY. IN 1955 THE TOTAL TAX REVENUE FROM HORSE RACING TO THE STATE OF NEW JERSEY WAS 22.8 MILLION DOLLARS; IN 1960 THE TAX REVENUE WAS 25 MILLION; IN 1965 THE TAX REVENUE WAS 28.8 MILLION; IN 1970 THE TAX REVENUE WAS 34.8 MILLION; IN 1973 THE TAX REVENUE WAS 36.5 MILLION DOLLARS; IN 1974 THE TOTAL TAX REVENUE TO THE STATE OF NEW JERSEY WAS 41.4 MILLION DOLLARS.

IN ADDITION TO THE TAX REVENUES DERIVED BY THE STATE FROM THE OPERATION OF THE FOUR LICENSED RACE TRACKS IN THE STATE, AN INDIRECT BENEFIT HAS BEEN THE EMPLOYMENT ON AN ALMOST YEAR ROUND BASIS OF MORE THAN 7,000 PEOPLE AT THESE VARIOUS TRACKS. ADDITIONAL ECONOMIC ACTIVITY IS GENERATED IN THE VARIOUS SERVICES AND SUPPLIES PROVIDED TO THE HORSE RACING STABLES QUARTERED AT OR NEAR THE TRACKS.

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A THIRD MAJOR AREA IN WHICH A FORM OF LEGALIZED GAMBLING EXISTS IS IN THE "BINGO" AND "LOTTO" GAMES CONDUCTED EXCLUSIVELY BY CHARITABLE AND RELIGIOUS ORGANIZATIONS SUCH AS CHURCHES, FIRE COMPANIES AND OTHER FRATERNAL GROUPS TO RAISE MONEY TO DEFRAY THE COSTS OF THEIR VARIOUS CHARITABLE AND FRATERNAL ENDEAVORS.

IN BROAD OUTLINE THESE LEGALIZED FORMS OF GAMBLING HAVE THEIR ILLEGAL COUNTERPARTS. THE TRADITIONAL FORM OF ILLEGAL GAMBLING HAS ALWAYS BEEN CONSIDERED THE "BOOKIE" WHO HANDLED HORSE BETTING. IN ADDITION THERE HAS ALWAYS BEEN THE ILLEGAL LOTTERY OPERATION COMMONLY CALLED THE "NUMBERS GAME." THE MOST FREQUENTLY DESCRIBED POLICE ACTIVITY IN THE MEDIA IS EITHER THE SEIZURE OF A NUMBERS BANK OR THE BREAK UP OF A LARGE SCALE NUMBERS OPERATION. THE CONTINUED EXISTENCE OF THESE ILLEGAL GAMBLING OPERATIONS IS PRINCIPALLY ATTRIBUTED TO CONVENIENCE, CREDIT, AND A BETTER ECONOMIC RETURN FOR EACH DOLLAR GAMBLED. AS GOVERNOR BYRNE INDICATED, IT IS THE EXPECTATION OF THE LAW ENFORCEMENT COMMUNITY IN THE STATE OF NEW JERSEY THAT THE NEW DAILY LOTTERY CLOSELY MODELED ON ITS ILLEGAL

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COUNTERPART WILL MAKE INROADS INTO THAT SOURCE OF REVENUE FOR ORGANIZED CRIME.

AN ENTIRELY NEW AREA OF ILLEGAL GAMBLING HAS DEVELOPED OVER THE PAST FIFTEEN YEARS AND IS A PRODUCT OF THE AFFLUENCE OF THIS COUNTRY, NAMELY, SPORTS BETTING. SPORTS BETTING, WHICH IS PREVALENT ON HOCKEY GAMES, FOOTBALL GAMES, BASKETBALL GAMES, AND ALL THE OTHER FORMS OF SPORTS ACTIVITY WHICH ARE SEEN ON NATIONAL TELEVISION, HAS BECOME A PRINCIPAL SOURCE OF ILLEGAL GAMBLING PROFITS. TO MY KNOWLEDGE NO EFFECTIVE LEGAL COUNTERPART OF THIS FORM OF ILLEGAL GAMBLING HAS BEEN DEvised IN THIS COUNTRY. ON A PURELY ECONOMIC ANALYSIS OF BOTH LEGAL AND ILLEGAL GAMBLING THIS PARTICULAR ACTIVITY IS NOT IN COMPETITION FOR THE GAMBLING DOLLAR WITH EITHER LEGAL OR ILLEGAL HORSE BETTING OR LOTTERY WAGERING.

IN THE STATE OF NEW JERSEY, THEN, WE HAVE USED LEGALIZED GAMBLING AS A TOOL IN A COORDINATED FIGHT AGAINST THE USE OF ILLEGAL GAMBLING INCOME BY ORGANIZED CRIME TO FINANCE ITS OTHER ILLEGAL ACTIVITIES. AT THE SAME TIME WE HAVE CONTINUED A VIGOROUS LAW ENFORCEMENT PROGRAM

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AGAINST ILLEGAL GAMBLING, WHICH ON A PURELY ECONOMIC ANALYSIS IS  
A BUSINESS COMPETITOR IN THE MARKET PLACE FOR THE ACKNOWLEDGED PUBLIC  
NEED TO GAMBLE. WE BELIEVE THAT WE HAVE ACHIEVED A PROPER BALANCE  
IN ADDRESSING THE PROBLEM CREATED BY THE NEED FOR LEGITIMATE OUTLETS  
TO SATISFY THE GAMBLING INSTINCT WITHOUT CREATING A GAMBLING WASTE-  
LAND. OUR PROGRAM OF LEGALIZED GAMBLING TOGETHER WITH VIGOROUS LAW  
ENFORCEMENT AGAINST ILLEGAL GAMBLING IMPLEMENTS THE RECOMMENDATIONS  
OF THE LAW ENFORCEMENT EXPERTS WHO CONTRIBUTED TO THE PRESTIGIOUS  
HUDSON INSTITUTE REPORT FOR THE NEW YORK GAMBLING COMMISSION.

I HAVE NOT ATTEMPTED TO ADDRESS IN THIS PRESENTATION THE  
TWO MOST SERIOUS HANDICAPS UNDER WHICH LEGALIZED GAMBLING MUST  
FUNCTION. THE FIRST IS THE TAXATION OF WINNINGS, AND THE SECOND IS  
THE INABILITY OF THE STATE TO PROVIDE CREDIT. THE FIRST HANDICAP  
CAN BE REMEDIED BY AN APPROPRIATE AMENDMENT TO THE INTERNAL REVENUE  
CODE IF THAT IS DEEMED TO BE APPROPRIATE BY CONGRESS. THE HANDICAP  
OF CREDIT IS ONE WHICH THE STATE OUGHT TO ACCEPT, SINCE IT IS THE

PRINCIPAL OBJECTION TO ALL FORMS OF GAMBLING, LEGAL OR ILLEGAL, AND EVEN IN A CREDIT BASED ECONOMY SUCH AS OURS SHOULD NOT BE ENCOURAGED IN WHAT OUGHT TO BE AN ACTIVITY FINANCED BY SURPLUS DISPOSABLE INCOME. THE PROBLEM OF CONVENIENCE, WHICH IS THE PROBLEM OF ACCESSIBILITY TO THE LOCATIONS FOR PLACING WAGERS, CAN BE SOLVED WITHOUT TOO MUCH DIFFICULTY.

