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Articles

COLLEGE AND AMATEUR SPORTS GAMBLING: GAMBLING AWAY OUR YOUTH?*

JOHN WARREN KINDT** & THOMAS ASMAR***

I. Introduction

In 1998, United States Senator Bill Bradley, a former NBA great, exemplified the prevailing Congressional sentiment regarding sports betting:

I am not prepared to risk the values that sports instill in youth just to add a few more dollars to state coffers . . . . State-sanctioned sports betting conveys the message that sports are more about money than personal achievement and sportsmanship . . . . [S]ports betting threatens the integrity of and public confidence in professional and amateur team sports, converting sports from wholesome athletic entertainment into a vehicle for gambling . . . . [S]ports gambling raises people’s suspicions about point-shaving and game-fixing.¹

The socio-economic costs of organized gambling include, but are not limited to, new gambling addictions, bankruptcies, crime and corruption. These costs outweigh any benefits of legalized gambling. Historically, the consequences of legalized betting on college and amateur sports were that it: “threatens the integrity of sports, . . . puts student athletes in a vulnerable position, . . . [serves] as gateway behavior for adolescent gamblers, and [it can

¹ Due to the rapidly developing issues, it was necessary to utilize current periodicals. The editors attempted to delete the publications that were overly influenced by the gambling industry. Steve Forsythe provided valuable assistance editing and cite-checking this analysis.

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devastate] individuals and careers." \(^2\) Furthermore, the American Academy of Pediatrics estimated that the "first gambling" experience for over one million pathological teenage gamblers involved sports.\(^3\) Much of the American public during the 1990s was unaware that sports gambling was still illegal because point spreads of games were published in the media.\(^4\) Additionally, United States Senators Sam Brownback and Patrick Leahy noted that "[t]here have been more point-shaving scandals on our colleges and universities in the 1990s than in every other decade before it combined, . . . [and these] scandals are a direct result of an increase in legal gambling on college sports."\(^5\)

At the end of the Twentieth Century, sports gambling was illegal in every state except Nevada, where wagers could be placed through casino sports books, and Oregon, where wagers could be made through a state lottery game based on the National Football League. The state of the law on gambling in college and amateur sports sent a mixed signal to the public because only one state, Nevada, permitted such gambling, while the other states did not. As a result, governmental decision-makers recognized that gambling on college and amateur sporting events should be made illegal in all states, rather than being legal in only one state. This present analysis utilizes the meta-language model of the McDougal/Lasswell methodology of policy-oriented jurisprudence and confirms this conclusion.\(^6\)

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2. Id. at 3-10.
3. "Dear Colleague" Letter from United States Senators Sam Brownback and Patrick Leahy, to members of the United States Senate (Jan. 18, 2000) [hereinafter Letter of Senators Brownback & Leahy]; see also Gambling on College Sports, Before the U.S. Senate Com. Comm., 106th Cong. 5 (2000) (testimony of Dr. Charles T. Wethington Jr., President of University of Kentucky and Chair of National Collegiate Athletic Association Executive Committee) [hereinafter Wethington Testimony].
4. See NGISC Final Report, supra note 1, at 3-10.
5. Letter of Senators Brownback & Leahy, supra note 3.
6. This particular analysis is summary in scope, but it was conceived within the penumbra of the McDougal/Lasswell model for decision-making. In the areas of legal and government policy, which subsume strategic socio-economic and business concerns, the classic decision-making models were formulated by the post legal realists, in particular, Professor Myres McDougal and Professor Harold Lasswell who postulated a conceptual framework for legal decision-making in a landmark article directed toward legal educators and law professors. See Harold D. Lasswell & Myres S. McDougal, Legal Education and Public Policy: Professional Training in the Public Interest, 52 YALE L.J. 204 (1943); see also John W. Kindt, An Analysis of Legal Education and Business Education Within the Context of A J.D./MBA Programme, 31 J. LEGAL EDUC. 512, 517-18 (1981); John W. Kindt, An Analysis Of Legal Education and Business Education Within The Context Of A J.D./MBA Programme, 13 L. TEACHER 12, 14-16 (1979); Harold D. Lasswell & Myres S. McDougal, Criteria for a Theory about Law, 44 S. CALIF. L. REV. 362 (1971); Myres S. McDougal, Jurisprudence for a Free Society, 1 GA. L. REV. 1 (1966). The decision-making concepts which McDougal
II. Delimitation of Problems

A. The ABCs of Legalized Gambling: Addictions, Bankruptcies, Crime and Corruption

A poll conducted in 1974 reported that 61% of the American population participated in gambling, while a Gallup poll conducted in 1989 reported that the figure had grown to 81% and that 31% of adults gambled weekly.7 Henry Lesieur, one of the leading American gambling researchers, while chair of the criminal justice department at Illinois State University, stated, “I'm sure that [the percentage of the U.S. population that gambles] ... is at least 85% [as of 1995]; gambling is growing at a phenomenal rate in the United States.”8 In further testifying to the growth of gambling, William Jahoda, a participant in the witness protection program, “who for nearly 10 years ran a $20 million a year illegal sports-betting operation for Chicago mob don Ernest Rocco Infelice,” stated, “It’s about time. What’s taken you so long? . . . You see gambling on every campus. It is an epidemic. It really has been out of control.”9

In 1997, the socio-economic costs of gambling were at least $80 billion per year with 4.4 million pathological gamblers and eleven million problem gamblers.10 These socio-economic costs, or “the ABCs of gambling,” far outweighed the benefits of legalized gam-

8. See Layden, supra note 7, at 71 (quoting Henry Lesieur).
9. See id. at 70 (noting remarks by William Jehada)
bling.11 “The ABCs of gambling” were delimited as the costs of gambling addictions, bankruptcies, crime and corruption.12

In 1995, Associate Professor Howard J. Shaffer of the Harvard Division on Addictions reported that “[g]ambling is an addictive behavior, make no mistake about it.”13 Critics of casinos also argued that casinos were tempted to market to pathological gamblers and problem gamblers, who accounted for 27% to 55% of casino revenues.14 Furthermore, the annual “bankruptcy costs” due to legalized gambling for new pathological gamblers were reported to be at least $3 billion accompanied by 105,000 new bankruptcy filings per year.15 Similarly, the annual bankruptcy costs for new problem gamblers were at least $1 billion with 30,000 new bankruptcy filings per year.16 The annual crime costs due to legalized gambling for new pathological gamblers were conservatively estimated at $11.4 billion per year.17

The costs associated with legalized gambling can be likened to the costs associated with America’s drug abuse problem. “The ABCs of legalized gambling” cost an estimated $80 billion per year compared to the cost of drug abuse, which totals $70 billion per year.18 Both legalized gambling and drug abuse share the costs of addictions, crime and corruption; legalized gambling, however, adds the cost of bankruptcies.19 Gambling addicts can lose everything in a matter of one night.20 This problem increased with the rising popularity of Internet gambling, which maximized the “acceptability” and “accessibility” of gambling.21

11. See Kindt, supra note 10.
12. See id.
13. Ford Turner, Neurochemicals Blamed for Compulsive Gambling, 8 COMPELLIVE GAMBLING 1, 1 (cited in article in the Union-News (Springfield, Mass.), May 10, 1995, (emphasis added)).
15. See SMR Research Corp., The Personal Bankruptcy Crisis 123-24 (1997); see also Kindt, supra note 10.
16. See Kindt, supra note 10.
19. See Kindt, supra note 10.
20. See id.
21. See discussion infra Part V.H.
gambling maximizes the acceptability of gambling.\textsuperscript{22} Similarly, the accessibility of gambling is maximized when gambling activities become readily available to the public.\textsuperscript{23}

