

# A CASINO IN EVERY SMARTPHONE: LAW ENFORCEMENT IMPLICATIONS

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## HEARING

BEFORE THE

COMMITTEE ON OVERSIGHT  
AND GOVERNMENT REFORM  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

DECEMBER 9, 2015

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## **A CASINO IN EVERY SMARTPHONE: LAW ENFORCEMENT IMPLICATIONS**

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**Wednesday, December 9, 2015**

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,

*Washington, D.C.*

The committee met, pursuant to call, at 1:24 p.m., in Room 2154, Rayburn House Office Building, Hon. Jason Chaffetz [chairman of the committee] presiding.

Present: Representatives Chaffetz, Mica, Jordan, Walberg, Massie, Meadows, DeSantis, Mulvaney, Buck, Walker, Blum, Hice, Carter, Grothman, Hurd, Palmer, Cummings, Maloney, Clay, Lynch, Connolly, Duckworth, Lawrence, Lieu, Watson Coleman, Plaskett, DeSaulnier, and Lujan Grisham.

Also Present: Representative Titus.

Chairman CHAFFETZ. The Committee on Oversight and Government Reform will come to order.

Without objection, the chair is authorized to declare a recess at any time. I appreciate the flexibility and your understanding, as we had votes on the floor. Almost every member has voted. There's 23 members that have not yet voted, but—21 now. I think it's important that we start this important hearing and I appreciate all of your presence and understanding here.

For more than 50 years we had in place what was called the Wire Act. The Wire Act had a prohibition on gambling. It's why you couldn't go down to your local bookie or go down to Western Union and start wiring money and betting on who knows what.

That was in place until Christmas Eve, the day before Christmas Eve in 2011. With no input from the public or notice to Congress, a single unelected lawyer in the Office of Legal Counsel of the Department of Justice released a 13-page memo reversing 50 years of Department of Justice precedent and an understanding that Congress had that the Wire Act was in place to prohibit the use of wires to engage in gambling.

The memo that was introduced declared that the Federal Wire Act applied only to sports betting and not to all forms of betting. This reverses what the Clinton administration, the Bush administration, the Carter administration, and others had interpreted.

Now, certainly with the growth and the expansion and difference of the Internet is making on all of our lives, there was this interpretation that didn't come through Congress. It didn't get the proper vetting. There was not the recourse.

The point that I've made in sponsoring a piece of legislation that would take us back to restoring America's Wire Act is that if you want to see a change, if you like a different public policy, if you want to see things done differently, our Framers have put forward a process, and that is you introduce a bill, you fight for it, and you try to get it passed into law, passed through the House, passed through the Senate, and signed by the President of the United States. We don't simply make up laws by one attorney at the Department of Justice down in the bowels there at the Department of Justice. We don't erase laws. We shouldn't be creating laws. That's the whole point of this piece of legislation that I have.

Nevertheless, with this OLC opinion in place, it has created quite a stir, a lot of confusion, and, potentially, an awful lot of problems. The reversal that the OLC put forward was contrary to a plain reading of the statute, the intent of Congress in passing the law, and the longstanding position of the Criminal Division at the Justice Department. And the result is now anything connected to the Internet—desktops, laptops, tablets, smartphones—no matter your age, potentially becoming a casino. I got a problem with that. I think the country has a problem with that. And it certainly needs vetting and discussion.

And, again, you want to make a change? Come to Congress, introduce a bill, and make a change. But don't just change the law based on an OLC opinion. In fact, I would argue that the law actually has—this confusion by this OLC memo is causing a lot of problems.

I don't believe that the memo has the force of law, but there are some that are basing their—placing their bets based on this interpretation. To those individuals, those corporations, you're creating an awful lot of liability for yourself and potential prosecution.

The other challenge that we face is that the Internet doesn't have neat walls around it. It's not like a physical facility that we can say: All right, it works just right here. For anybody to argue that the Internet can be walled off and used in just these certain boundaries, it's a joke. Come on. Nobody with a straight face is going to come before the American people and say: Well, the Internet, it's just for the people of Nevada; or it's just for the people of Rhode Island. You kidding me? You give me a good 18-year-old and about 36 hours and you can hack through just about anything.

So let's not pretend that the Internet is special for just certain people. It's one of the big moral challenges that we have, but it's also one of the challenges that we have to do in making good public policy.

I believe the piece of legislation that I introduced, Restoring America's Wire Act, is a states' right bill. There are States, Utah and Hawaii in particular, that have no gaming. Right or wrong, whether you like it or not, the history of the State of Utah, the history of Hawaii is such that we have elected to have no gaming. We don't have a lottery. We have no Indian gaming. We don't have any gaming of any sort. I believe that's the purview of the individual State. If Nevada wants to have it, they made that choice. There are a lot of Utahans that will travel to Las Vegas or to Wendover, for instance, and go gambling. That's their choice.

But what I don't want is to have gaming coming to Provo, Utah, and Salt Lake City. That's our choice. That our State's right, to say: No, you're not going to be gaming in the State of Utah. That's our decision. And that is the states' right that by pushing gaming online we're having to deal with.

There is a concern that the OLC memo threatens the right of people in certain States to decide not to have gambling within their borders. And it's not just an issue for Utah and Hawaii. It is for other States as well. A bipartisan group of 16 State attorneys general wrote a letter to the leaders of the House and Senate Judiciary Committees in 2014 urging Congress to restore the decades-long interpretation of the Wire Act. They wrote, in part, quote: "The impact of the opinion which, in effect, opens the door to the spread of Internet gaming will have a potential significant impact on State and local law enforcement," end quote. They went on later to say, quote: "Given the inherently interstate nature of Internet gambling transactions, we anticipate that it will become increasingly difficult to effectively regulate such conduct as additional jurisdictions consider legalizing Internet gambling," end quote.

Federal law enforcement officials have also expressed concerns of online gaming. For example, in 2013 the FBI stated, quote: "Online casinos are vulnerable to a wide array of criminal schemes." They went on to say: "And many provide more opportunities for criminals to launder illicit proceeds with increased anonymity," end quote.

I would note a Newsweek article that came out: "Department of Justice settlements regarding online poker are second only to financial institutions." Fines and settlements in excess of—I believe the specific number cited in Newsweek was 1 billion, 27 million, 511—I'm getting the number wrong, but it's over a billion dollars, it's got a lot of digits to it—it shows what a significant problem the Department of Justice is currently having with it.

Given the increased access and reliance on technology, Congress must do its job and understand the implications of this OLC opinion.