IN CONCLUSION, THEN, THE STATE OF NEW JERSEY BELIEVES THAT ITS EXPERIENCE OVER THE PAST FIVE YEARS HAS JUSTIFIED THE COURSE WHICH IT HAS TAKEN IN ATTEMPTING TO ACCEPT THE REALITY OF THE GAMBLING NEED WITHOUT ABANDONING ITS DRIVE AGAINST ORGANIZED CRIME. GOVERNOR BYRNE, AS WELL AS ATTORNEY GENERAL WILLIAM HYLAND, HAVE BOTH BEEN LEADERS IN THE BATTLE AGAINST ORGANIZED CRIME IN THE STATE OF NEW JERSEY, AND KNOW FULL WELL THAT THE PRINCIPAL SOURCE OF REVENUE FOR ORGANIZED CRIME IS THE ILLEGAL GAMBLING DOLLAR. CONSEQUENTLY, THE DRIVE AGAINST ORGANIZED CRIME IN NEW JERSEY WHICH HAS BEEN VERY SUCCESSFUL IN THE PAST FIVE YEARS, HAS IN NO WAY BEEN IMPEDED BY THE EXISTENCE OF THE LIMITED STATE PROGRAMS IN WHICH LEGALIZED GAMBLING HAS BEEN PERMITTED. RATHER

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THE DRIVE AGAINST ORGANIZED CRIME HAS BEEN INTENSIFIED DURING THIS PERIOD, AND IN NO WAY IMPAIRED BY THE EXISTENCE OF THE LEGALIZED LOTTERY PROGRAM. ON A PHILOSOPHICAL AS WELL AS ON AN ECONOMIC BASIS THERE IS NO INCOMPATIBILITY BETWEEN RECOGNIZING THE NEED OF SOCIETY FOR CERTAIN FORMS OF LEGALIZED GAMBLING AND AT THE SAME TIME RECOGNIZING THE NEED OF SOCIETY TO BE RID OF THE PERNICIOUS EFFECTS OF ORGANIZED CRIME FUELED BY THE PROCEEDS FROM ILLEGAL GAMBLING.

1 to answer that?

2 MR. RITCHIE: Congress created the Com-  
3 mission with an eye toward determining what the  
4 national policy on gambling should be and then to  
5 make recommendations consistent with that policy  
6 regarding Federal laws to the President and the  
7 Congress and advisory recommendations to the States  
8 regarding their laws and what those policy changes  
9 should be, if any. It doesn't mean the Commission  
10 has anything except an absolute pragmatic approach  
11 and an open mind. I think the purpose of these  
12 hearings in the different communities is to insure  
13 that the Commission is receiving all of the valuable  
14 information that exists there so that its delibera-  
15 tions in Washington will be more complete.

16 MR. SCHAFER: Thank you, Mr. Ritchie,  
17 because I didn't have time to digest everything  
18 that was mailed to me. In fact, I just returned  
19 from a trip to Europe, and I got back the other  
20 day, and I had written this before I left. Now  
21 I will go on with my testimony.

22 I am Francis J. Schafer, executive  
23 director of the Pennsylvania Chiefs of Police  
24 Association since September 1963.

25 Prior to then, I was with the Pittsburgh

1 Police Department, retiring from there in 1963.  
2 The last eleven years with Pittsburgh Police, I  
3 served as Assistant Superintendent of Police.

4 During my police career, I served for 18  
5 months as a plainclothesman on the racket squad and  
6 became very familiar with the various forms of bet-  
7 ting.

8 I am also a retired Lieutenant Colonel  
9 of Military Police from the United States Army  
10 Reserves.

11 Before I go on, I just want to say I am  
12 not too familiar with the Federal laws on gambling,  
13 but I am very well acquainted with our State laws  
14 and the impact they have on gambling.

15 The statements contained herein are my  
16 remarks, and I know that most members of our Associa-  
17 tion, if they were present, would express similar  
18 feelings.

19 For years I've been hearing people say  
20 that gambling couldn't exist if the crooked police  
21 and the corrupt politicians were not in league with  
22 the racketeers.

23 This may be so in a few instances, but  
24 you and I know that this generalization is not true.

25 In Pennsylvania, the average police officer

1 is an honest and dedicated person, and most  
2 politicians are sincere people, wanting to serve  
3 their communities and do what is best for their  
4 fellow man.

5 As long as illegal gambling is so  
6 prevalent, there will always be the temptation of  
7 easy money, that is, payoffs. To keep honest  
8 people honest, I have urged that the common types  
9 of gambling be legalized in our State.

10 I know that if you and any commission  
11 come forward with this recommendation, some church  
12 people and the do-gooders would be shocked. Let's  
13 not kid ourselves. Most people like to gamble, and  
14 the average person will gamble despite any law that  
15 has been enacted.

16 Why is it that certain people are shocked  
17 when someone advocates legalizing gambling. Their  
18 cry is "protect the average family." If they are  
19 so concerned with the average family, they should  
20 lobby for better laws to get the violent criminals  
21 off the streets. I am shocked at the rate of crime  
22 increase, that more persons are being arrested  
23 today and greater numbers are being found guilty,  
24 yet there are less persons in confinement today  
25 than there were 15 or 20 years ago.

1                   Getting back to gambling: bingo--most of  
2                   our older citizens enjoy playing bingo. Many of  
3                   our older citizens enjoy a night out with bingo as  
4                   their means of entertainment. What the hell is  
5                   wrong with playing bingo? In Pennsylvania it is  
6                   illegal, but the District Attorneys and the police  
7                   turn their heads and have for years permitted  
8                   bingos to be held by non-profit organizations. Law  
9                   enforcement does raid bingos that are fixed or  
10                  promoted by professionals, that is, the mob.

11                  Let's legalize bingo and license this  
12                  type of entertainment and continue to investigate  
13                  the licensees, insuring that they are conducted  
14                  properly and not financed by the underworld.

15                  Numbers: Playing of numbers is a way of  
16                  life. It is commonplace in all our metropolitan  
17                  areas. It is a game enjoyed by many whereby a per-  
18                  son can place a bet of a few pennies to dollars, and  
19                  if he picks the winning three-digit number, he will  
20                  receive approximately \$6 for every cent wagered, or  
21                  odds of 600 to 1. In areas where the heat is on,  
22                  the odds will drop to 500 to 1, or even 450 to 1.

23                  Many do not understand the costs involved  
24                  in an illegal operation. When you play a number,  
25                  the odds are 1000 to 1 and the payout is 600 to 1.

1 What happens to the other 40 percent? Well, the  
2 writer gets about 15 percent, the pickup man gets  
3 a percentage, more in areas where the heat is on,  
4 payoffs and attorney fees 10 to 13 percent. Where  
5 there is no payoff, this percentage is used for  
6 fines, court costs, et cetera. The "book" or top  
7 man has other employees to pay and he works on  
8 about a 2 percent margin. Two percent isn't bad, if  
9 you have a big enough daily play.

10 If numbers were legalized, the payout  
11 could be about 700 to 1, with about 10 to 12 per-  
12 cent tax off the top. This 10 to 12 percent would  
13 be nice income for any State.

14 Thousands and thousands of people jam our  
15 racetracks to bet the horses. Is there anything  
16 morally wrong for a person to place a bet on a  
17 horse in the event he can't get off from work to go  
18 to the track? According to the law, we have set up  
19 two standards; it is not against the law to play  
20 numbers but it is to book them; it is legal to  
21 place a bet on a horse at the track but not off-  
22 track. It is a small wonder that our children are  
23 confused by our double standards!