B. National Gambling Impact Study Commission Report

In 1999, the National Gambling Impact Study Commission ("1999 U.S. Gambling Commission" or "NGISC"), with the bipartisan support of Congress, concluded its two-year study on the social and economic implications of legalized gambling.\textsuperscript{24} In its study, the Commission made a number of factual findings.\textsuperscript{25}

First, the Commission found that many Americans were unaware that the majority of sports wagering in America was illegal.\textsuperscript{26} The Commission suggested the reason was that the "Las Vegas 'line,' or point spread, is published in most of the [forty-eight] states where sports wagering is illegal."\textsuperscript{27} Second, the Commission found "sports wagering does not contribute to local economies or produce many jobs."\textsuperscript{28} Sports wagering was different from casinos, which created incentives, because typically a bettor would use a single sports book agent.\textsuperscript{29} Third, the Commission found that sports wagering had significant social costs.\textsuperscript{30} Fourth, the Commission concluded that "sports wagering is widespread on America's college campuses . . . [and] students who gamble on sports can be at risk for gambling problems later in life."\textsuperscript{31} The Commission found that "sports wagering can act as a gateway to other forms of gambling."\textsuperscript{32} This evidence strongly suggested that sports gambling at the college and amateur levels should be uniformly illegal.

Consequently, the Commission recommended a ban on all legalized gambling on college and amateur sports based on its con-


\textsuperscript{23} See id.

\textsuperscript{24} See NGISC Final Report, supra note 1, at introduction (Letter from National Gambling Impact Study Commission to the President, Congress, Governors, and Tribal Leaders (June 18, 1999)).

\textsuperscript{25} See id. at 3-10.

\textsuperscript{26} See id.

\textsuperscript{27} See id.

\textsuperscript{28} See id.

\textsuperscript{29} See NGISC Final Report, supra note 1, at introduction (Letter from National Gambling Impact Study Commission to the President, Congress, Governors, and Tribal Leaders (June 18, 1999)).

\textsuperscript{30} See id. at 3-10.

\textsuperscript{31} See id.

\textsuperscript{32} See id.
clusions. Specifically, the Commission concluded that sports gambling has the following social costs: "[1] [it] threatens the integrity of sports, [2] it puts student athletes in a vulnerable position, [3] it can serve as gateway behavior for adolescent gamblers and [4] it can devastate individuals and careers."[34]

C. University Studies

In 1991, Henry Lesieur conducted a study which examined the extent of gambling by college students.[35] The study surveyed six schools in five different states.[36] Lesieur found that twenty-three percent of the students engaged in illegal gambling activities at least once a week.[37]

In 1999, the University of Michigan Department of Athletics conducted a study of just "student athletes" to determine: "(1) the types of gambling activities in which student athletes engage; and (2) the extent to which student athletes participate in these gambling activities."[38] The University of Michigan received 758 surveys from 3,000 surveys sent to Division I football players, Division I men's basketball players and Division I women's basketball players.[39] The surveys inquired into "(1) general gambling activities; (2) sports related gambling with friends; (3) gambling with bookmakers and other organized gambling activities; and (4) demographic and other general information about the respondent."[40]

The study confirmed that sports gambling by college student athletes constituted a major problem. First, "[n]early seventy-two percent of all student athletes . . . have gambled in some manner while attending college."[41] Second, "over 45% of male [student] athletes reported gambling on sports since attending college."[42]

Third, "[o]ver 5% of male student athletes . . . [had] wagered on a

33. See NGISC Final Report, supra note 1, at 3-18.
34. See id. at 3-10.
35. See Layden, supra note 7, at 71.
36. See id.
37. See id.
38. MICHAEL E. CROSS & ANN G. VOLLANO, THE EXTENT AND NATURE OF GAMBLING AMONG COLLEGE STUDENT ATHLETES 5 (1999); see NGISC Final Report, supra note 1, at 3-10; see also College Athletes Admit to Gambling: Survey Also Finds Point Shaving; HONOLULU ADVERTISER, Jan. 12, 1999, at D1 [hereinafter Athletes Admit to Gambling].
39. See Cross & Vollano, supra note 38, at 13; see also Athletes Admit to Gambling, supra note 38, at D1.
40. Cross & Vollano, supra note 38, at 12.
41. See id. at 16.
42. See id. at 24.
game in which they participated, provided inside information for gambling purposes or fixed a game in which they participated." The mean amount of money wagered on a single sports bet through a bookmaker was $57.25. Student athletes who gambled on sports with bookmakers were wagering an average of $225 per month. Researchers Mike Cross and Ann Vollano believe that these figures are understated because "[t]he nature of the topic may have caused some individuals to not return the survey due to perceived threats to their athletic eligibility." The study also contained a number of recommendations to solve the student athlete gambling problem. First, the study noted the need for the further education of students, particularly athletes, with regard to the dangers of gambling. Second, the study recommended "further education of coaches and administrators about the prevalence of gambling by student athletes." Third, the study called for "a high level of awareness and intolerance towards [student] gambling . . . including forfeiture of eligibility."

The results of the University of Michigan study were consistent with a 1996 study conducted by the University of Cincinnati. The University of Cincinnati received 648 replies to surveys sent to 2,000 male Division I basketball and football players. The study found that 26% of male student athletes reported gambling on sporting events, 4% of student athletes reported gambling on a game in which they played and approximately 1% accepted money for playing poorly. These university studies, although extremely limited in number, were conclusive as to the risks and dangers posed by pervasive student athlete gambling.

III. CLARIFICATION OF GOALS

A. Overall Goals in Organized Gambling Issues

The overall strategic governmental goals in gambling issues should be to conform with the common-law principle of maximizing "the public health, safety, and welfare." In this context, the ma-

43. See id. at 25.
44. Id. at 22.
45. See CROSS & VOLLANO, supra note 38, at 22.
46. Athletes Admit to Gambling, supra note 38, at D1.
47. See CROSS & VOLLANO, supra note 38, at 27.
48. Id.
49. Id.
50. Athletes Admit to Gambling, supra note 38, at D5.
51. See id.
52. See id.
goals for governmental authorities and decision-makers are as follows:

a. minimize the social impacts of pathological (addicted) gamblers;
b. improve the public’s overall economic well-being (particularly the poor, the elderly, and the disadvantaged), and encourage business/economic development;
c. repress and punish criminal activities;
d. promote ethical governmental practices in decision-making;
e. foster a first-rate educational system and an educated public; and
f. maximize societal quality of life.

Governmental decision-makers committed to these goals often recognized, too late, that the legalizing of gambling activities was adverse to accomplishing these policy goals.

B. Secondary Goals in Organized Gambling Issues

The secondary goals involved in gambling issues and of importance to governmental authorities are as follows:

a. taxes — minimize the taxes necessary to achieve societal-governmental goals;
b. jobs — create new jobs and economic wealth throughout the economy; and
c. economic development — foster net new regional and/or strategic economic activity and not just a “sterile transfer of wealth.”

Legalized sports gambling does not accomplish any of these goals. In 1999, approximately $2.3 billion was wagered in Nevada sports books. Casinos retained $99 million, or approximately 3.5% of the total amount wagered on sports, compared to total casino revenues of $10.1 billion in 1999. An oddsmaker at Las Vegas Sports Consultants estimated that 40% of the betting was on college

55. See Arnold, supra note 54.
sports, amounting to $39.6 million. The State of Nevada received an average of 8% of the amounts lost in tax revenue. College sports wagering, therefore, generated only $7.92 million in tax revenue. Steve DuCharme, chairman of the Nevada Gaming Control Board, admitted that the money kept by casinos on sports gambling was "very small" compared to other forms of gambling. A 1999 Gallup survey reported that 57% of adults opposed legalized sports betting as a way to raise state revenues. The 1999 U.S. Gambling Commission, which included Nevada commissioners, concluded that gambling through sports books did "not contribute to local economies or produce many jobs." If sports gambling were eliminated, it would not result in a serious threat to the Nevada economy.