Let's also understand that you're not going to be able to distinguish if it's a 7-year-old kid or somebody who's of legal age. The Internet that is used is not going to be able to distinguish the age of that person. When you go to a physical facility, you can pretty much get a guess and some people are carded and checked for their age.

We are raising a generation of children who are extremely comfortable with technology. They think nothing of picking up a smartphone or tablet and entering the information about their life into it. They grow up in a generation where these games, they think they're great, they're fun, where they're playing for coins, and they're spending a lot of money on Candy Crush and others, they don't necessarily know the difference between real dollars and fake dollars, real coins and fake coins.

The speed at which online casinos operate, coupled with their accessibility, availability, and anonymity make it clear we need to understand more about this problem. The Congress must ensure the law is clear and that some unnamed bureaucrat down in the bowels of the Department of Justice isn't making these important

decisions. This is one person's opinion, but you can tell by the wide attendance at this hearing today it is affecting a lot of people.

There was no consultation with Federal law enforcement officials or with State or local law enforcement officials charged with enforcing the vast majority of the criminal laws, no opportunity for public comment, Congress was not made aware of what the Department of Justice was doing. The OLC basically just decided, based on the placement, literally, of a single comma—a single comma—that the law didn't mean what everybody thought it meant for more than 50 years. The consequences were not considered.

Our goal at this hearing is to discuss what the Department of Justice Office of Legal Counsel failed to do. We'll hear from Federal, State, and local law enforcement officials who have expressed concerns with online gaming, including its potential to be used for money laundering, terrorist financing, fraud, and other criminal activity. In doing so, we'll respect the 10th Amendment and examine how the borderless nature of the Internet makes it difficult, if not impossible for States to effectively regulate online gaming, protect their States and their citizens within their borders.

I have taken an excessive amount of time. I appreciate the indulgence. I will now recognize the ranking member, Mr. Cummings, for his statement.

Mr. CUMMINGS. Thank you very much, Mr. Chairman. I'm going to yield to Mrs. Coleman in a second. But I want our witnesses to understand that much of this is new to the Congress, and we want a full understanding of what is going on here. We're hearing from both sides, and they're coming at us with everything they've got. And what we seek is fairness.

We also seek information with regard to those States that are already doing it. I am not of a belief that—I don't have an attitude of cannot do. I say we can do if we have the will. The question is, is how does that play out?

And, you know, let's not kid ourselves. This is about money. Come on now. In some kind of way we've got to make sure that whatever we do is fair, is just. But, again, we want to hear both sides. As a lawyer for many, many years, I know that there's always another side. So, come on, let's take a look at both sides of this issue.

And so it gives me great pleasure, Mr. Chairman, to yield to my colleague, Bonnie Coleman, who hails from New Jersey. They have online gambling, and she voted for it, and she's been someone who has been extremely active and interested in this issue. And so I will yield the rest of my time to her, and keeping in mind, Mr. Chairman, that I hope that you will give her the same latitude that you would give me in that you used 10 minutes. I'm sure she has 8 more minutes—7 more minutes left. Thank you.

Mrs. WATSON COLEMAN. Thank you to the ranking member, and thank you to the chairman. I do speak to you from a position of a little bit more knowledge and experience in this issue coming from the State of New Jersey.

The law enforcement implications of online gambling are an important policy consideration. However, the evidence clearly demonstrates that with proper regulation, instate online gambling poses no more challenges to law enforcement or risk to consumers

than brick-and-mortar casinos. According to the Department of Justice, instate online nonsports gambling is not prohibited by the Wire Act or other Federal gambling laws, so States may regulate online gambling within their own borders.

Currently, the three States, New Jersey, Nevada, and Delaware, have asserted their right to allow regulated online gambling within their borders and have created strong regulatory structures to provide oversight and enforcement of their state regulations. As a member of the New Jersey State Legislature, as the ranking member mentioned, I had the opportunity to vote for my State's legislation that allowed regulated online gambling. I did so because I believed that that legislation offered the best opportunity to mitigate the risk associated with online gambling.

Since then, I've been pleased to see that our experience in New Jersey has proven that assessment to be correct. These three States have not seen an increase in law enforcement challenges or consumer risk related to regulated online gambling in their State. New Jersey's director of gaming enforcement reported earlier this year, and I quote: "From a regulatory standpoint, our system is working. There have been no major infractions or meltdowns or any systematic regulatory failures that would make any doubt the integrity of operations. The issues that have arisen have been dealt with appropriately, just like in brick-and-mortar casinos."

The Division of Gaming Enforcement also established a comprehensive, multifactor geolocation standard that cross references multiple location data sources and has the capability to determine if software is being used to hide a device's location.

Please take a look at the video screen.

[Slide.]

Mrs. WATSON COLEMAN. This is a slide from the company that is used in New Jersey to enforce the instate online gambling requirement that play on licensed sites only occurs within the State of New Jersey.

Federal law enforcement entities have also not provided evidence of challenges related to regulated online gambling activities in those three States. This is contrasted with the significant challenges associated with unregulated offshore online gambling such as limitations on monitoring transactions and activity on offshore servers and low levels of international cooperation. The unregulated offshore gambling sites are not required to verify a player's age, identity, or location, and do not provide the significant evidence trail that regulated online gambling operations provide.

The National Fraternal Order of Police wrote in opposition to a ban of online gambling, describing the threats that exist in the unregulated online gambling arena. Not only does the black market for Internet gaming include no consumer protections, it also operates entirely offshore with unlicensed operators, drastically increasing the threat of identity theft, fraud, or other criminal acts. There is also evidence that these gaming sites launder money for organized crime and help to finance terrorist networks, and I agree.

Any legislative attempts to ban online gambling will drive U.S. patrons to access the unregulated offshore gambling sites that pose greater risk to consumers. A Federal ban also interferes with a State's right to decide what gambling is permissible in its borders

and the right to create a regulatory framework that protects its citizens.

The best way to protect our citizens and support law enforcement is to allow States to establish a regulated system of oversight and enforcement for online gambling that will help drive illegal operators out of the marketplace. And if they are looking to do so, if the State's looking to do so, New Jersey has set a model for regulation that protects its citizens. Other States that choose to allow online gambling can learn from that approach.

Thank you, Mr. Chairman.

Chairman CHAFFETZ. Thank you.

I'll hold the record open for 5 legislative days for any members who would like to submit a written statement.