24 In Pennsylvania we have tracks open  
25 on Sunday. We have large scale gambling while the

1 Pennsylvania Sunday Blue Laws prevent legitimate  
2 stores from making sales. I feel I'm a good  
3 Christian and believe in observing the Sabbath,  
4 but I'm getting confused by the contradiction in  
5 our laws.

6 To go further, many of the persons opposed  
7 to legalized gambling play the stock market. If  
8 you think playing the stock market is anything but  
9 gambling, you better think again. I've been in  
10 the stock brokers' offices and have seen many people  
11 with what is termed "poker sweat." This is a  
12 nervous state in which people actually sweat when  
13 they gamble and are in over their heads.

14 Then let's give some consideration, and  
15 I know you have. You talked about it with the  
16 gentleman who preceded me from New Jersey. There  
17 are hundreds of thousands of bets made daily on  
18 football games, baseball games, basketball games,  
19 boxing matches, and the hundreds of other things  
20 that people bet on. In many cases, these are  
21 called friendly bets--let's call it for what it is--  
22 gambling! There's nothing friendly about a bet as  
23 the loser must pay off--and pay off with money!

24 I could go on and on with examples but  
25 you need only go down to a street corner and watch

1 the kids gambling -- pitching pennies, playing  
2 cards for pennies, et cetera.

3 Also, almost all persons sometimes in  
4 their lives have played penny ante, Michigan Rum,  
5 or some other little gambling game. And, how about  
6 all the friendly poker games in the private clubs.  
7 Can we condone all this friendly gambling and then  
8 try to draw a line as to what is legal and illegal  
9 what is morally right and what is wrong.

10 Some states have already legalized state  
11 lotteries. In Pennsylvania we have a State Lottery.  
12 The Lottery Commission even uses a picture of  
13 George Washington winking. "You can win in a wink,"  
14 it says. I wonder what our children think about  
15 this. Gambling is illegal, but the State conducts  
16 a lottery and uses George Washington's picture to  
17 advertise it, and then there is the payoff. I doubt  
18 any state of legalized gambling pays out about 25  
19 percent. Some say they are paying as much as 40  
20 percent. I doubt that! I have seen days when  
21 illegal numbers paid 800 to 1. When the heat is  
22 on, the odds dropped but never did they drop to  
23 more than about 500 to 1, which is at least giving  
24 the people back 50 percent after the  
25

1 commissions paid. The State never pays back that  
2 much. If you investigated their books, I doubt if  
3 you would find they paid out less than 25 percent.

4 Actually, I believe this is the poorest  
5 form of legalized gambling. It is only legalized  
6 as a source of revenue and not as an "out" for the  
7 little bit of "gambling instinct" in almost every-  
8 one of us.

9 When people bet they like to pick their  
10 own number and not be handed the next number by a  
11 drug clerk. Also, is it morally right for a state  
12 to run a lottery when all other lotteries are  
13 illegal.

14 I am not here to propose the Las Vegas  
15 wide-open type of gambling. That wide open gambling  
16 leads to many other law enforcement problems and it  
17 also may need "Mafia" bankrolling. I advocate  
18 legalizing the many forms of gambling that exist  
19 and are carried on today in our communities. In-  
20 stead of our police chasing petty number writers,  
21 let them work on the more serious crimes that are  
22 repulsive to our citizens.

23 Presently in our Pennsylvania Legislature  
24 there is a bill to permit slot machines in clubs.  
25 I would be for that, as long as they don't appear

1 in drug stores and supermarkets, where kids can  
2 play.

3 Any legalized gambling can only be for  
4 adults. I would not want to see kids stealing to  
5 play slot machines or other gambling games.

6 I view legalized gambling in the same  
7 light as is done in the dispensing of beer and  
8 liquor. Do not involve the State as a "bookie"  
9 but rather as an agency to issue gambling licenses.  
10 Liquor and beer licenses are issued according to  
11 population and the same can be done with permits  
12 to book numbers, horses, et cetera. I do not  
13 believe that it would require nearly as much polic-  
14 ing at the state level as does beer and liquor.  
15 With proper licensing, local police would be in a  
16 better position to eliminate "illegal gambling."

17 A bookmaker is a respected person in the  
18 British Isles and there is no reason this couldn't  
19 be so in this State. Also, I guess they still sell  
20 those 50 cent gambling stamps, don't they. There  
21 is no reason why licenses could not be issued at the  
22 State level in the same manner as I mentioned before,  
23 like beer and liquor licenses.

24 It is anyone's guess as to the actual  
25 revenue from gambling but I believe if legalized

1 gambling was properly administered, it would make  
2 a large dent in the revenue of organized crime. Let  
3 me quote from page 189 of "The Challenge of Crime  
4 in a Free Society."

5 "There is no accurate way of ascertaining  
6 organized crime's gross revenue from gambling in the  
7 United States. Estimates of the annual take have  
8 varied from \$7 to \$50 billion. Legal betting at  
9 racetracks reaches a gross annual figure of almost  
10 \$5 billion, and most enforcement officials believe  
11 that illegal wagering on horse races, lotteries,  
12 and sporting events totals at least \$20 billion  
13 each year. Analysis of organized criminal betting  
14 operations indicates that the profit is as high as  
15 one-third of gross revenue--or \$6 to \$7 billion  
16 each year. While the Commission cannot judge the  
17 accuracy of these figures, even the most conserva-  
18 tive estimates place substantial capital in the  
19 hands of organized crime leaders."

20 Also, on page 188 of the same report, "Law  
21 enforcement officials agree almost unanimously that  
22 gambling is the greatest source of revenue for  
23 organized crime."

24 I contend that we can wage war on organized  
25 crime by legalizing betting and divert that source

1 of revenue into other channels.

2 I further believe this would be a good  
3 source of revenue for the State to allocate to  
4 Municipalities for police salaries. I have said  
5 before that the municipal police officer indirectly  
6 works for the State as most of his work is in  
7 enforcing the State Penal laws and the Vehicle Code  
8 enacted by the State Legislature and therefore  
9 the State should subsidize his salary.

10 Also, I believe that if put to a vote of  
11 the people, a proposal to legalize gambling would  
12 win approval as the great majority will admit that  
13 they gamble!

14 You can't put it to a vote to say shall  
15 we legalize gambling or not. You would have to  
16 break it down a bit, because it would be like ask-  
17 ing if you are for womanhood or against womanhood.  
18 You would have to spell out more clearly what you  
19 are going to legalize.

20 Many of us think back to the Prohibition  
21 Era when the average person drank and "bootlegging"  
22 was a profitable business. Today, everyone  
23 gambles and organized crime reaps the profits. When  
24 prohibition was repealed, the bootleggers went out  
25 of business. Just recently, bootlegging is again

1 becoming profitable as liquor is overtaxed. So, I  
2 am adding a word of caution -- legalize the common  
3 forms of gambling but don't overtax it in order  
4 that illegal gambling will never again be a profit-  
5 able business.

6 I sincerely ask that you give this  
7 your full consideration for:

8 1. As a good method of combating organ-  
9 ized crime by eliminating the profit from illegal  
10 gambling, and

11 2. Providing an outlet for the average  
12 person's gambling urge.

13 3. Providing monies to municipalities  
14 for police salaries.