C. Goals Recommended by the National Gambling Impact Study Commission

The 1999 U.S. Gambling Commission made a number of recommendations related to sports gambling based on its two-year study of the social and economic impacts of gambling in the United States. Most notably, the Commission recommended that "betting on college and amateur athletic events that is currently legal be banned altogether." The Commission also recommended a ban on "aggressive gambling strategies, especially those that target people in impoverished neighborhoods or youth anywhere." This ban should also extend to published point-spreads in the media because these point-spreads contributed to the popularity of betting on college sports. The Commission's findings included the observation that "sports gambling is popular among adolescents and may act as a gateway to other forms of gambling." Therefore, the Commission recommended that educational institutions and gov-

56. See id.
58. See Wethington Testimony, supra note 3.
59. See Press Release, Gallup Poll, Gambling in America, Social Audit (June 17, 1999) [hereinafter Gallup Poll].
60. NGISC Final Report, supra note 1, at 3-10.
61. See NAT'L GAMBLING IMPACT STUDY COMMISSION, EXECUTIVE SUMMARY, at 29-46 [June 1999] [hereinafter NGISC EXECUTIVE SUMMARY].
62. Id. at 30.
63. Id.
64. See NGISC Final Report, supra note 1, at 3-10.
65. NGISC EXECUTIVE SUMMARY, supra note 61, at 31.
ernments “fund educational and prevention programs to help the public recognize that almost all sports gambling is illegal and can have serious consequences.”

IV. HISTORICAL BACKGROUND

A. The Strategic Historical Implications of Organized Gambling Activities

Historically, government-sanctioned gambling activities have resulted in socio-economic costs that outweighed the benefits. The benefits of legalized gambling included: (1) mega-profits to licensed organized gambling owners, (2) tax revenues and (3) jobs directed toward gambling locations. Gambling activities essentially constituted a “sterile transfer of wealth” that not only replaced, but also hindered genuine economic growth.

Nobel Prize winning economist Paul Samuelson summarized: [Gambling] involves simply sterile transfers of money or goods between individuals, creating no new money or goods. Although it creates no output, gambling does nevertheless absorb time and resources. When pursued beyond the limits of recreation, where the main purpose after all is to “kill” time, gambling subtracts from national income.

While the introduction of gambling-oriented dollars into a local economy may have a multiplier effect, by the 1990s there existed a growing body of evidence that in most economic scenarios the gambling multiplier was less than the lost multiplier associated with lost consumer dollars.

Accordingly, governments have experimented with legalized gambling activities throughout history, which sometimes are referenced as “waves” of gambling. As the public becomes re-educated to the socio-economic negatives, however, governments have invari-

66. Id.
67. See Kindt, supra note 22, at 567, 581; see also Samuelson, supra note 53, at 425.
68. Samuelson, supra note 53, at 425.
70. See generally John W. Kindt, The Economic Impacts of Legalized Gambling Activities, 43 DRAKE L. REV. 51 (1994).
ably re-criminalized and suppressed gambling activities. With shorter institutional memories, governmental organizations are apparently periodically misled into sanctioning various forms of gambling—often prompted by the lure of “painless” governmental revenues without additional taxation. Within a period of years, however, governmental authorities usually relearn the painful socio-economic lessons already known by economic historians. To paraphrase Georg Hegel, “those who forget the economic lessons of history, are condemned to relive them.”

B. The History of Legalized Sports Gambling

The Professional and Amateur Sports Protection Act of 1992 (“Sports Protection Act”) was enacted to regulate sports gambling. The Sports Protection Act prohibited a government entity or a person from operating a wagering scheme based on competitive games in which amateur or professional athletes participated. Section 3702 of the Sports Protection Act provided:

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

The Sports Protection Act sent conflicting messages to the public because it allowed betting on college sports in some localities, but not in others. Prior to enactment of this federal statute in 1992, states were responsible for regulating sports gambling, and the four states, which had pre-existing statutes allowing sports gambling, were exempted from the Sports Protection Act. Sports wagering, therefore, was legal in these four states, but only Nevada and Oregon offered it. Nevada offered sports wagering through casino sports books, while Oregon ran a state lottery game based on National Football League games. Delaware and Montana enacted stat-

utes prior to 1992 that provided for sports wagering, but as the Twenty-first Century began, neither state offered sports wagering.

On April 3, 2000, United States Senators John McCain, Sam Brownback and Patrick Leahy introduced a Senate bill to remedy these loopholes. The Senate bill was entitled "The High School and College Gambling Prohibition Act." This legislation prohibited all legalized gambling on high school, college, and amateur sports including the Summer and Winter Olympics. The bill also was designed to close the loophole that allowed for wagering on college sports in Nevada by outlawing such gambling in all states.

C. The History of Illegal Sports Gambling Over the Internet

The Wire Act of 1961 ("Wire Act") was traditionally used to regulate illegal sports gambling over the Internet. The Wire Act prohibited gambling businesses from using wire communications to transmit bets or wagers, as well as information that assisted in the placing of bets or wagers across either state or national borders. However, supporters of Internet gambling interests argued that the Wire Act was inapplicable to prosecute individuals who used the Internet to place illegal sports bets.

Some courts interpreted the Wire Act to require that the defendant: (1) be in the business of betting or wagering, and (2) knowingly use a wire communications facility to transmit information assisting in the placing of bets or wagers. The first requirement provided a loophole to bettors when in United States v. Baborian, a court held that "Congress did not contemplate prohibiting the activities of mere bettors . . . ." Rather, "Congress intended the business of gambling to mean bookmaking, i.e., the taking and laying off of bets, and not mere betting." Furthermore, the Wire Act was arguably an ineffective tool for prosecuting


76. See id.
79. Id. at 328-29.
80. Id. at 328.

D. The History of Legalized Sports Wagering in the United States

The history of legalized sports wagering in the United States is marked by a series of efforts to regulate and prohibit such activities, which have been met with varying degrees of success. The Wire Act of 1961 was one of the early attempts to curb illegal sports betting.

The act was passed as a response to the growing popularity of sports betting and the perceived threat it posed to the integrity of sporting events. However, the act proved to be ineffective, as it was difficult to enforce and did little to curb the proliferation of illegal sports betting.

In the 1980s, some jurisdictions began to consider legalizing sports betting as a means of generating revenue and promoting economic development. This led to the development of the plush casinos and sports books in Las Vegas, which became the epicenter of illegal sports betting.

In the 1990s, the focus shifted to the Internet, as betting sites and online bookmakers began to flourish. However, the Wire Act remained a legal obstacle, and efforts to legalize sports betting online continued to face opposition.

In recent years, there has been a growing movement to legalize sports betting at the federal level. With the passage of the 2018 First Amendment Decision and the legalization of sports betting in several states, the landscape of sports betting has changed significantly.
operators of Internet gambling sites. Since its inception in 1961, only a few operators have been successfully prosecuted under the Wire Act.81

To address this problem, on March 23, 1999, United States Senators Jon Kyl and Richard Bryan introduced the “Internet Gambling Prohibition Act of 1999.”82 The proposed bill made it unlawful for a person engaged in a gambling business to utilize the Internet or any other interactive computer service as a means to place, receive, or otherwise make a bet or wager, or to send, receive, or invite information assisting in the placing of a bet or wager.83 This bill covered those individuals engaged in the act of mere betting and attempted to close the loophole found in the Wire Act.