Chairman CHAFFETZ. We'll now recognize our witnesses. We're pleased to welcome Joseph S. Campbell, assistant director, Criminal Investigative Division at the Federal Bureau of Investigation. Mr. Campbell began his career as an FBI special agent in August of 1990 and reported to the Chicago field office, where he investigated white collar crime, public corruption, organized crime, and various drug matters. He also had a distinguished career since then, having served in numerous important positions, including as supervisory special agent in the Counterterrorism Division, Weapons of Mass Destruction Operations Unit at the FBI headquarters, and head of the Joint Terrorism Task Force for the Denver field office.

We appreciate you being here because in September of 2012, Mr. Campbell was promoted to deputy assistant director of the Criminal Investigative Division. And I think you provide a valuable insight.

We welcome the Honorable Alan Wilson, the attorney general of the State of South Carolina. Mr. Wilson was elected South Carolina's 51st attorney general on November 2 in 2010 and reelected again in 2014. As South Carolina's attorney general, Mr. Wilson is the State's chief prosecutor, chief securities officer, and the State's chief legal counsel. Mr. Wilson joined the National Guard immediately after joining college. He was called to serve in Iraq where he led troops through Army fire and earned a combat action badge.

We thank you, sir, for your service to our country.

Today he continues his military service by providing legal support for soldiers and assisting the prosecution of military crimes as a lieutenant colonel in the Judge Advocate General Corps.

We thank you again for your service.

We're also pleased to have the Honorable Donald Kleine, Douglas County attorney in Douglas County, Nebraska. Mr. Kleine was elected Douglas County attorney in November of 2006. He was reelected again in 2010, and again in 2014. In his years as a prosecutor, Mr. Kleine has tried numerous high-profile criminal cases. He is on the faculty at Creighton University School of Law teaching the trial practice and criminal prosecution. He is a past president of the Nebraska County Attorneys Association and a member of the board of directors in the National District Attorneys Association.

We also are pleased to have the Honorable Mark Lipparelli, member of the Nevada State Senate. He has an extensive private

sector background, having worked for some organizations, including Bally Technologies, Shuffle Master, Casino Data Systems, and in 2013 Mr. Lipparelli completed a 4-year term on the Nevada State Gaming Control Board, including his final 2 years as the chairman of that board.

We have a good panel. We look forward to a robust discussion. We thank you all for being here. But pursuant to committee rules, all witnesses are to be sworn before they testify. So if you will please rise and raise your right hands.

Thank you.

Do you solemnly swear or affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?

Thank you. If you'd please be seated.

And let the record reflect that the witnesses all answered in the affirmative.

In order to allow time for members to ask questions, we would appreciate it if you would limit your oral presentation to no more than 5 minutes, despite the example—well, I set. But be assured that your entire written record will be made part of the record.

Mr. Campbell, we'll start with you. You're now recognized for 5 minutes.

## **WITNESS STATEMENTS**

### **STATEMENT OF JOSEPH S. CAMPBELL**

Mr. CAMPBELL. Good afternoon, Chairman Chaffetz, Ranking Member Cummings, and members of the committee. Thank you for the invitation to appear before you today to discuss online gambling and the potential criminal activity that could arise within it.

As assistant director of the FBI's Criminal Investigative Division, the responsibility to manage, coordinate, and direct investigative programs focused on financial crime, transnational organized crime, civil rights violations, public corruption, crimes against children, and drug-related and violent crime, fall to the hard-working special agents and professional staff working with me. Together, we remain committed to the goals and vision set forth by FBI Director James Comey to uphold the Constitution and protect the American public from criminal wrongdoing.

We appreciate the committee's interest in the threat posed by online gambling, which can have connections to many other forms of criminal activity. Illegal gambling businesses, specifically Internet sports books, have become increasingly popular in the United States, as well as abroad. The existence of these Web sites has grown exponentially over the past few years. The National Gambling Impact Study Commission reported illegal betting on sporting events in the United States is estimated to range between \$80 billion to \$380 billion annually.

The Federal Bureau of Investigation works hard to establish and maintain strong partnerships with both public and private entities in order to combat illegal gambling. One of our priorities has been to work with private sector partners like the American Gaming Association to publicize our Internet Crime Complaint Center, IC3.

The IC3 is an online tool which allows the public to report tips about suspected online criminal activity, including illegal gambling.

Any discussion of issues concerning online gambling should include the potential for money laundering. Money laundering is rightly defined as any transaction that seeks to conceal or disguise proceeds from illegal activities. Thus, it is any act that converts proceeds gained from illegal activity into assets that appear legitimate. Money laundering can undermine the integrity and stability of financial institutions and systems, discourage foreign investment, and distort international capital flows.

We suspect online casinos are potentially susceptible to criminal and money laundering schemes. Online gambling could provide criminal actors with the potential to be anonymous. The use of the TOR network, proxy servers, and encryption through virtual private networks could potentially conceal a player's identity, location, and true gambling activity.

Criminal actors could fraudulently manipulate games and conspire with other to use their online gambling accounts to transfer criminally derived funds to each other. A private tournament or game could create a platform allowing one person to transfer funds to another person. Once the private tournament is created, the criminal actor could raise their bet to the maximum permitted bet and then fold or intentionally lose.

The movement of funds which appears as gambling winnings to one and gambling losses to the other is simply a transfer of criminally derived funds. One of the goals of criminals who generate revenue from criminal activity is to launder their proceeds through our financial systems to make the funds appear legitimate. Criminal actors use numerous methods to launder their proceeds. One of those methods is through the use of casinos.

Internet-based casinos, like physical casinos, can be used to launder criminal proceeds. A person's online gambling account can be funded through various methods. Some of these methods include prepared cards, debit cards, credit cards, previous gambling winnings, or in-person presence at a physical casino. An individual wishing to launder criminal proceeds by funding their online gambling account at the casino could structure their transactions in efforts to evade regulatory reporting.

Bank Secrecy Act regulations applicable to physical casinos also apply to legal online casinos. These Bank Secrecy Act regulations are designed to detect money laundering activity. Bank Secrecy Act regulations also require casinos to file BSA reports when the casino detects suspicious funding or gaming activity. The FBI reviews these reports regularly.

I thank you all again for inviting me to participate in this hearing today, and I look forward to taking your questions. Thank you.

[Prepared statement of Mr. Campbell follows:]



**Joseph S. Campbell**  
**Assistant Director, Criminal Investigative Division**  
**Federal Bureau of Investigation**  
**Statement before the Committee on Oversight and Government Reform**  
**U.S. House of Representatives**  
**December 9, 2015**

Good afternoon Chairman Chaffetz, Ranking Member Cummings, and members of the committee. I am pleased to appear before you today to discuss online gambling and the potential criminal activity which could arise within it.