15 That is all I have written.

16 DR. ALLEN: Thank you very much, Mr.  
17 Schafer. We will start the questioning with Com-  
18 missioner Coleman.

19 BY MR. COLEMAN:

20 Q Just one thing I hope I interpret right. When you  
21 talk about common forms of gambling and you say they  
22 should all be legalized, assuming they can't all be  
23 legalized, what is your feeling? You have been a police  
24 officer and you have had close association with police  
25 organizations. You use the words, "Instead of our police

1 chasing petty number writers." What if the law still  
2 exists on the books with regard to the apprehension of  
3 these people, petty number writers, or otherwise? Should  
4 the police step up their efforts, continue with what  
5 they are doing, or slack off?

6 A The average police do not push too hard, because  
7 they are getting the same petty number writer that is  
8 getting his 15 percent for writing. The top man you  
9 will never reach, because the big boys do not touch any-  
10 thing. You will never catch them with anything. We  
11 have raided headquarters and never got the top man or  
12 the one that is supposed to be part of the Mafia.

13 Q Do you say while these laws are still existing,  
14 the police should just ignore them and that is a way  
15 perhaps to force the public into repealing laws that  
16 permit it?

17 A I don't believe the public wants them enforced.  
18 The police do try to enforce it, and it takes a lot of  
19 manpower and a lot of stakeouts, and so forth, to catch  
20 them. I can't speak much for Philadelphia, but in  
21 Pittsburgh and in Harrisburg, places like that, the  
22 smaller metropolitan areas, you may catch a man with one  
23 or two number slips, but it isn't enough to even go to  
24 court with, because he is dumping them or calling them  
25 in somewhere and disposing of the slips.

1 Q Relaying them to 300 or 400 other people?

2 A Yes. You will still be catching the same little  
3 guys. I remember in 18 months catching the same guys  
4 12 or 15 times, and they weren't bad fellows at all,  
5 really. It was my job to arrest them, and I arrested  
6 them.

7 MR. COLEMAN: Thank you.

8 DR. ALLEN: Thank you, Commissioner  
9 Coleman. Miss Marshall?

10 BY MISS MARSHALL:

11 Q Mr. Schafer, would you tell us where you would draw  
12 the line in terms of legalization of gambling? I know  
13 you specifically refer to bingo and numbers as two forms.  
14 What about off-track betting?

15 A Off-track betting and sports betting. I see noth-  
16 ing wrong with sports betting. It is being done all the  
17 time.

18 Q Would you differentiate as one of our prior wit-  
19 nesses did between betting on professional sports events  
20 only, or would you include college sporting events, high  
21 school sporting events? Where would you draw the line?

22 A I think the real betting is doen on the professional  
23 teams, the baseball teams, and the professional football  
24 teams. I see nothing wrong with even betting on college  
25 teams. It is done now, because you see those slips. You

1 pick four out of ten, and you get 40 for 1 or something.  
2 You pick five, you get 50 for 1. That is very common.

3 I don't know whether the mob is behind it  
4 or not, because there are many individuals just running  
5 their own, picking the bets on their own. I see  
6 nothing wrong with sports betting, because your news-  
7 papers go along with it. They will tell you Muhammed  
8 Ali fights 6 to 2 or 3 to 1 that he is going to win.  
9 They put it right in. I read Jimmy the Greek Synder's  
10 column once in a while, and he quotes the odds on all of  
11 your sporting events.

12 Q Do you feel there might be perhaps undue influence  
13 placed on a teenager or a young college person if they  
14 were subject to the influence of having themselves being  
15 the object of betting?

16 A I don't think so, no more than they are today, be-  
17 cause with the mob, they still try to reach them and  
18 throw a game and keep the odds at a certain level and  
19 try to throw games. I think it might be more honest,  
20 more open.

21 Q You make reference on the last page of your state-  
22 ment as a word of caution to not overtax gambling. Where  
23 would you draw your level of taxation? At what point?

24 A Well, you would have to figure out exactly what the  
25 operation costs are and what percentage should come to

1 the State. That was done with liquor at one time where  
2 the state made so much money. It cost them so much for  
3 the enforcement, checking the licenses and checking  
4 whether they are selling to minors, and so forth.

5 To keep the odds high enough, they should  
6 be at least 600 to 1 as the payout. Now, once you start  
7 dropping below that, a person can start an illegal  
8 operation and pay on the same numbers 600 to 1 if the  
9 State is only paying 500 or 400. Once you go into that,  
10 illegal gambling would no longer be profitable in the  
11 field you are in.

12 Q Could you give us your best estimate, sir, on what  
13 percentage or--

14 A I would say 10 to 13 overall tax besides paying for  
15 your license. If the licenses cost \$1,000 and they are  
16 allocated so many to Philadelphia, because of population,  
17 so many to Pittsburgh, as they do with the liquor licenses.  
18 The liquor licenses are dispensed in this State that way,  
19 and you license the people and you have to post a bond,  
20 and so forth. You have your license. Then when you  
21 revoke a license, it is open to the next one that comes  
22 in. It runs, say, \$1,000 or \$1,500. Once you pay your  
23 license, I would say the overall tax of 10 to 13 percent  
24 would be readily available, because there would be no  
25 attorneys' fees and no payoffs.

1 Q When I started to ask you about percentages actually  
2 I was going to start to ask you another question, but  
3 thank you. I was going to ask you to what extent was  
4 illegal gambling contributing to the problem of police  
5 corruption in the State of Pennsylvania?

6 A Well, it has contributed to police corruption. If  
7 police are corrupt, it is due to gambling.

8 Q Entirely?

9 A I think more or less, yes, because they are not  
10 involved in that much else. Politicians can be involved  
11 in building buildings, and so forth, with payoffs, but  
12 not police.

13 Q Do you feel the licensing of persons in legalized  
14 gambling industries would lead possibly to licensing  
15 problems with public officials?

16 A I don't think so. There may be some favoritism,  
17 but this was done when they allocated the race tracks.  
18 That was just a little personal friendship and a little  
19 favoritism. Every company, every business, does that.

20 Q Have there been any problems or scandals, if you  
21 will, connected with the licensing of liquor stores in  
22 Pennsylvania or the granting of liquor licenses?

23 A I don't think so. Serving to minors is the biggest  
24 problem and staying open after hours.

25 Q But not in the actual granting of the license?

1 A I don't think so. An applicant has to be a reput-  
2 able person to begin with. I probably know cases, as  
3 other police officers, where the husband had served time,  
4 and his wife applied for the license. I don't think  
5 just because every man served time for bootlegging or  
6 something like that, that makes him a terrible person.

7 Q Would you feel the same way in the granting of a  
8 gambling license, for example, if the person had no  
9 other type of criminal record? Would you object to his  
10 being licensed?

11 A No. I think he is the one that should be in it.  
12 I think they would rather be in it legitimately than  
13 paying off to some hood up above.

14 MISS MARSHALL: Thank you.

15 DR. ALLEN: Mr. Farrell?

16 BY MR. FARRELL:

17 Q Just one question, Mr. Schafer. Do you think the  
18 Pennsylvania Crime Commission Report on Police Corruption  
19 adequately and accurately represents the true facts in  
20 Pennsylvania?