D. Private Regulations

Throughout the latter half of the Twentieth Century, professional and amateur sports organizations established strict regulations concerning sports wagering. Major League Baseball, the National Football League (“NFL”) and the National Basketball Association maintained rules stating that any coach or athlete betting on their own sport was grounds for dismissal.84 Each professional league also provided players with referral services for treatment of problem and pathological gambling. In 1998, the Executive Vice President of the NFL, commented, “[s]ports gambling breeds corruption ... and undermines the values [the] games represent.”85 He added that the NFL did “not want [its] games or ... players used as gambling bait.”86 Similarly, the National Collegiate Athletic Association (“NCAA”) also prohibited “university athletics department members, athletics conference office staff, and student athletes from engaging in wagering activities related to intercollegiate or professional sporting events.”87

81. See Mark Hayes, Leagues Hold the Line on Anti-Gambling Bill, USA TODAY, July 20, 2000, at B2.
83. See id.
84. See NGISC FINAL REPORT, supra note 1, at 3-11; see also Hearing Before the Senate Subcomm. on Technology, Terrorism & Governmental Information, 105th Cong. (1997) (testimony of Jeff Pash, Vice-President, NFL) (noting NFL's strict gambling policies).
85. Steven Crist, All Bets Are Off, SPORTS ILLUS., Jan. 26, 1998, at 82, 86.
86. Id.
87. NGISC FINAL REPORT, supra note 1, at 3-11; see also NCAA MANUAL § 10.3 (2001) (stating same); Letter from Cedric Dempsey, Executive Director of the NCAA, to Commissioner Leo McCarthy, NGISC (Oct. 16, 1997) (on file with the NGISC).
V. TRENDS AND CONDITIONING FACTORS

A. Betting on Sports by Teenagers

On average, the percentages of pathological and problem adolescent gamblers consistently doubled those of the adult population.88 The final report of the 1999 U.S. Gambling Commission stated that sports gambling frequently served "as a gateway to other forms of gambling."89 A June 1999 Gallup Poll found that "betting on college sports was twice as prevalent among teenagers (18%) as adults (9%)."90 Calling gambling "the addiction of the 1990s," the American Academy of Pediatrics estimated that there were more than one million teenagers "addicted to gambling," whose first experience with gambling involved betting on sports.91 The June 1999 Gallup Poll also conducted a "social audit" and reported very disturbing results about teenage gambling.92 The Gallup Poll found that 52% of teenagers aged thirteen to seventeen were in favor of legalized gambling, while 47% opposed it.93 The study found that "20% of teens say they gamble more than they should, compared to just 11% of adults."94 The most disturbing statistic was that "29% of teen gamblers claim[ed] to have made their first wagers when they were ten years old or younger . . . ."95 Furthermore, 27% of teenage gamblers bet on professional events while 18% bet on college games.96 These findings indicate that the problem of teenage gambling begins in high school and continues through college.

B. The Extent of Gambling on College Campuses

Professor Henry Lesieur, while chair of the criminal justice department at Illinois State University, reported that "roughly 5.5% of American college students are pathological gamblers."97 Bill Saum, NCAA director of agent and gambling activities, stated that it is "reasonable to assume there are student bookies on every campus

88. See Kindt, supra note 10 (discussing adolescent gambling rates); see also Kindt, supra note 70, at 90-91, Table 3.
89. NGISC FINAL REPORT, supra note 1, at 3-10.
90. Letter of Senators Brownback and Leahy, supra note 3; see also Wethington Testimony, supra note 3.
91. Id.
92. See Gallup Poll, supra note 59.
93. See id.
94. Id.
95. Id.
96. See id. (discussing survey results).
in America – Divisions I, II, and III." 98 Experts warn that college students comprise the fastest growing segment of the gambling population. 99

One suggested reason for the rise of gambling on college campuses is that the "latest batch of collegians have more disposable income than their parents ever dreamed of." 100 Most college students are terrible credit risks, but many have wealthy parents who can bail out their children when gambling debts become a serious problem. 101 Jason Loomis, who pleaded guilty to registering bets in connection with the 1996 Boston College football scandal, claimed that at Boston schools, where tuitions often began at $15,000 per year, "it was very common [for students] to get a check directly from mom or dad [to pay off their gambling debts.]" 102 Loomis claimed that he knew of a situation where a gambling debt was paid by the parents of "a [Boston College] kid that lost $32,400 in two weeks . . . [and] his parents paid it." 103

In 1997, the Atlanta Journal-Constitution conducted a survey in which approximately half of the 200 college football players surveyed "said that betting on games other than their own should be permitted." 104 In 1996, the University of Cincinnati conducted a study and found that 25% of the Division I basketball or football players surveyed reported that they gambled on college sporting events. 105 The study also found that almost 4% of the student athletes gambled on games in which they were players. 106 From 1995 to 1998, the NCAA reported that there were twenty-two cases involving about fifty student athletes "who bet on the outcome of college and pro games." 107

99. Id.
100. Id.
101. Id.; see also Layden, supra note 7, at 90.
102. See Fish, supra note 98 at D8; see also infra text accompanying notes 121-22 (discussing 1996 Boston College Football scandal).
103. Id.
104. Id. at D1.
105. See id. at D8 (discussing survey results); see also Cross & Vollano, supra note 38, at 5.
106. See id.
107. See Fish, supra note 98, at D8.
C. The Frequency of Gambling Incidents Involving Student Athletes in the 1990s

The June 1999 Gallup Poll reported that "[t]wo-thirds of [the teenagers and adults surveyed] believe [that] betting on sports events leads to cheating or 'fixing' of games . . . ."108 Tom French, an FBI supervisory agent in New York, stated that no one should be surprised that student athletes would succumb to the promise of easy money.109 French noted that everyone in the school, including the coach, was making money — except for the student athlete.110 The student athlete, who was not going to be in a professional draft, was especially vulnerable to fixing games in exchange for money.111 Additionally, it became increasingly more difficult to fix games using professional athletes because of their skyrocketing salaries, while it became much easier to fix games using college athletes.112 In 1998, a study of 1,000 Southeastern Conference students reported that "athletes were almost twice as likely to be problem gamblers than non-athletes."113 Student athletes who bet or advised others to bet on the games in which they played could or would ruin their schools' reputations, jeopardize individual students' eligibility and compromise the integrity of the collegiate games.114

A chronology of just some of the 1990s most well-publicized gambling incidents involving student athletes highlighted the problems.115

1992: The University of Maine suspended nineteen athletes from the football and basketball teams for

108. See Gallup Poll, supra note 59.
109. See Fish, supra note 98, at D8 (discussing enticement of fixing games).
110. See id. (noting coach's ability to gain revenue from sneaker contracts and summer camps).
111. See id. (discussing vulnerability). French noted the love of easy money is especially enticing to the non-draft athlete, who will be just another former college athlete who may find a job but will not possess a degree at the end of his college career. See id.
112. See id. (noting high salaries of professional athletes reduce incentive to fix games).
113. Chris Jenkins, Caught in Gambling's Web, USA TODAY, Mar. 13, 2000, at Cl.
114. See Layden, supra note 97, at 48 (noting harmful effects of student athlete gambling).
115. See Cross & Volland, supra note 38, at 9 (detailing forty-five years of student athlete gambling incidents); see also Hruby, supra note 54, at A1.
participating in a gambling operation, which reportedly involved $10,000 per week.\textsuperscript{116} Similarly, the University of Rhode Island and Bryant College also uncovered additional gambling operations.\textsuperscript{117}