The Department of Justice takes seriously the issue of illegal gambling, including illegal online gambling, and has carefully used its limited resources to focus its investigation and prosecutions of Internet gambling on those groups engaged in egregious criminal conduct. This includes conduct tied to organized crime, including the La Cosa Nostra, conduct that is part of a larger criminal scheme, and/or conduct that includes locating at least part of the gambling/collection operation within the United States. The Department of Justice continues to successfully investigate and prosecute illegal Internet gambling.

In addition to the Department of Justice's own work in this area, the Federal Bureau of Investigation (FBI) works hard to establish and maintain strong partnerships with both public and private entities in order to combat illegal gaming. One of our priorities has been to work with private sector partners, like the American Gaming Association, to publicize our Internet Crime Complaint Center (IC3). The IC3 is an online tool which allows the public to report tips about suspected online criminal activity, including within the illegal gambling sector. This initiative also leverages the IC3 network to address transnational organized crime (TOC) groups that use illegal gambling as a way to finance violent and illicit activities.

The FBI has also been successful in investigating, and the Department of Justice has been successful in prosecuting, such illegal gambling rings. In 2014-2015, there were four federal trials in Oklahoma City of individuals involved in an online gambling scheme involving Legendz Sports. To date in this prosecution through pleas and convictions at trial, a total of 23 individuals and 2 companies have been convicted for their involvement in this illegal online gambling operation. Of these convictions, 20 individuals and 2 companies have been convicted of RICO conspiracy. The evidence proved these individuals conspired with others from 2003 to 2013 to run Legendz Sports, an international criminal operation that ran online and telephone gambling services based out of Panama City, Panama. The illegal activity involved racketeering conspiracy, operation of an illegal gambling business, and money laundering conspiracy. Legendz Sports took more than \$1 billion in illegal wagers, mostly from gamblers in the United States who were betting on American sporting events. The proceeds were then funneled from

the U.S. to Panama. This is just one example of how the FBI has worked in conjunction with other Federal law enforcement officials, such as the IRS, and state and local law enforcement partners to find those individuals who engage in illicit gambling and end their operations.

In its law enforcement efforts, the Department of Justice is mindful of technological advances and the ever-changing online landscape, and there are several ways in which online gambling can give rise to potential criminal activity. We suspect online casinos, like physical casinos, are potentially susceptible to criminal schemes and money laundering schemes because of the possibility of criminal actors hiding their identity. Online gambling could provide criminal actors with the potential to be anonymous to an even greater extent than in physical casinos. Using online tools, like TOR networks and Virtual Private Networks, criminal actors could conceal their identity, location, and true gambling activity.

Criminal actors could fraudulently manipulate games and conspire with others to use their online gambling accounts to transfer criminally derived funds to each other. A “private tournament or game” could create a platform allowing one person to transfer funds to another person. Once the private tournament is created, the criminal actor could raise their bet to the maximum permitted bet and then fold or intentionally lose. The movement of funds, which appears as gambling winnings to one and gambling losses to the other, is simply a transfer of criminally derived funds. Or the manipulation of a game by co-conspirators could have been a fraudulent scheme intended to steal funds from unsuspecting gamblers.

One of the goals of criminals who generate revenue from criminal activity is to launder their proceeds through our financial systems to make the funds appear legitimate. Criminal actors use numerous methods to launder their proceeds. One of those methods is through the use of casinos. Internet-based casinos, like physical casinos, can be used to launder criminal proceeds.

A person’s online gambling account can be funded through various methods. Some of these methods include prepaid cards, debit cards, credit cards, previous gambling winnings, or in-person presence at a physical casino. An individual wishing to launder criminal proceeds by funding their online gambling account at the casino could structure their transactions in efforts to evade regulatory reporting. A criminal actor could additionally use cash generated from criminal activity to purchase numerous prepaid debit cards. The criminal actor could then use these prepaid debit cards to fund their online gambling account.

The Department of Justice and the FBI continue to use all available tools to detect such illegal activity. For example, Bank Secrecy Act (BSA) regulations applicable to physical casinos also apply to legal online casinos. These Bank Secrecy Act regulations are designed to detect money laundering activity. Bank Secrecy Act regulations also require casinos to file BSA Reports when the casino detects suspicious funding or gaming activity. The FBI reviews these reports regularly in coordination with the Financial Crimes Enforcement Network.

In the age of the Internet, what used to be a crime conducted by local bookies on street corners can now operate as an international criminal enterprise. Working with the Department of Justice and our federal partners, the FBI is committed to bringing criminals to justice no matter where they operate.

Thank you again for the opportunity to appear today. I now look forward to any questions you might have.

Chairman CHAFFETZ. Thank you.  
 Attorney General Wilson, you're now recognized for 5 minutes.

**STATEMENT OF ALAN M. WILSON**

Mr. WILSON. Thank you. Good afternoon, Chairman Chaffetz, Ranking Member Cummings, members of the committee. I appreciate the opportunity to be heard here today.

I'd like to preface my testimony with the reality that the 2011 Wire Act revision is one that should have been debated legislatively, not decided administratively by a DOJ opinion. Members of this committee already recognize that under our Constitution, particularly the 10th Amendment, the States have virtually exclusive authority over gambling. As the fourth circuit has held, "Gambling regulation is an area where States have much expertise and competence, and it lies at the core of a State's police power," end quote. Each State is entitled to decide for itself how or whether to regulate gambling or to ban it altogether.

This is the way our Founding Fathers intended the Constitution to work. The Federal Government should respect the rights of States, not destroy those rights. They should not legalize gambling activities the States make illegal. But the DOJ opinion strikes at the very heart of State powers. DOJ lawyers cannot rewrite what Senators and Congressmen have enacted. The executive branch cannot supersede the legislative. The original Wire Act, with its respect for State sovereignty and prerogatives, should thus be restored so that casino gambling does not operate over the Internet in the States which have outlawed it in their communities.

In South Carolina, gambling is largely prohibited and has been throughout the history of our State. Our courts recognize that the public policy of the State is to prohibit gambling. In recent years my office, our State Law Enforcement Division, or SLED, and various local law enforcement agencies have had to combat short-term proliferation of Internet sweepstakes cafes which displayed Internet-based casino-like games on computer terminals in strip mall outlets, some of which even lured patrons with promises of free cell phones provided by the Federal Government.