21 A You mean the book? There is only one that I saw in  
22 Philadelphia.

23 Q In Philadelphia and other cities.

24 A Well, there is one in the Harrisburg area, but I  
25 never really saw it.

1 Q They have had it in Carbondale, Johnstown, and  
2 Phoenixville.

3 A I just heard it on the news the other day. In fact,  
4 that was the day I came back from my trip. They reported  
5 they spent \$1,800,000 in publishing that book under  
6 their investigation and there may be charges against two  
7 policemen. This is what they said on the news. I don't  
8 believe what I read on it just because a fellow gets a  
9 free meal, or something. That is common. I have walked  
10 beats, and businessmen would refuse to take my money if  
11 I had a cup of coffee, or something. I don't think that  
12 is corruption. I think the corruption part was over-  
13 played for the City of Philadelphia. If they want to  
14 give \$1.8 million, I would guess some investigator would  
15 put plenty of people in jail, and maybe not just police-  
16 men, but we will put others in jail, too. I think there  
17 is a lot of wasted money in that investigation. Now,  
18 that is my opinion. I am not speaking for the Associa-  
19 tion on that. I am speaking for me.

20 MR. FARRELL: Thank you, sir.

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

22 Schafer.

23 (Witness excused.)

24 DR. ALLEN: Our next witness is John J.  
25 Harrington, national president of the Fraternal

Mr. Chairman:

I am Francis J. Schafer, Executive Director of the Pennsylvania Chiefs of Police Association since September, 1963.

Prior to then, I was with the Pittsburgh Police Department, retiring from there in 1963. The last eleven (11) years with Pittsburgh Police, I served as Assistant Superintendent of Police.

During my police career, I served for eighteen (18) months as a plainclothesman on the racket squad and became familiar with the various forms of betting.

I am also a retired Lieutenant Colonel of Military Police from the United States Army Reserves.

Before I begin my testimony, let me say that I am not too familiar with the Federal laws on gambling, but I am acquainted with our State laws, and acquainted with the many aspects of gambling.

The statements contained herein are my remarks, and I know that most members of our Association, if they were present, would express similar feelings.

For years I've been hearing people say that gambling couldn't exist if the crooked police and the corrupt politicians were not in league with the racketeers.

This may be so in a few instances, but you and I know that this generalization is not true.

In Pennsylvania, the average police officer is an honest and dedicated person, and most politicians are sincere people, wanting to serve their communities and do what is best for their fellow man.

As long as illegal gambling is so prevalent, there will always be the temptation of easy money, i. e., payoffs. To keep Honest People Honest, I have urged that the common types of gambling be legalized in our State.

I know that if you or any commission comes forward with this recommendation, some church people and the do-gooders would be shocked. Let's not kid ourselves, most people like to gamble, and the average person will gamble despite any laws that have been enacted.

Why is it that certain people are shocked when someone advocates legalizing gambling. Their cry is "protect the average family." If they are so concerned about the average person, they should lobby for better laws to get the violent criminals off the streets. I am shocked at the rate of crime increase, that more persons are being arrested today and greater numbers are being found guilty, yet there are less persons in confinement today than there were fifteen (15) or twenty (20) years ago.

Getting back to gambling: Bingo - many, many of our people enjoy playing bingo. Many of our older citizens enjoy a night out with bingo as their means of entertainment. What the hell is wrong with playing bingo? In Pennsylvania it is illegal, but the District Attorneys and the police turn their heads and have for years permitted bingos to be held by non-profit organizations. Law enforcement does raid bingos that are fixed or promoted by professionals - the mob.

Let's legalize Bingo and license this type of entertainment and continue to investigate the licensees, insuring that they are conducted properly and not financed by the underworld.

Numbers: Playing of numbers is a way of life, and is commonplace in our metropolitan areas. It is a game enjoyed by many whereby a person can place a bet of pennies to dollars, and if he picks the winning three digit number, he will

receive approximately \$6.00 for every cent wagered, or odds of 600 to 1. In areas where the heat is on, the odds will drop to 500 to 1, or even 450 to 1.

Many do not understand the costs involved in an illegal operation. When you play a number, the odds are 1600 to 1 and the payout is 600 to 1. What happens to the other 40%? Well, the writer gets about 15%, the pickup man gets a percentage (more in areas where the heat is on), payoff and attorney fees 10 to 13%. Where there is no payoff, this percentage is used for fines, court costs, etc. The "book" or top man has other employes to pay and he works on about a 2% margin. 2% isn't bad, if you have a big enough daily play.

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Thousands and thousands of people jam our racetracks to bet the horses.

Is there anything morally wrong for a person to place a bet on a horse in the event he can't get off from work to go to the track? According to the law, we have set up two standards; it is not against the law to play numbers but it is to book them; it is legal to place a bet on a horse at the track but not off-track. It is a small wonder that our children are confused by our standards!

In Pennsylvania we now have tracks open on Sunday. We have large scale gambling while the Pennsylvania Sunday Blue Laws prevent legitimate stores from making sales. I feel I'm a good Christian and believe in observing the Sabbath, but I'm getting confused by the contradiction in our laws.

To go further, many of the persons opposed to legalized gambling play the stock market. If anyone thinks that playing the market is anything else but gambling, he had better think again. I've been in the stock brokers offices and seen many people with what is termed "poker sweat." This is a nervous state in which people actually sweat when they gamble and are in over their heads.

Give some consideration to the hundreds of thousands of bets made on foot ball games, baseball games, basketball games, boxing matches, and the hundreds of other things that people bet on. In most cases, these are called friendly bets -- let's call it for what it is -- gambling! There's nothing friendly about a bet as the loser must pay off -- and pay off with money!

I could go on and on with examples but you need only go down to a street corner and watch the kids gambling -- pitching pennies, playing cards for pennies, etc.

Also, almost all persons sometimes in their lives have played penny ante, Michigan Rum, or some other little gambling game. And, how about all the friendly poker games in the private clubs. Can we condone all this friendly gambling and then try to draw a line as to what is legal and illegal; what is morally right and what is wrong.

Some states have already legalized state lotteries.

Actually, I believe this is the poorest form of legalized gambling. It is only legalized as a source of revenue and not as an "out" for the little bit of "gambling instinct" in almost everyone of us.

When people bet they like to pick their own number and not be handed the next number by a drug clerk. Also, is it morally right for a state to run a lottery when all other lotteries are illegal?

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Presently in our Pennsylvania Legislature there is a bill to permit slot machines in clubs. I would be for that, as long as they don't appear in Drug stores and Supermarkets, where kids can play.

Any legalized gambling can only be for adults. I would not want to see kids stealing to play slot machines or other gambling games.

I view legalized gambling in the same light as is done in the dispensing of beer and liquor. Do not involve the State as a "bookie" but rather an agency to issue gambling licenses. Liquor and beer licenses are issued according to population and the same can be done with permits to book numbers, horses, etc. I do not believe that it would require nearly as much policing at the state level as does beer and liquor. With proper licensing, local police would be in a better position to eliminate "illegal gambling."

A bookmaker is a respected person in the British Isles and there is no reason this couldn't be so in this State. Also, today, the Federal government sells gambling stamps, so there is no reason why licenses could not be issued at the State level in the same manner that beer and liquor licenses are issued.

It is anyone's guess as to the actual revenue from gambling but I believe if legalized gambling was properly administered, it would make a large dent in the revenue of organized crime. Let me quote from page 189 of "The Challenge of Crime in a Free Society."

"There is no accurate way of ascertaining organized crime's gross revenue from gambling in the United States. Estimates of the annual intake have varied from \$7 to \$50 billion. Legal betting at racetracks reaches a gross annual figure of almost \$5 billion, and most enforcement officials believe that illegal wagering on horse races, lotteries, and sporting events totals at least \$20 billion each year. Analysis of organized criminal betting operations indicates that the profit is as high as one-third

of gross revenue--or \$6 to \$7 billion each year. While the Commission cannot judge the accuracy of these figures, even the most conservative estimates place substantial capital in the hands of organized crime leaders."