1994: Northwestern University suspended starting running back Dennis Lundy for gambling. Lundy later admitted to a federal court that "he intentionally fumbled the ball on the goal line in a game against Iowa in order to win a $400 bet against his own team."\textsuperscript{118} At Arizona State University, fifteen of the school’s twenty-two fraternities appeared on betting records after four students were busted in a ring gambling $120,000 a month.\textsuperscript{119}

1995: The University of Maryland suspended football and basketball players for betting on college sports.\textsuperscript{120}

1996: Boston College suspended thirteen football players for gambling on college football games and on professional football and baseball games.\textsuperscript{121} Three of the suspended players "were alleged to have bet against their team."\textsuperscript{122} Holy Cross also suspended a football player and a basketball player for betting on sports.\textsuperscript{123}

1997: Arizona State University uncovered a point shaving scandal in which "two former members of the basketball team admitted to shaving points on four home games in the 1993-94 season."\textsuperscript{124} In a game played against Washington State University, two Arizona State students were also reported to have gambled $250,000.\textsuperscript{125} During the same timeframe,

\begin{itemize}
\item \textsuperscript{116} See Cross & Vollano, supra note 38, at 9 (reporting gambling authority).
\item \textsuperscript{117} See id. (reporting gambling authority).
\item \textsuperscript{118} Hruby, supra note 54, at A1.
\item \textsuperscript{119} See Layden, supra note 7, at 72-73; see also Hruby, supra note 54, at A1 (noting Lundy’s purposeful fumble).
\item \textsuperscript{120} See Cross & Vollano, supra note 38, at 9 (reporting gambling activity).
\item \textsuperscript{121} See id. (discussing Boston College incident).
\item \textsuperscript{122} Id.
\item \textsuperscript{123} See id. (reporting gambling activity).
\item \textsuperscript{124} See id.
\item \textsuperscript{125} See Cross & Vollano, supra note 38, at 9 (reporting gambling activity).
\end{itemize}
Fresno State University initiated an investigation into possible point shaving when after thirty games the basketball team beat the point spread in only eight games.\footnote{126}{See id. (noting reasons for investing action).}

1998: Two former basketball players from Northwestern University "were indicted on charges of shaving points, conspiring to fix games, and accepting bets during the 1994-95 season."\footnote{127}{Id.} Former football players from the University of Colorado and University of Notre Dame were also allegedly involved in the gambling ring as well.\footnote{128}{See id. (noting expanded attraction from Northwestern incident).} In another instance, four football players from Northwestern University, including Dennis Lundy,\footnote{129}{See Hruby, supra note 54 at A1 (noting Lundy's involvement in gambling activity).} "were indicted for perjury after [allegedly] lying to grand juries that were investigating sports betting at the school."\footnote{130}{Id.}

D. The Infrequent Enforcement of Gambling Laws

Expert testimony before the 1999 U.S. Gambling Commission reported that illegal sports betting involved $80 billion to $380 billion annually, compared to the $2.4 billion legal sports betting in Nevada.\footnote{131}{See Athletes Admit to Gambling, supra note 38, at D1.} Government officials also complained that laws, which make sports gambling illegal, were rarely enforced. Apparently, law-enforcement agencies were not inclined to make arrests in connection with gambling rings because the work was labor-intensive and there was little chance that those defendants found guilty, would receive heavy penalties.\footnote{132}{See generally Layden, supra note 7, at 73.} For example, Rod Platt, a police officer on the University of Georgia ("UGA") campus, could not recall even one gambling arrest in his seven-year career.\footnote{133}{See Fish, supra note 98, at D8 (noting lack of law enforcement attention to campus gambling).} Similarly, Sergeant T.O. Cochrane, the head of the drug/vice unit for UGA's host Athens-Clarke County Police, claimed that his unit has never pursued a gambling investigation.\footnote{134}{See id.} Sergeant Cochrane spe-
cifically stated, "[w]e are certain that we have a degree of sports gambling going on . . . . Unfortunately, most if not all of our resources and manpower [are] directed toward the illegal drugs." 135 Obviously, the enforcement of laws prohibiting sports gambling needed to be enhanced in order to stem the rising tide of pathological and problem gamblers.

E. The Consequences of Publishing Point Spreads in the Media

By the 1990s, betting lines were widely disseminated in the U.S. media for most college football and basketball games. According to the final report of the 1999 U.S. Gambling Commission, one reason that many Americans were unaware that sports gambling is illegal is that the point spread "is published in most of the forty-eight states where sports gambling is illegal." 136 As the Twenty-first Century began, the Washington Post, the New York Times, and the Sporting News were among the very few U.S. newspapers that did not publish the betting line on college games. 137 The FBI reported that in 1997 approximately $2.5 billion was wagered illegally on the men's NCAA basketball tournament. 138 Also in 1997, the U.S. media began publishing the betting lines for the women's NCAA basketball tournament. 139 Critics of the published point-spread claimed that it did "not contribute to the popularity of sports, only to the popularity of sports wagering." 140 Cedric Dempsey, President of the NCAA, stated that publishing betting lines "in newspapers across the country based on the gambling activity of the only state where it is currently allowed, send[s] a mixed message to students and the public at large about its legality." 141 Rick Pitino, the former University of Kentucky basketball coach, summarized, "I was always

135. Id.

136. NGISC Final Report, supra note 1, at 3-10; see also Hruby, supra note 54 at A1.


138. See Fish, supra note 98, at D8.

139. See id. (noting gambling temptations are everywhere).

140. NGISC Final Report, supra note 1, at 3-10.

141. Letter from Cedric W. Dempsey, President of NCAA, to members of the United States Senate (Feb. 7, 2000) [hereinafter NCAA Letter to U.S. Senate].
amazed at the people who stayed until the end of a game. Somebody finally told me why: the point spread."\(^{142}\)

F. The Link Between Sports Betting and Organized Crime

On July 31, 2000, the University of Illinois conducted a conference sponsored by Deans William Riley and Mary Ellen O'Shaughnessey, entitled, "Gambling Your Future Away: Gambling on College Campuses," which along with a similar 1999 conference at Northern Illinois University was one of the first academic conferences designed to address and remedy the problems of campus gambling.\(^{143}\) The featured speakers from law enforcement included IRS Special Agent Thomas Moriarty, FBI Special Agent Randal Sealby, and Assistant U.S. Attorney Mark Vogel.\(^{144}\) Moriarty emphasized the direct "link between sports betting and organized crime . . . [and indicated that] innocent bets in good fun turn into addictions that end up costing people their houses, their children's education funds and their daughters' wedding money."\(^{145}\) Chicago Crime Commission President, Thomas Kirkpatrick, pointedly summarized that "sports betting is organized crime's biggest single revenue source. And college students . . . are 'easy targets.'"\(^{146}\)

As highlighted in one example from 1998, "Michael Franzese, a former captain in the Colombo organized-crime family, was part of a plan with sports agents to sign up football players before their college eligibility had expired."\(^{147}\) Franzese claimed that organized crime tries to establish compromising relationships with unsuspecting players by pushing them to incur more than they could handle in gambling debts until "they had fallen in his trap," while William Jahoda, the former head of one of Chicago's organized-crime gambling rings, detailed how games were "fixed."\(^{148}\) Lex Varria, who ran a campus bookmaking ring for a New England crime family, stated that campus bookmakers would accept bets from students "and would call in those bets to the mob-operated bookies."\(^{149}\) Thus, by 1998 there were several former significant figures not only

\(^{142}\) Layden, supra note 7, at 82.