Furthermore, South Carolina's experience with video poker was traumatic. Video poker became a \$2 billion industry in the State and carried with it such an addiction problem that there are stories where mothers have left children to die in cars while they played video poker. As a result of video poker, families were destroyed and gambling addictions proliferated exponentially. Robert Stewart, our then chief of SLED, even warned that video poker was bringing organized crime to South Carolina.

Despite South Carolina's continued best efforts over the decades to protect our citizens from the threats posed by gambling, DOJ's revised interpretation of the Wire Act has opened the door to Internet gambling, potentially turning any mobile device in our State into a virtual casino. What South Carolina's legislature has specifically shut down DOJ has reopened in another form with a single stroke of a pen.

As demonstrated in letters from governors and attorneys general to Congress on this matter, States are befuddled that a 180-degree turn in Federal policy on such an important issue was able to occur

without public comment or input. Decisions with such broad national policy implications as the 2011 DOJ opinion, which abandoned 50 years of DOJ policy, should be debated by Congress, not left to a lawyer at the Justice Department operating within a vacuum.

This unilateral opinion has opened a Pandora's box of enforcement issues for States like South Carolina. Overnight, a DOJ attorney transformed casino gambling from a tightly controlled activity requiring interstate or international travel for South Carolinians to an app on a smartphone available 24/7 with the tap of a finger.

While it is reasonable to assume that one day in the future technology will be in place in virtual casinos to prevent these sites from being accessed in another geographic area, the reality is offices like mine charged with the responsibilities of enforcing our own gambling laws and protecting the public cannot be expected to rely on the good faith of massive foreign-owned gambling companies licensed by other States.

Our system of government reserves intrastate matters, including the regulation of gambling at brick-and-mortar facilities and intrastate lotteries, to the States. But the Internet, as the Justice Department has successfully argued in the courts, is inherently interstate, and so are any gambling casinos offered online. States are ill equipped to enforce gambling laws against interstate and international companies, particularly given the technological vulnerabilities of the Internet and age and location verification mechanisms that are subject to compromise.

The 2011 DOJ opinion endangers citizens of States like South Carolina, especially our children. As a result of this opinion, States with strict laws prohibiting online gambling are forced to rely on the promises of foreign gaming corporations and the regulatory agencies of other States which have legalized online gambling, despite their best intentions.

If we have trouble protecting our children from cyberbullying and other Internet crimes-against-children cases, then how can we expect a State to protect our youth from the potential harm of putting an online casino in their pocket. This is why I appreciate this committee's thoughtful efforts to address this serious threat to the citizens of my State and of our country and support legislation to restore the traditional interpretation of the Wire Act. Thank you.

[Prepared statement of Mr. Wilson follows:]

Good afternoon, Chairman Chaffetz, Ranking Member Cummings, and members of the Committee. I appreciate the Committee's interest in addressing the growing problem of readily available access to online gambling and am pleased to have the opportunity to share my perspective on this issue.

I would like to preface my testimony with the reality that the 2011 DOJ Wire Act Opinion is one which should have been debated legislatively, not decided administratively by unelected bureaucrats. The members of this Committee should recognize that under our Constitution, particularly the Tenth Amendment, the states have virtually exclusive authority over gambling. As the Fourth Circuit has recognized, gambling regulation is an "area where states have much expertise and competence, and it lies at the core of a state's police power." *Tsoras v. Manchin*, 431 Fed. App'x. 251, 253 (4th Cir. 2011). Each state is entitled to decide for itself how or whether to regulate gambling or to ban it altogether.

Congress has always recognized the preeminent state interest in gambling regulation. It has been careful to exercise its powers over interstate commerce as concerning gambling and has thus sought to extend, rather than curb state gambling laws. This respect for federalism was recognized by one court at the time the original Wire Act was enacted by noting that Congress, in 1961, intended "to assist the several states in the enforcement of their laws pertaining to gambling and to aid in the suppression of organized gambling activities by restricting the use of wire communication facilities." *U.S. v. Yaquinta*, 204 F. Supp. 276, 277 (N.D. W.V. 1962).

That is the way our Founding Fathers intended the Constitution to work: the Federal Government should respect the rights of states, not destroy those rights. It should not legalize gambling activities the states make illegal. But the DOJ Opinion strikes at the very heart of state powers. DOJ lawyers cannot rewrite what Senators and Congressmen have enacted. The Executive Branch cannot supersede the Legislative. The original Wire Act, with its respect for states rights and prerogatives should thus be restored so that casino gambling does not operate over the Internet in the states which have outlawed it in their communities.

For most of our nation's history, gambling law was the exclusive province of the states. As the Fourth Circuit observed in a case involving preemption of South Carolina gambling laws, "the regulation of gambling by federal law impinges upon core state police powers." *Casino Ventures v. Stewart* 183F.3d 307, 310 (4th Cir. 1999).

Prior to 1961, and to a large extent after, organized crime operations derived substantial revenue from interstate telephone and telegraph account betting services from across the country. While this clearly violated the laws of the states in which it occurred, in many cases, state and local law enforcement were unable to thwart these technologically advanced operations. In 1961, then-United States Attorney General Robert F. Kennedy's Justice Department worked with the 87th Congress to enact a series of laws targeting organized crime operations. These statutes, including the Wire Act, were intended to allow the Federal Government to assist the states in their efforts to combat organized crime.

In South Carolina, gambling is largely prohibited and has been throughout the history of our state. Our state even has laws which allow those who sustain gambling losses to sue to

recover those losses. South Carolina courts recognize that the public policy of the state is to prohibit gambling. In recent years, my office, our State Law Enforcement Division, and various local law enforcement agencies have had to combat a short-term proliferation of internet sweepstakes cafes which displayed internet-based casino-like games on computer terminals in strip mall outlets, some of which even lured patrons with promises of free cell phones provided by the federal government. Enclosed with this testimony is one of many newspaper articles chronicling the scourge of internet gambling in our state and the efforts of South Carolina's General Assembly to close what was a perceived loophole in our state law.

Furthermore, South Carolina's experience with video poker was traumatic. Video poker became a \$2 Billion dollar industry in the state and carried with it such an addiction problem that mothers left children to die in cars while they played video poker. As a result of video poker, families were destroyed and gambling addictions proliferated exponentially. Robert Stewart, our then chief of SLED, even warned that video poker was bringing organized crime to South Carolina. Chief Stewart's admonition was further backed up by William Thompson, a professor at the University of Nevada-Las Vegas and author of more than 100 articles and books on gambling, who stated in a 1997 Charlotte (NC) Observer article that "South Carolina provides an absolutely ripe plum for organized crime," Thompson said. "Gambling is a cash business. It's a business replete with opportunities for cheating, for hiding income from authorities, for siphoning money into other illegal activities, or for hiding money from other illegal activities."