Also, on page 188 of the same report, "Law enforcement officials agree almost unanimously that gambling is the greatest source of revenue for organized crime."

I contend that we can wage war on organized crime by legalizing betting and divert that source of revenue into other channels.

I further believe this would be a good source of revenue for the State to allocate to municipalities for police salaries. I have said before that the municipal police officer indirectly works for the State as most of his work is in enforcing the State Penal laws and the Vehicle Code enacted by the State Legislature and therefore the State should subsidize his salary.

Also, I believe that if put to a vote of the people, a proposal to legalize gambling would win approval as the great majority will admit that they -- gamble!

Many of us can think back to the Prohibition Era when the average person drank and "bootlegging" was as profitable business. Today, everyone gambles and organized crime reaps the profits. When prohibition was repealed, the bootleggers went out of business. Just recently, bootlegging is again becoming profitable as liquor is overtaxed. So, I am adding a word of caution -- legalize gambling but don't overtax it in order that illegal gambling will never again be a profitable business.

I sincerely ask that you give this your full consideration for:

1. As a good method of combating organized crime by eliminating the profit from illegal gambling, and
2. Providing an outlet for average person's gambling urge.
3. Providing monies to municipalities for police salaries.

1 Order of Police and former president of the Phila-  
2 delphia Fraternal Order of Police with whom I had  
3 the distinction of working on many occasions.

4 MR. HARRINGTON: Through some error in  
5 the mailing of the invitation to be here to speak,  
6 and because of the fact that I was traveling around,  
7 I do not have any prepared statement. My name is  
8 John J. Harrington. For six years I was president  
9 of the State of Pennsylvania Fraternal Order of  
10 Police. For eight years I was president of the  
11 Philadelphia Lodge of the Fraternal Order of Police,  
12 and for ten years I have been president of the  
13 National Lodge of the Fraternal Order of Police.

14 The Fraternal Order of Police is the  
15 largest organization of professional police officers  
16 in the country. It numbers 150,000 in members, and  
17 in its membership are chiefs of police on down to  
18 policemen and policewomen.

19 I have been a member of the Philadelphia  
20 Police Department, joining the department in 1940.  
21 I served in the detective division, and I served in  
22 the vice squad. I came here, as I said, without a  
23 prepared statement because of the facts that I gave  
24 you, but I can talk from experience and I can talk  
25 from the knowledge of talking to policemen all over

1 the country personally.

2 Gambling and drinking are two of the  
3 biggest businesses in this country today, and  
4 gambling laws are just about as unpopular as the  
5 drinking laws were back in the early 1920's, the  
6 Volstead Act. People who never drank were drink-  
7 ing in closets, and today, because you have numbers  
8 and because it is on the sly, there are people who  
9 are playing numbers just for the thrill of it being  
10 illegal.

11 Now, I think because of these laws being  
12 unpopular laws, I say that there would be no  
13 gambling if the people wouldn't take part in it.  
14 Because the people want gambling and because it is  
15 an illegal act, then it must be backed by somebody  
16 who has no respect for the law and order, and this  
17 is where organized crime comes into the act. These  
18 people wouldn't be interested in gambling if there  
19 wasn't a great profit in it, and they do protect  
20 this profit, and this is where the trouble comes in.  
21 The gambling laws are the hardest laws to enforce,  
22 and the record shows that they are just wasting  
23 police power and police time, because just in the  
24 City where you are sitting right now, last year,  
25 there was 3,000 arrests made by the police.

1 : 3,000 arrests takes in probably 200,000 police-  
2 working hours, and of the 3,000 arrests, there was  
3 only 250 convictions. Of the 250 convictions,  
4 there was only 3 sent to jail.

5 Now, the president of City Council has  
6 stated that it costs approximately \$40 million to  
7 try to control gambling just in the City of Phila-  
8 delphia. This means it costs about \$13-1/3 million  
9 to send one person to jail for gambling, so this is  
10 the proof that the people want it. It is an un-  
11 popular law, because although the police are spend-  
12 ing all these hours trying to get these people,  
13 nothing is being done about it.

14 Now, the answer comes back from some  
15 people that there is police corruption. Well, there  
16 wasn't any police corruption in the 3,000 cases that  
17 they brought in and only 3 going to jail. What it  
18 causes in the police department is a lack of in-  
19 terest in this type of work, because, as a policeman,  
20 and I did work in this type of business, you just  
21 feel you are wasting your time. Why do it? Why go  
22 through all this aggravation, subject to being  
23 arrested yourself for making a false move? Why go  
24 through this? Nobody is doing anything about it.  
25 When you bring them in, they are out before you

1 count the number slips.

2 Now, bingo is gambling, and chance books  
3 is gambling, and horse betting is gambling. What  
4 is the difference of betting a horse at the track  
5 or betting it if you are person that can't go to  
6 the track and betting it with a bookie? It's still  
7 the same contest, still the same horses, and you  
8 are betting for the same purpose.

9 I think the gambling laws that we want  
10 enforced and we speak about enforcing are only for  
11 one type of people. I think these gambling laws  
12 are for the low-income people, because if a man is  
13 well to do enough to gamble and wants to gamble  
14 big, within two hours he can be in Puerto Rico or  
15 he can be in Aruba or he can go to Las Vegas if he  
16 comes from the western part of the country, and he  
17 can bet. The sky is the limit. I have been to Las  
18 Vegas, and I have seen the stakes. They have oil  
19 people coming in there, and you can bet whatever  
20 you want to bet. You read in the paper where the  
21 Arabs just came over there and bet over a million  
22 dollars in one weekend.

23 I have traveled in 29 countries through-  
24 out the world, and I find it is very profitable to  
25 some countries to control the gambling, such as

1 Ireland. Ireland has a wonderful hospital system,  
2 and it is paid for by four Irish Sweepstakes, two  
3 run in Ireland and two run in England. My sugges-  
4 tion would be for the Federal Government to do this,  
5 so hospitals would be free for everyone, the rich  
6 and the poor. The little guy is only betting that  
7 nickel and dime on that number to try to win to  
8 have a few hours of happiness. That is all it  
9 means. That is where the nickel and dimes come in.  
10 When organized crime multiplies these by the mil-  
11 lions, this is where the trouble is. How do you  
12 stop the trouble? I say you control the gambling.  
13 Control it by Federal regulations, and on a Federal  
14 basis, on a State basis, do it the same as they did  
15 with the liquor. The Federal Government gets a  
16 percentage of taxation on liquor. The State Govern-  
17 ment gets their share on the taxation of liquor. I  
18 worked in a distillery, and I know it costs \$.27 to  
19 make a fifth of liquor. All the rest goes to taxes  
20 here and there. I believe this is needed today.  
21 You will never come back with a prohibition law  
22 today, because the Government and the people depend  
23 on this taxation to run the Government.

24 Here is another thing that could help. If  
25 you had controlled gambling both on the Federal and

1 State levels, you would provide money for public  
2 benefits, such as they do in Ireland with the  
3 hospitals. You can make your own choice what you  
4 want to do with it. You could provide legal jobs  
5 for people who are now working illegally, and  
6 working illegally, they are not paying taxes. You  
7 could provide jobs which would make taxpayers out  
8 of them. You would protect the bettors. You hear  
9 testimony about 800 to 1, 500 to 1, 600 to 1. When  
10 I was locking up numbers writers and horse race  
11 people, when a number came out and it was a number  
12 a lot of bettors hit, then they changed the number,  
13 so everybody gets cheated. This way it would con-  
14 trol gambling. You would protect the bettors.  
15 There wouldn't be any changing of the number.