\(^{144}\) See id. (noting pool members).

\(^{145}\) Id.

\(^{146}\) Id.


\(^{148}\) Id.; see also Tim Layden, Book Smart, SPORTS ILLUS., Apr. 10, 1995, at 68, 74.

\(^{149}\) Fish, supra note 147, at D9.
from different organized crime families, but also from different sections of the United States, who were publicly detailing the direct link between organized crime and sports gambling.

G. Nevada’s Former Prohibitions Against Gambling on Nevada’s Own Teams

Prior to January 25, 2001, the Nevada gaming regulations prohibited gambling on any collegiate Nevada sports team, whether playing at home or on the road.150 This protection did not extend to the other forty-nine states whose college sports teams would be the subject of legal wagers in Nevada. Nevada prohibited gambling on sports teams within its own state to protect its own institutions and student athletes. However, in an ethical oxymoron in 2001, Nevada Governor, Kenny Guinn, sought to eliminate the betting ban on Nevada’s college teams in order to quiet critics and stop Congress from outlawing college sports gambling in Nevada.151

On January 25, 2001, the Nevada State Gambling Commission eliminated the decades-old ban, which prohibited gambling on any collegiate Nevada sports team in the State of Nevada.152 Bill Saum, the director of the NCAA’s Agent and Gambling Activities Office, was extremely concerned. “They’ve expanded college sports wagering,” Saum complained, “[t]hey actually went the opposite direction we were hoping for.”153 Nevada’s “[g]aming commissioners left little doubt that they had in mind a national effort by the NCAA and lawmakers . . . to stop gambling on college and amateur sports.”154 The Nevada law did prohibit college athletes and coaches from betting on their own games, and “require[d] sports books to take reasonable measures to prevent such betting.”155 The law, however, did not define “reasonable measures.”156 In addition, the new rules prohibited Nevada betting on high school and Olympic sports.157

151. See Nevada May Lift State Betting Ban, ST. PETERSBURG TIMES, June 29, 2000, at C9 (discussing debate over ban).
154. Id.
156. See id.
157. See id.
The Nevada gambling industry evidenced a pronounced hostility towards the NCAA's attempts to protect all institutions and student athletes. On February 11, 2000, the NCAA wrote a letter to Steve DuCharme, then Chair of the Nevada Gaming Control Board, requesting the removal of any university's name, when requested by that university, from the betting boards at Nevada's sports books.\(^{158}\) The Gaming Control Board denied the NCAA's request and DuCharme equivocated that "other institutions are [already] afforded the same protections as Nevada's institutions because their home states don't allow betting on their own home teams."\(^{159}\) DuCharme's reply failed to recognize that every other state, except Nevada, made it illegal to bet on college sports in general. Prior to 2001, Nevada prohibited betting on its own college teams in order to protect its institutions against game fixing. All institutions need to be protected via a nationwide ban on college and amateur sports gambling.

H. Internet Sports Gambling

In 2000, estimates indicated that there were almost 700 websites accepting sports betting or offering casino-style games, compared to approximately thirty websites in 1997.\(^{160}\) Sebastian Sinclair, a gambling industry analyst since 1994, reported that in 1999 revenues to Internet gambling sites were an estimated $1.2 billion – doubling from the $651 million in revenues during 1998.\(^{161}\) Basic socio-economic principles recognized that Internet gambling produces very few economic benefits, yet creates tremendous social costs by maximizing the "availability" and "accessibility" of gambling. Associate Professor Howard J. Schaffer, director of addiction studies at Harvard Medical School, summarized: "As smoking crack cocaine changed the cocaine experience, I think electronics is going to change the way gambling is experienced."\(^{162}\)

Arguably, the Wire Act did not apply to foreigners outside the United States, who operated nearly 700 websites accepting sports betting. Some courts have also ruled that the Wire Act does not cover the activity of placing a wager over the Internet. The problem was that the Wire Act was drafted many years before the prev-

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158. See Wethington Testimony, supra note 3.
159. Id.
160. See Jenkins, supra note 113, at Cl.
161. See id.; NGISC Final Report, supra note 1, at 2-15 to 2-16.
162. NGISC Final Report, supra note 1, at 5-5; see also Crist, supra note 85, at 91.

https://digitalcommons.law.villanova.edu/mslj/vol8/iss2/1
lence of the Internet. Thus, sponsors of the Internet Gambling Prohibition Act asserted that it provided a better deterrent toward placing bets over the Internet. In addition, shutting down gambling websites could be very time consuming and expensive. Congressional proposals, such as the Internet Gambling Prohibition Act, were designed to require United States law enforcement agencies to locate websites offering Internet gambling, seek court orders enjoining these gambling activities, and then "force Internet service providers to shut down access to each one." 163

U.S. Attorney General Janet Reno warned that "[t]he Internet is not an electronic sanctuary for illegal betting, . . . . To Internet betting operators everywhere, we have a simple message: You can't hide on-line, and you can't hide offshore." 164 A few states, such as Missouri and Minnesota, have invoked consumer-protection statutes against Internet betting operators, but those cases only involved American based operations. 165 As a result, an increasing number of American speculators began locating offshore to set up foreign Internet gambling websites. In 1999, American Wagering, Inc. of Las Vegas became the first established Nevada company to accept Internet sports betting "on the Internet in Australia." 166 American Wagering, Inc. established an office in Canberra, Australia to accept wagers by phone and over the Internet. 167 Due to protests and concerns about legality, the company divested "itself of its Australia-based Internet gambling site." 168

By comparison, Steve Schillinger, co-owner of World Sports Exchange, an Internet gambling website located in Antigua, "was one of 22 offshore gambling operators charged" with violating the Wire Act. 169 In 1999, World Sports Exchange "accepted $200 million in sports wagers, ninety-five percent of which came from [American] bettors . . . . " 170 A Las Vegas lawyer, and advisor to the gaming industry argued, that people "who are operating outside the

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164. Id.
165. See Crist, supra note 85, at 86. In May 1997, the State of Missouri obtained a civil injunction combined with a judgment for $66,000 against Interactive Gaming & Communications Co., a Pennsylvania subsidiary of Grenada-based Global Casino, for accepting bets from citizens of Missouri. See id.
167. See id.
170. Id.; see also Crist, supra note 85, at 90.
[United States] and who have no intention of returning are basically immune from prosecution.”¹⁷¹ In defiance of U.S. concerns, the Antigua government continued to promote Internet gambling by charging operators license fees of $100,000 per year for a virtual casino and $75,000 per year for a sports betting site.¹⁷²

The Internet also poses many problems to the enforcement of the United States anti-gambling laws. Arguably, it is time-consuming and expensive to shut down a gambling website, and as long as foreign countries permit gambling websites, those websites would perhaps be immune from the law of the United States, but not from objections by influential United States trade organizations and federal agencies, including the State Department. Another alternative is to attempt to block the websites from American consumers. However, operators of websites could apparently circumvent these attempts by changing the website’s domain name. The most effective method for prosecuting illegal gambling was to prosecute the bettors themselves. The Internet Gambling Prohibition Act provided a starting point to effectuate this goal because it was broad enough to outlaw the act of placing a wager over the Internet.