Despite South Carolina's continued best efforts over the decades to protect our citizens from the threats posed by gambling, the Department of Justice's (DOJ) revised interpretation of the Wire Act has opened the door to Internet gambling, potentially turning any mobile device in our state into a virtual casino. The 2011 DOJ opinion creates another loophole for those looking to circumvent South Carolina state law. It allows entities, many of which are foreign-national corporations, to operate online casinos in states like Nevada, Delaware, and New Jersey without any assurance that these online casinos are not being accessed in states like South Carolina. What South Carolina's legislature has specifically shut down, DOJ has reopened in another form with a single stroke of the pen of an unelected bureaucrat.

The expansion of online gambling poses a direct threat to state and local law enforcement efforts to enforce state laws banning gambling, which is still prohibited in many states like South Carolina. Regulation of online gambling has proven difficult at the state level and I anticipate that it will become increasingly difficult to effectively regulate such conduct as more and more states consider legalizing Internet gambling.

As demonstrated in letters from Governors and Attorneys General to Congress on this matter, states are befuddled that a 180 degree turn in federal policy on such an important issue was able to occur without public comment or input. Decisions with such broad national policy implications as the 2011 DOJ opinion should be debated by Congress, not left to a lawyer at the Justice Department operating within a vacuum.

This unilateral opinion has opened a Pandora's box of enforcement issues for states like South Carolina. Overnight, a DOJ attorney transformed casino gambling from a tightly controlled activity requiring interstate or international travel for South Carolinians to an app on a

smart phone available 24/7 with the tap of a finger. The opinion was issued ignoring the reality that the federal government cannot offer states safeguards to prevent virtual casinos in New Jersey from being accessed on phones, tablets, or computers in South Carolina. While it is reasonable to assume that one day in the future, technology will be in place in virtual casinos to prevent these sites from being accessed in another geographic area, the reality is offices like mine, charged with the responsibilities of enforcing our own gambling laws and protecting the public cannot be expected to rely on the good faith of massive foreign owned gambling companies licensed by other states.

In view of the fact that the primary companies operating online gaming since the DOJ opinion are massive foreign owned companies, it would be nearly impossible for my office to prosecute these companies if their sites were accessed by a South Carolina citizen. Prior to this opinion, longstanding policy since the inception of the Internet has been for DOJ to recognize these activities as illegal under federal law. To this point, in 2007, U.S. Attorney for the Eastern District of Missouri Catherine Hanaway stated in Congressional testimony regarding the Wire Act that, "The Department of Justice's view is and has been for some that that all forms of Internet gambling...are illegal under federal law. While many of the federal statutes do not use the term 'Internet gambling,' we believe that the statutory language is sufficient to cover it." But today, with its 2011 DOJ opinion, the federal government has abandoned enforcement of online gambling.

Our system of government reserves *intrastate* matters, including the regulation of gambling at brick-and-mortar facilities and intrastate lotteries, to the states. But, the Internet, as the Justice Department has successfully argued in the courts, is inherently *interstate* and so are any gambling casinos offered online. States are ill-equipped to enforce gambling laws against interstate and international companies, particularly given the technological vulnerabilities of the Internet and age and location verification mechanisms that are subject to compromise.

Without proper investigatory and prosecutorial resources, our citizens, including children and problem gamblers, will be protected only by the promises of foreign gaming corporations and the regulatory agencies of other states which have legalized online gambling.

Legalized gambling in this country has always been tightly controlled, requiring travel to a brick-and-mortar destination. Internet gambling represents a fundamental change. As a result of the DOJ opinion and subsequent green lights to internet casinos in Delaware, New Jersey, and Nevada, it is almost impossible for parents to protect their children from accessing virtual casino games on their smartphones, tablets and laptops. Now, casinos are almost ubiquitous on every street corner in America as the virtual clouds and mobile devices operate anywhere at every hour of the day.

This is why I appreciate the Committee's efforts to address this serious threat to the citizens of my state and of our country, and support legislation to restore the traditional interpretation of the Wire Act.



**Related Articles****GAMBLING INDUSTRY IN S.C. TAKES ISSUE WITH MOB REMARKS**

Charlotte Observer (Charlotte, NC) | November 21, 1997

By: John Reinan and Henry Eichel

Critics of gambling in South Carolina have long maintained that the state's loosely regulated video poker business would make a tempting target for organized crime. Now the state's top law enforcement officer agrees.

Robert Stewart, chief of the S.C. Law Enforcement Division, said this week that he fears organized crime has moved in on the gambling industry.

But on Thursday, a day after he made his suspicions public, Stewart declined to give any details about what prompted his remarks. His silence drew criticism from gambling industry officials, who accused Stewart of conducting "prosecution by press conference."

"If there's proof leading to this, throw the evidence on the table," said Michael Gunn, executive director of the S.C. Video Mall Association. "I'm not aware of any organized crime groups moving into this area."

"By making these statements, I think Chief Stewart is putting a lot of pressure on himself to prove them."

Stewart didn't apologize for his comments - or for refusing to expand on them.

"We're in the early stages of this," he said Thursday. "We've got a couple of things that give me enough confidence to say what I've said - we're just not ready to play our hand on it."

"I know I'm going to take some criticism, but I think it's better to give a heads-up that this problem exists than to wait until it's totally out of hand. Then they'd say, Why didn't you warn us?"

Gamblers bet more than \$1.75 billion in South Carolina during the year ending June 30, and the state's 31,000 poker machines are more than in any states except Nevada and New Jersey. Yet the S.C. gambling industry is the least-regulated in the nation.

That's an invitation to trouble, said William Thompson, a professor at the University of Nevada-Las Vegas and author of more than 100 articles and books on gambling.

"South Carolina provides an absolutely ripe plum for organized crime," Thompson said.

"Gambling is a cash business. It's a business replete with opportunities for cheating, for hiding

income from authorities, for siphoning money into other illegal activities, or for hiding money from other illegal activities."

Unlike other states that allow gambling, South Carolina doesn't impose a tax on gambling revenue. The state doesn't independently monitor the machines' cash flow, relying on owners to file quarterly reports.

South Carolina also doesn't require background checks of machine owners and operators, and does not bar people with criminal backgrounds from involvement in gambling.