16 If you really want to hurt organized crime,  
17 take the people away from them, and you will hurt  
18 them. It isn't the numbers that's hurting the  
19 people; it's the money that is coming from the  
20 numbers that is going into the different revenues  
21 and avenues that organized crime is hurting, so I  
22 say if you want to hurt organized crime, legalize  
23 gambling, all forms of gambling.

24 I think bingo and things like that create  
25 no harm to anyone. They are used for good purposes.

1 and if it wasn't for that, the people would be  
2 taxed or asked to contribute to other things. I  
3 believe people want it. Legalize it, and let the  
4 Government get the benefit from it and from the  
5 money using it in ways such as other countries use  
6 it. In Germany they have legalized gambling.  
7 Ireland has it, and England has it. We in the  
8 United States have legalized gambling, so you can't  
9 say this is right and this is wrong. When you bet  
10 on a horse, the only thing different you have are the  
11 bookies, and that is all.

12 DR. ALLEN: Thank you very much, Mr.  
13 Harrington.

14 BY DR. ALLEN:

15 Q During the period of your tenure as the president  
16 of Lodge No. 5 of the Fraternal Order of Police in  
17 Philadelphia, did you ever have occasion to recommend  
18 to the Police Department or to the District Attorney's  
19 Office, any of your membership, for prosecution for cor-  
20 ruption, police corruption, relative to gambling?

21 A Did I recommend? No, ma'am.

22 Q Do you know of any instances where there might have  
23 been this type of recommendation made?

24 A Only through this Crime Commission Report. That is  
25 the only thing I know of.

1 Q While in the lodge, if you found evidence of a  
2 fellow officer who was involved in corruption relative  
3 to police and relative to gambling, what measure did  
4 you take to handle the situation?

5 A Well, if a man was accused of gambling, and so  
6 forth, corruption and gambling, we didn't come to his  
7 aid, because when I was president, we only came to the  
8 aid of a policeman who got in trouble out of the proper  
9 performance of his duty, and we kept it at that level.

10 DR. ALLEN: Thank you very much.

11 Commissioner Coleman?

12 BY MR. COLEMAN:

13 Q Mr. Harrington, I know you have told us you have  
14 been a police officer and apparently arrested some people  
15 in this field. We have heard other witnesses this morn-  
16 ing talk about a change or fix of a number. How would  
17 you fix or change a number, assuming it came from the  
18 race track?

19 A It used to come from the United States Treasury,  
20 and they used to play the number from the United States  
21 Treasury. That number many, many times was changed.

22 Q Changed by whom and when?

23 A Well, it would be changed by the people controlling  
24 the numbers business, and that would come from the  
25 organized crime part of it. Today in most places in the

1 east it is taken from a mutuel handle at a racetrack.  
2 It would be very difficult, and even if it is something  
3 published with a wide spread, it would be very difficult  
4 to change it. Now, they have changed it several times  
5 that I know of, and it has caused a lot of trouble.  
6 People got cheated because they just couldn't pay off.

7 Now, if you had it organized, a legitimate  
8 betting parlor, they could carry insurance if they got  
9 hit too much, the insurance could take over. That is  
10 why I say the bettor would be protected, because he  
11 would be guaranteed on his bet. Today and in the past  
12 they have painted horses and put them in races and  
13 cheated that way. You have horses that come in, what  
14 they call the auto horses, from Canada. They come into  
15 this country, and you could bet your eyes on these  
16 horses. You took our biggest tool away from us, and when  
17 I say "you," that is figuratively speaking, when you took  
18 wiretapping away from us.

19 Q We didn't take it away from you.

20 A Figuratively speaking, because you will have people  
21 who will give a bookie four or five horses and the sum  
22 of money, and he won't write anything down. He will go  
23 to a phone and call them into the office. Now, where is  
24 that office? That is where the writing takes places.

25 We used to be able to locate that office, but now we

1 can't tap a phone, so we can't locate that office. How  
2 are you going to stop the gambling as it is? If you had  
3 controlled gambling at a Federal and State level and you  
4 had these legitimate parlors, the people themselves  
5 would correct the situation, because why would you play  
6 with some fly-by-night when you could go in there when  
7 you are sure you are not being cheated, and you are sure  
8 you are going to get paid off.

9                   It's sort of like a kid in a candy shop.  
10 When you have all the candy you want to eat, you don't  
11 eat so much.

12 Q     Suppose they gave credit?

13 A     Well, these are some of the regulations you would  
14 have to set down. We are not going to solve this whole  
15 thing and say how it should be formulated, and so forth,  
16 in a few minutes. This is going to take a lot of work.  
17 It is going to take a lot of mathematicians to set down  
18 the rules and regulations.

19                   MR. COLEMAN: Thank you, Mr. Harrington.  
20                   Mr. Ritchie?

21 BY MR. RITCHIE:

22 Q     Mr. Harrington, the Commission is very interested  
23 in law enforcement problems. We are spending a good  
24 deal of time and effort to insure we correctly under-  
25 stand the dilemma of law enforcement carrying out policies

1 that maybe have little or no public support. We have  
2 employed a consultant, Mr. Burden, whom I believe you  
3 know, to be particularly aware of, not the Commissioners  
4 level, but the person who is really at the brunt of the  
5 responsibility and who must carry out the policies.  
6 What I am interested in from you, Mr. Harrington, is  
7 regarding your membership. Assuming they all felt as  
8 you have expressed today, what support could any recom-  
9 mendations from this Commission have that are consistent  
10 with their views and what support could we expect from  
11 them?

12 A Well, I think all policemen would rather see gambling  
13 legalized, because it is always the easiest thing to do  
14 to say that it exists because a cop is being paid off,  
15 and that is an accepted fact. This is the answer. This  
16 is why there is gambling, and it is not so. You have  
17 many cases in small towns where it is almost impossible  
18 to enforce the gambling laws. Police would rather be  
19 without it, because in a small town you can only assign  
20 one or two policemen at the most to a vice squad. You  
21 can't walk up in uniform and step up to somebody that's  
22 going to play a number or a horse. They won't play it  
23 in front of you in uniform, so you have to dress like a  
24 working man. You may have to go down 5 o'clock, or so,  
25 whenever the trucks leave the depot, and you have to

1 associate with them. However, in a small department you  
2 may only have one man or two men. How can he go before  
3 people who know him? Everyone in town knows the five  
4 men in the police department, so you are burned out be-  
5 fore you even get to working.

6 In Valley Forge and Phoenixville they  
7 have a gambler, so the gambler uses the plea bargain-  
8 ing. He says, "I will give you a bigger man if you let  
9 me go." They say, "Okay. You have immunity." He says,  
10 "I pay the chief." Now, the chief, who I know personally,  
11 doesn't have two cents to rub against one another, and  
12 he is innocent, and the court found him innocent, but  
13 they found him guilty of malfeasance in office, because  
14 while he was chief, there were numbers in his town, and  
15 for this reason he was demoted.

16 Q Again, let's get back to the fact that whatever the  
17 Commission recommends is only a recommendation.

18 A I understand.

19 Q It's a political process at the Federal level with  
20 Congress and at each State level regarding their particu-  
21 lar legislature reacting to those recommendations. My  
22 question was: Assuming that your organization agreed  
23 with the recommendations of the Commission, what support  
24 could those recommendations receive from your organiza-  
25 tion?