I. The Freedom of Olympic Athletes to Bet on Their Own Olympic Games

In 2000, the International Olympic Committee ("IOC") was confronted with the need to establish anti-gambling rules for future games.¹⁷³ Shocking some IOC members, it appeared that athletes were “free to bet on themselves or their opponents at the [2000] Sydney Games.”¹⁷⁴ New South Wales, where Sydney is located, had banned betting on the Olympics, but athletes could bet in the Northern Territory and over the Internet.¹⁷⁵ Australian water polo player Debbie Watson stated that “If I could get the right odds, I’d put a fiver [wager] on the water polo team for sure.”¹⁷⁶ Australia expected at least forty-two million dollars in bets on the 2000 Sydney Games.¹⁷⁷

¹⁷¹. Pascual, supra note 169, at 72.
¹⁷². See id.
¹⁷⁴. Id.
¹⁷⁵. See id.
¹⁷⁶. Mike Hiestand, Taking a Gamble on Olympic Games IOC Opposes Legal Bets, But Aussies Expect to Pull in $42M, USA Today, Aug. 30, 2000, at Cl.
¹⁷⁷. See id.
Keba Mbaye, Chairman of the IOC Ethics Commission, announced that betting on the games was "in total contradiction of the ethical principle of Olympism." However, in 2000, there was no ban on gambling specified in the Olympic Charter. Even so, Chair Mbaye claimed that the Ethics Commission of the IOC would recommend amendments to the Charter to prohibit gambling on the Olympics. IOC members who opposed any ban on Olympic betting claimed that a ban "could have [a negative] impact in nations where gambling or lotteries are used to finance sports."

This scenario prompted a movement in the U.S. by Congress to outlaw gambling on the Olympics. Senator Patrick Leahy commented that "[t]he Olympic tradition honors sport at its purest level. We, in turn, should honor that proud tradition by cherishing the integrity of the Olympics and prohibiting gambling schemes on the Summer or Winter Games." The proposed High School and College Sports Gambling Prohibition Act of 2000 was also designed to eliminate betting on the Olympic games because the language of the bill specifically prohibited gambling on the Summer or Winter Olympics.

VI. Policy Alternatives and Recommendations

A. A Ban on College and Amateur Sports Gambling

Introduced in 2000, the High School and College Gambling Prohibition Act was designed to prohibit all legalized gambling on high school and college sports and the Summer and Winter Olympics. Bipartisan Congressional leaders, pressing for implementation of the NGISC's recommendation for a ban on all legalized gambling on college and amateur sports, sponsored the bill. The bill's drafters intended to close the loophole in the Professional and Amateur Sports Protection Act, which allowed grandfathered sports gambling in Nevada due to Nevada's pre-existing statute permitting college sports gambling.

178. Gloster, supra note 173.
179. See id.
180. See id.
181. Id.
183. See id.; see also H.R. 3575, 106th Cong. (2000); S. 2340, 106th Cong. (2000).
184. See S. 2340; H.R. 3575.
185. See NGISC Final Report, supra note 1, at 3-18.
A comprehensive ban on college sports wagering would have certainly reduced the risk of scandals such as those that occurred during the 1990s.\textsuperscript{186} Individuals who placed extremely large bets were reportedly the same individuals who were more disposed to try to fix a game.\textsuperscript{187} These big-money bettors were unlikely to find bookies who were willing to accept their bets because "small-time and campus bookies seldom accept[ed] extremely large wagers."\textsuperscript{188} According to Bill Saum, head of the NCAA's Gambling Office, if an individual wanted to bet one million dollars on a game then "[it] would be virtually impossible to lay [the bet] down illegally. . . . You'd need many, many bookies in cities across the country. And they talk to each other, so they'd probably stop taking your bets."\textsuperscript{189}

The 2000 bill received widespread support from many educational and sports institutions. The NCAA, the American Association of State Colleges and Universities, the American Council of Education ("ACE") and the United States Olympic Committee were just a few of the many supporters of the bill.\textsuperscript{190} Stanley O. Ikenberry, President of the ACE, stated, "[t]he proposed legislation will go a long way to help maintain the integrity of athletic programs and help protect student-athletes who may be lured into inappropriate behavior due to promises of monetary gain."\textsuperscript{191}

The bill faced tremendous opposition from casino lobbyists. United States Representative Tim Roemer, who supported the companion legislation in the House, characterized the passing of the bill as a "David versus Goliath battle."\textsuperscript{192} American Gaming Association head, Frank Fahrenkopf, lobbied several members of Congress to thwart the bill.\textsuperscript{193} In addition, casino mogul, Steve Wynn, made a number of generous campaign contributions including $300,000 to the National Republican Senatorial Committee Chair Mitch McConnell and $250,000 to House Minority Leader Richard Gephardt.\textsuperscript{194} Congress, however, was also sensitive to the concerns

\textsuperscript{186} See Hruby, supra note 54, at A1.
\textsuperscript{187} See id.
\textsuperscript{188} Id.
\textsuperscript{189} Id.
\textsuperscript{191} ACE President Ikenberry Statement, supra note 190.
\textsuperscript{192} Mark Preston & Jim VandeHei, Gaming Battle Tips Off, ROLL CALL, Jan. 31, 2000, at 1, 22.
\textsuperscript{193} See id.
\textsuperscript{194} See id.; see also Barlett & Steele, supra note 137, at 54, 60.
of colleges and universities which involved numerous and important constituents. One problem was that the NCAA’s lobbying budget was only $200,000 per year, while the American Gaming Association spent at least $1.6 million in 1999 for lobbying purposes. In addition, the gambling industry launched a public relations campaign by distributing literature stating that “politicians want to snatch away your rights! . . . They want to take away your rights as an adult to come to Nevada and place a legal wager.”

The bill also faced serious opposition from Nevada’s Congressional delegation. Nevada Senator, Harry Reid, announced that he would introduce an alternative bill to investigate illegal gambling on college sports and on college campuses. Senator Reid’s approach, however, merely mimicked the results of the NGISC which had already reported that gambling on college sports was a serious problem. Simultaneously, Nevada Senator, Richard Bryan, claimed that the NCAA-sponsored bill would “do absolutely nothing to accomplish the goal of eliminating illegal sports betting on college campuses and unfairly single[d] out Nevada to pay the price.” The elimination of illegal sports gambling appeared to be a secondary objective compared to the primary goal of criminalizing gambling on college sports. Because Nevada was the only state that permitted gambling on college sports, by definition it was necessarily “singled out.” Representative Jim Gibbons of Nevada also argued that the NCAA-sponsored “legislation targets the wrong problem, neglects the hard facts, and fails to address the real problem — the pervasiveness of illegal sports betting on our college campuses.” All of the proposals from the Nevada Congressional delegation obviously sought to divert attention from the real problem — betting on college sports whether legal or illegal.

Senator Reid raised a valid point when he questioned: “why . . . the existing regulations [are] not working and what can be done to better enforce those laws which are already on the books?” Even so, legalized college sports gambling in Nevada broadcasted a

195. Barlett & Steele, supra note 137, at 60.
196. Id.
197. See Press Release, United States Senator Harry Reid, Reid To Introduce Legislation To Investigate Illegal Gambling On College Sports (Feb. 1, 2000) [hereinafter Reid Press Release].
200. Reid Press Release, supra note 197.
mixed signal to the public and led the public into believing that college sports gambling was legal. The laws regulating sports betting needed to be amended to prohibit any gambling on college and amateur athletic events. The High School and College Gambling Prohibition Act constituted the first step toward achieving this goal by criminalizing all bets on college sports. Obviously, the strategic goal of eliminating sports gambling would not be achieved merely by enacting a law. The law would need to be enforced properly to have a chilling effect on college sports gambling and to promote the values and integrity of the games.