In Nevada and New Jersey, Thompson said, the states spend from \$40 million to \$60 million a year on regulatory efforts. South Carolina spends virtually nothing.

"The state is just completely remiss in its efforts," Thompson said.

Gov. David Beasley, who has spoken out against video poker several times in recent months, will not call for an investigation into organized crime and the gaming industry, said spokesman Gary Karr.

"Robert Stewart has the governor's full respect and trust," Karr said. "If he thinks there's something SLED ought to investigate, Chief Stewart will do that."

Meanwhile, Myrtle Beach police say they are looking into possible organized crime ties to the video poker industry along the Grand Strand.

"When you talk about the gambling industry, that red flag automatically seems to go up," said Capt. Sam Hendrick, head of investigations for Myrtle Beach police.

Suspensions of organized crime ties were heightened during an investigation into the killing of a bookkeeper for a gaming company, Hendrick said. Grace Stinson, 47, was found stabbed to death in her Myrtle Beach apartment in June.

"There are things we have seen in this investigation that suggest there are things we should be looking at," Hendrick said, but would not elaborate. Police have not made an arrest in the Stinson case.

Chairman CHAFFETZ. Thank you.  
Mr. Kleine, you're now recognized for 5 minutes.

**STATEMENT OF DONALD W. KLEINE**

Mr. KLEINE. Thank you, Chairman.

Chairman Chaffetz, Ranking Member Cummings, and distinguished members of the committee, thank you for giving me the opportunity to speak today about the challenges of local law enforcement and protecting our most vulnerable citizens from the dangers that lurk in the realm of online gambling.

I am the county attorney for Douglas County, Nebraska. Myself and other colleagues around the country, the local DAs, prosecute over 95 percent of the crime that occurs in America. Douglas County encompasses Omaha and much of its metro area and is home to over one-fourth of Nebraska's residents.

As this committee is well aware, prior to 2011 the Department of Justice interpreted the Wire Act to prohibit wagering of any kind over interstate telecommunications, including the Internet. The Wire Act essentially serves as a Federal prohibition to online gambling.

In 2011, DOJ revised its longstanding interpretation of the Wire Act to only apply to wagers placed on sporting events, opening the door to online gambling in States without any input at all from law enforcement. The FBI has warned Congress that online gambling is uniquely vulnerable to criminal activity, but DOJ's dismantling of the Wire Act eliminated the risk of Federal prosecution for online gambling. This left policing of online gambling to State and local officials with limited resources.

For example, the Douglas County Attorney's Office, my office, has an annual budget of approximately \$8 million. We have 56 attorneys dedicated to prosecuting approximately 3,500 felonies that occur within Douglas County. Our office is largely focused on violent crimes rather than online gambling. Moreover, while some violations of Nebraska's antigambling laws are felonies, many are misdemeanors, making it even more difficult to devote precious resources to enforcement.

In addition to the limited resources available for enforcing the law, prosecution of gambling laws is especially difficult given that online gambling is inherently interstate and often has international implications. It has been my experience the law enforcement issues concerning in-person casino gambling are for the most part contained within the general vicinity of the gaming establishment itself. But online gambling easily crosses domestic and international borders and can often be accessed by anyone with Internet access.

Several countries have legalized online gambling, and companies house servers that are accessible to people outside the host country. The primary companies operating these online gaming sites are massive foreign companies against whom it would be nearly impossible for my office, a local law enforcement DA, to bring charges. These companies recognize that criminal prosecution by local officials would be very difficult, which creates even more opportunities for these companies to defraud players, launder money for much more dangerous operations.

Even more troubling are the risks beyond illegal gambling associated with many online gambling sites. Credit card fraud, identity theft, and other financial crimes can occur when players disclose information that should be kept secure. Unlike other licensed and regulated activities, Internet gamblers often do not know who is operating the gambling site, if the games are honest, if the winnings will be paid, or if the money wager will be used for criminal purposes. Once an individual chooses to engage in online gambling activities, there are few remedies should they fall victim to a dishonest site.

The anonymous virtual nature of online gambling also increases opportunity to gamble more frequently. As I left my office yesterday, we had two new felony cases come in just from people who had gambling issues, and they obviously committed other crimes because of their gambling problems. As a county attorney, I have prosecuted numerous crimes stemming from gambling issues, including white collar crimes involving significant sums of money, to neglect cases from parents not caring for their children due to gambling issues.

Easy access to gambling is particularly dangerous to young people, who are two to three times more likely to develop a gambling problem. The Mayo Clinic compares the physiological impact of gambling to the impact drugs have on a brain's reward system. From the mental and emotional perspective, pathological gamblers are at an increased risk to develop stress-related conditions, major depressive episodes, anxiety disorders, or substance abuse issues. Impulsive gambling can also lead to financial loss, increased crime, lost time at work, bankruptcies, strained relationships with family members, and even homelessness.

Finally, online gambling activities are extremely difficult to monitor because users can remain largely anonymous. Law enforcement often has limited tools to identify who is gambling illegal and from where they are engaging in the unlawful activity. Any smartphone, tablet, or laptop can be a vehicle for online gambling, and it is virtually impossible to pinpoint players who sign on from isolated networks.

Members of the committee, thank you for the opportunity to share my concerns with you today regarding the dangerous consequences of online gambling and the resources required to support a state-by-state regulating scheme. Law enforcement is charged with protection of our most vulnerable citizens, but we cannot be expected to accomplish this monumental task alone. We need the important resources and expertise of the FBI and Federal law enforcement to ensure those online gambling companies preying on our citizens are brought to justice. Thank you.

[Prepared statement of Mr. Kleine follows:]

**Written Testimony of Donald W. Kleine  
Douglas County Attorney  
before the  
House Committee on Oversight and Government Reform  
“A Casino in Every Smartphone: Law Enforcement Implications”  
December 9, 2015  
2154 Rayburn House Office Building**

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Chairman Chaffetz, Ranking Member Cummings, and distinguished Members of the Committee, thank you for giving me the opportunity to speak today about the challenges of local law enforcement in protecting our most vulnerable citizen from the dangers that lurk in the realm of online gambling. My name is Donald W. Kleine and I am the County Attorney for Douglas County, Nebraska, which encompasses Omaha and much of its metro area, and is home to over one-fourth of Nebraska’s residents.

As this Committee knows, prior to 2011, the Department of Justice (DOJ) interpreted the Wire Act<sup>1</sup> to prohibit wagering of any kind over interstate telecommunications, including the Internet. The Wire Act essentially served as a federal prohibition on online gambling. In 2011, DOJ revised its long-standing interpretation of the Wire Act to only apply to wagers placed on sporting events, opening the door to online gambling in the states without any input from law enforcement.