1 A We would support it 100 percent, because policemen  
2 today, and I do talk to them all over the country, would  
3 rather have legalized gambling and take that burden off  
4 the police and the stink that comes with it.

5 Q Have you ever had a formal poll of your membership  
6 to determine just exactly how many feel that way?

7 A No.

8 Q Would that be something that would be possible that  
9 we might arrange to have organized?

10 A Well, Mr. Burden will be at our national conference,  
11 which is going to take place in August in Nashville,  
12 Tennessee, and there will be approximately 5,000 dele-  
13 gates there. I could put it right to them, because they  
14 are authorized to speak for the people they represent.

15 Q I wonder if we might explore that with Mr. Burden  
16 to see whether or not it wouldn't be possible to perhaps  
17 construct some type of ballot and have a brief explana-  
18 tion, if that would serve any purpose? We don't want  
19 to interfere, but if there are X number of members of  
20 your organization who are involved in law enforcement  
21 and they feel very strongly, that is a voice that I am  
22 confident the State legislators and the members of Con-  
23 gress would not ignore.

24 A We have a newsletter that goes to every one of our  
25 members, and we would put such a type of ballot in that

1 newsletter with an explanation of what it is and tell  
2 them to return it to the National Secretary's Office,  
3 and he could tally them up. These could be taken  
4 wherever we could be in touch with Mr. Burden, and we  
5 could find out where would be the most valuable place  
6 to take them or how they would want it to be handled.

7 Q I would then like, as a matter of record, to  
8 generate that type of request.

9 A As a police officer, I think you would be giving a  
10 real service to the people if you would legalize  
11 gambling, because it would release hundreds and hundreds  
12 of policemen to do police work instead of chasing people  
13 up and down the street for writing a two cent number,  
14 and five cent number, and so forth. Today people are  
15 concerned with the robberies, the rapes, the murderers,  
16 the gang fighting, and so forth. You would release all  
17 these hundreds of policemen to cope with these sorts of  
18 situations rather than spending hours and hours and  
19 hours and then the case gets thrown out because you  
20 didn't say, "May I?"

21 DR. ALLEN: Thank you very much, Mr.  
22 Harrington. It was a pleasure to have you testify  
23 before the Commission.

24 (Witness excused.)

25 DR. ALLEN: The meeting of the Commission

1 on the Review of the National Policy Toward  
2 Gambling is adjourned.

3 -----

4 (Witness excused.)

5 (Whereupon this public hearing was  
6 concluded.)

7 -----

8 A submitted statement of John J. Hick-  
9 ton, District Attorney of Allegheny County, Penn-  
10 sylvania.

11 Mr. Chairman, I am John J. Hickton,  
12 District Attorney of Allegheny County, Pennsylvania.  
13 I thank you for the privilege and I welcome the  
14 opportunity to address this Commission.

15 I cannot speak to you about the effect  
16 a revision of the gambling laws would have on the  
17 national level or in the Commonwealth of Pennsyl-  
18 vania. I cannot speak to you about the extent of  
19 the illegal gambling operations in the State or  
20 in the county. Nor can I speak to you about the  
21 relationship of organized crime vis-a-vis illegal  
22 gambling. I believe these areas of discussions  
23 are more in the province of the various Federal,  
24 State and local organized crime investigative  
25 bodies. I can, however, authoritatively speak to

1 you about the prosecutorial situation as it present-  
2 ly exists in Allegheny County.

3 The problem is simple to diagnose but  
4 difficult to remedy. There are too many cases and  
5 too few qualified personnel to prosecute them. For  
6 the year 1974, approximately 9,000 cases were pros-  
7 ecuted. A breakdown of criminal complaints filed  
8 in the county for that year reveals that 21.9 per-  
9 cent of the complaints concerned crimes against the  
10 person, 26.6 percent involved crimes against prop-  
11 erty, 19.0 percent of the complaints filed repre-  
12 sented narcotics violations, 2.7 percent involved  
13 violations of the Uniform Firearms Act, and 12.8  
14 percent were complaints under the Motor Vehicle  
15 Code. In this last category, 80.0 percent of the  
16 cases concerned the operating of a motor vehicle  
17 while intoxicated. Thus, 83.0 percent of the com-  
18 plaints filed in the county involved crimes of a  
19 violent or serious nature. During this same period,  
20 4.3 percent of the complaints represented violations  
21 of the State's gambling laws.

22 To prosecute these cases, I have a staff  
23 of 35 attorneys of which only 8 are full-time prose-  
24 cutors. I remind this Commission that in the area  
25 of criminal law, the emphasis is solely upon the

1 rights of the accused and I would like to point  
2 out that, appallingly, in Allegheny County the  
3 prosecuting attorney invariably has but 5 to 10  
4 minutes to prepare his case prior to trial.

5 To redress this imbalance which favors  
6 the rights of the accused over the rights of the  
7 victim and to improve upon the quality of represen-  
8 tation and the conviction rate, I have established  
9 a policy on the prosecution of crimes. The first  
10 priority must be given to those crimes of a violent  
11 or serious nature. The citizens of Allegheny  
12 County must be protected from this type of crime.  
13 Secondly, to enhance the quality of the representa-  
14 tion the victim received in Court, I have reorgan-  
15 ized my attorneys into specialized prosecution  
16 squads consisting of Homicide, Rape and Child  
17 Abuse, Consumer Fraud and Narcotics. These squads  
18 correspond to the areas where, I believe, the need  
19 is the greatest.

20 I would also point out to this Commis-  
21 sion that, upon taking office, I reduced the size  
22 of my detective force by sixteen due to evidence of  
23 graft and corruption resulting from protection  
24 bought by the illegal gambling operatives in the  
25 county. At present, I have a compliment of 23

1 experienced detectives which I have assigned to  
2 the aforementioned squads in the interest of im-  
3 proving the preparation of these cases for trial.

4 Now, I would like to devote a few words  
5 to the gambling laws in the Commonwealth enacted  
6 by the Act of 1972, December 6, P.L. \_\_\_\_\_, No.  
7 334, §1, effective January 6, 1973; 18 C.P.S.A.  
8 5512, 5513 and 5514. These offenses are denominated  
9 a misdemeanor of the first degree and carry a maxi-  
10 mum penalty of a fine of \$10,000 and/or five years  
11 imprisonment. Many states, such as Massachusetts,  
12 on the other hand, make the offense a felony thereby  
13 imposing a more severe sanction. The Pennsylvania  
14 statutes are broadly drawn and currently encompass  
15 the innocuous practice known as "bingo." Presently  
16 before the state legislature is Senate Bill 131  
17 which, if passed, would reclassify the gambling  
18 statutes as misdemeanors of the second degree,  
19 thereby reducing the maximum allowable sentence to  
20 a fine of \$5,000 and/or two years imprisonment.  
21 Also, Senate Bill 559, if passed, would legally  
22 permit the conduct of "bingo."

23 Lastly, a review of the dispositions  
24 of gambling offenses indicates that, invariably,  
25 the offender is nominally fined, accompanied by

1 either probation or a suspended sentence.

2 Faced with all these facts, I have  
3 neither encouraged nor discouraged the enforcement  
4 of the gambling statutes. I have, however, at-  
5 tempted to deal realistically with the primary  
6 problems plaguing criminal prosecution in Allegheny  
7 County.

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Reported by:

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Linda Zwanetsky  
Certified Shorthand  
Reporter

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