On February 14, 2001, United States Representative Jim Gibbons of Nevada introduced a bill in the House of Representatives which was drafted to curb illegal gambling on college sports.201 The bill sought to establish a task force to study the effects of illegal gambling on college sports.202 The bill also penalized colleges and universities by eliminating all federal funding, including Pell grants, student loans and research money, if the institutions did not comply with the requirements of the study.203 However, this bill constituted an obvious and direct financial attack on U.S. higher education — designed to intimidate educational interests into dropping their support for eliminating Nevada sports gambling. Educational institutions should not be penalized for failing to prevent illegal sports gambling because they could not possibly enforce such an edict without the assistance of law enforcement officials. The Nevada bill also ignored the fact that the 1999 U.S. Gambling Commission had already studied the effects of legal gambling on college sports and concluded that “betting on collegiate and amateur athletic events that [in 1999] is currently legal be banned altogether.”204

B. NCAA Response to College Sports Gambling

As of 2001, the NCAA rules prohibited all sports gambling by campus athletics personnel, student athletes, and NCAA employees. NCAA Bylaw section 10.3 provides that student athletes are ineligible to compete if they knowingly: (1) “[p]rovide information to individuals involved in organized gambling activities . . .”, (2) “[s]olicit a bet on any intercollegiate team,” (3) “[a]ccept a bet on

202. See H.R. 641; S. 338.
203. See H.R. 641; S. 338.
204. See NGISC Final Report, supra note 1, at 3-18.
any team representing the institution;” (4) “[s]olicit or accept a bet on any intercollegiate competition for any item . . . that has tangible value;” or (5) “[p]articipate in any gambling activity that involves intercollegiate athletics . . . through a bookmaker, a parlay card or any other method employed by organized gambling.” These same rules apply equally to coaches, athletic directors, and NCAA staff. In order to better enforce these rules, the NCAA funds a full-time staff position, which focuses solely on agent and gambling issues.

To educate the public, during the mid-1990s the NCAA began broadcasting public service announcements about the problems associated with sports gambling especially during major network coverage of NCAA championship events. For example, in 1998 and 1999, the NCAA contracted with CBS and ESPN to run such public service announcements during the broadcast of the Division I men’s basketball tournament. The NCAA also sponsored various workshops and distributed literature to educate students and the public about the danger of sports gambling. In addition, university coaches, such as Dean Smith, the former North Carolina men’s basketball coach, became active supporters of the effort to persuade Congress to pass the High School and College Gambling Prohibition Act.

The NCAA, however, is limited in its authority to prevent gambling on college sports. The NCAA could not discipline the general student population — only student-athletes. Dirk Taitt, the NCAA enforcement representative who handled gambling-related infractions during the 1990s, commented, “[t]he only hammer we have is [athletic] eligibility.” Taitt also added that while the general student population was important, athletic eligibility did not apply to them. The NCAA is therefore powerless to regulate the affairs of student non-athletes. Congress and law enforcement need to work together to assist the NCAA in helping and educating

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205. NCAA Manual, supra note 87, at § 10.3.
206. See id.
207. See NGISC Final Report, supra note 1, at 3-11.
208. See id.
209. See Wethington Testimony, supra note 3.
210. See generally Coach Smith Letter, supra note 137 (expressing agreement with banning college and amateur sports betting).
211. See Layden, supra note 97, at 54.
212. Id.
213. Id.
all students regarding gambling problems — not just the student-athletes.

C. Responses From the Gambling Industry

During the late 1990s, the casino industry claimed that the focus should be on enforcing those laws that already made it illegal to bet on college sports.214 Pro-casino enthusiasts claimed that the NCAA was shifting the focus of university campus problems to the legal sports betting industry.215 However, the 1999 U.S. Gambling Commission concluded that the social costs of sports gambling far outweighed the benefits.216 The heart of the problem was betting on college sports, whether that gambling was legal or illegal.

The casino industry also claimed that banning legal wagering on college sports would only lead to more illegal betting.217 This was not necessarily a valid argument, because it would be very difficult to bet large amounts of money with a local bookie.218 The local bookie probably would be unable to cover a large bet, nor cover the payout on a game that was fixed.219 Furthermore, there was no evidence that recreational gamblers could become illegal gamblers.220 In fact, there was "growing evidence from experts that for every one dollar in new legalized gambling there is one dollar (or more) in new illegal gambling."221

The casino industry argued that a ban on college sports betting would threaten the Nevada economy.222 However, even the pro-gambling Commissioners on the 1999 U.S. Gambling Commission unanimously concurred with the conclusion that sports wagering did not "contribute to local economies or produce many jobs [or] create other economic sectors."223 In 1999, college sports wagering only generated $7.92 million in tax revenue.224

214. See Preston & VandeHei, supra note 192.
215. See id.
216. See generally NGISC Final Report, supra note 1, at 3-10 (suggesting sports wagering threatens integrity of sports and does not contribute to local economies or produce many jobs).
217. See Reid Press Release, supra note 197.
219. See id.
220. See Kindt, supra note 10, at 17.
221. Id. (citing William G. Hall, Executive Director of Illinois Economic & Fiscal Commission, Statement to Illinois Legislative Gambling Task Force (July 20, 1996)).
222. See Wethington Testimony, supra note 3.
223. NGISC Final Report, supra note 1, at 3-10.
224. For a further discussion of goals of sports wagering, see supra Parts III, III.B.
Cynics argue that the government opposes Internet sports gambling in order to protect its own franchise interests because the government is unable to tax Internet site operators. Bethany Noble of the Internet Consumers Choice Group, a lobbying group in Washington D.C., claimed that it was "really hypocritical when states like Missouri, Minnesota and Wisconsin, which sanction gambling for their own profit, start taking a moral stand against people betting with regulated businesses on the Internet. It seems like their real interest is in protecting their pocketbook, not their citizens." Concerned by sports-gambling opponents such as Lou Holtz, the University of South Carolina football coach, and Tubby Smith, the University of Kentucky basketball coach, the gambling industry responded to growing popular support for the High School and College Gambling Prohibition Act in October 2000 by proposing a $550 betting limit on sports books in Nevada. Some casinos at this time regularly accepted bets of up to $15,000 on college football. The Nevada proposal also prohibited sports books from accepting bets on college games from the coaches or players involved in the event. Bill Thompson, a gambling industry expert and University of Nevada professor, suggested that the Nevada proposal both restricts and expands betting on college sports because it allowed betting on Nevada collegiate sports teams "for the first time in [fifty] years."

VII. CONCLUSION

The Professional and Amateur Sports Protection Act of 1992 prohibited sports gambling in all states except for Nevada and Oregon. Gambling on college sports was legal only in Nevada, yet this practice adversely affected the entire nation. According to the 1999 U.S. Gambling Commission, legalized betting on college and amateur sports "threatens the integrity of sports, it puts student athletes in a vulnerable position, it can serve as gateway behavior for adolescent gamblers, and it can devastate individuals and careers." Studies demonstrated that sports-gambling is detrimental to the

225. See Crist, supra note 85, at 91.
226. Id.
228. See id.
229. See id.
230. Id.
231. NGISC FINAL REPORT, supra note 1, at 3-10.
youth of the United States, and the Commission recommended that betting on college and amateur athletic events be banned altogether.

The High School and College Gambling Prohibition Act of 2000 was proposed by bipartisan Congressional leaders to recriminalize betting on college sports in Nevada — the only state where such activity was legal. Further legislation, however, is also necessary to discourage sports gambling over the Internet. With the rising popularity of Internet gambling, new addicted gamblers could increase exponentially. It is necessary to close any perceived loophole that permits Internet gamblers to escape prosecution — particularly gambling websites. The United States government needs to: (1) prohibit gambling in all states on the Olympics and college and amateur sports, (2) do a better job of enforcing existing laws against illegal gambling, and (3) prohibit any gambling activities on the Internet or in cyberspace.