The FBI has warned Congress that online gambling is uniquely vulnerable to criminal activity, but DOJ’s dismantling of the Wire Act eliminated the risk of federal prosecution for online gambling. This left policing of online gambling to state and local officials with limited resources.

For example, my office has an annual budget of approximately eight million dollars. We have fifty-six attorneys dedicated to prosecuting approximately 3500 felonies that occur within Douglas County. Our office is largely focused on violent crimes, rather than online gambling. Moreover, while some violations of Nebraska’s anti-gambling laws are felonies, many are misdemeanors, making it even more difficult to devote precious resources to enforcement.

In addition to the limited resources available for enforcing the law, prosecution of gambling laws is especially difficult given that online gambling is inherently interstate and often has international implications. It has been my experience that law enforcement issues concerning in-person casino gambling are, for the most part, contained within the general vicinity of the gambling establishment.

But online gambling easily crosses domestic and international borders and can often be accessed by anyone with Internet access. Several countries have legalized online gambling and companies house servers that are accessible to people outside the host country. The primary companies operating these online gaming sites are massive foreign companies against whom it would be

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<sup>1</sup> 18 U.S.C. § 1084 (2006)

nearly impossible for my office to bring charges. These companies recognize that criminal prosecution by local officials would be very difficult which creates even more opportunities for these companies to defraud players and launder money for much more dangerous operations.

Even more troubling are the risks beyond illegal gambling associated with many online gambling sites. Credit card fraud, identity theft, and other financial crimes can occur when players disclose information that should be kept secure. Unlike other licensed and regulated activities, Internet gamblers often do not know who is operating the gambling site, if the games are honest, if winnings will be paid, or if the money wagered will be used for criminal purposes. Once an individual chooses to engage in online gambling activities, there are few remedies should they fall victim to a dishonest site.

The anonymous, virtual nature of online gambling also increases opportunities to gamble more frequently. As county attorney, I have prosecuted numerous crimes stemming from gambling issues, including white-collar crimes involving significant sums of money to neglect cases from parents not caring for their children due to gambling issues. Easy access to gambling is particularly dangerous to young people, who are two to three times more likely to develop a gambling problem. The Mayo Clinic compares the physiological impact of gambling to the impact drugs have on the brain's reward system. From a mental and emotional perspective, pathological gamblers are at increased risk to develop stress-related conditions, major depressive episodes, anxiety disorders, or substance abuse issues. Compulsive gambling also can lead to financial loss, increased crime, lost time at work, bankruptcies, strained relationships with family members, and even homelessness.

Finally, online gambling activities are extremely difficult to monitor because users can remain largely anonymous. Law enforcement often has limited tools to identify who is gambling illegal and from where they are engaging in the unlawful activity. Any smartphone, tablet, or laptop can be a vehicle for online gambling and it is virtually impossible to pinpoint players who sign on from isolated networks.

Members of the Committee, thank you for the opportunity to share my concerns with you today regarding the dangerous consequences of online gambling and the resources required to support a state-by-state regulating scheme. Law enforcement is charged with protection of our most vulnerable of citizens, but we cannot be expected to accomplish this monumental task alone. We need the important resources and expertise of the FBI and federal law enforcement to ensure those online gambling companies preying on our citizens are brought to justice.

Chairman CHAFFETZ. Mr. Kleine, thank you.  
Mr. Lipparelli, you are now recognized for 5 minutes.

#### STATEMENT OF MARK LIPPARELLI

Mr. LIPPARELLI. Thank you Mr. Chairman and members of the committee, for the invitation to speak today. I am Mark Lipparelli, and I was asked to present the result of the emphasis of my work for the past 7 years and my over 22 years of experience in the gaming technology field.

In January of 2009, I was appointed by the Governor of my State to the Nevada Gaming Control Board, and in January of 2011, I was elevated to the position of chairman. I also served on our State's Gaming Policy Committee that adopted support of regulated interactive gaming in our State. This is relevant because during my tenure on the Board, our State embarked on creating the first set of gaming regulations governing legal interactive gaming in the United States.

I concluded my tenure on the Gaming Control Board in October of 2012, and since that time have provided advisory work to a number of entities engaged in the gaming, technology, sports, and investment sectors. I'm also the cofounder of the International Center for Gaming Regulation at the University of Nevada, Las Vegas, and currently serve as a Nevada state senator. I would add that prior to serving on the Board, I spent 15 years in senior management positions with some of the industry's leading gaming technology providers. The comments I make today are my own.

As you continue to review igaming and the related role of law enforcement, I can tell you confidently your committee is now in a position to benefit from a significant amount of deliberation and contribution from many well-informed and experienced operators, regulators, technologists, and industry experts. Unlike 2009, we are no longer in greenfield.

We have learned a great deal in the past 6 years. The creation of enabling law and regulation in three States and a large number of informed studies and debates, as well as, perhaps most importantly, the creation, testing, and deployment of many igaming systems throughout the world has created concrete knowledge that does now and should replace speculation. The healthy portion of the knowledge gained also comes from international markets that by our U.S. standards are not highly regulated.

From a regulatory and law enforcement perspective, Nevada, New Jersey, and Delaware have been successful. Where there were concerns over licensing, protecting children and the vulnerable, player protection, tax collection, money laundering, and geolocation, these States have had good success. I have provided further discussion of these items in my full remarks.

We know there have been many attempts to compromise these systems, but those issues are being revealed, thwarted, evaluated, and, where warranted, new standards are implemented. This is a hallmark of gaming regulation of the traditional casino business.

I would provide praise to my former colleagues in Nevada for beginning this effort, and particular praise of the efforts of Dave Rebuck and the New Jersey Division of Gaming Enforcement. Unlike Nevada, where regulations currently authorize only online

poker, New Jersey chose to implement all forms of gaming. This no doubt expanded the scope of the effort and the energy to get it right.

Like any innovation, ongoing diligence and continued product improvements will be necessary to meet the constant work of those who seek to compromise laws and regulations. The three existing U.S. markets and several regulated markets in Canada have now applied their knowledge to actual operations, and historical speculation has given way to their success and foundation knowledge.

Future regulatory agencies that consider igaming legislation will be subject to inquiry from those seeking clarity on the subject of licensing, product submissions, site approvals, employee registrations. These questions have been widely debated, tested, and largely addressed. To the degree possible, I have advised governments, law enforcement, and regulatory policy advisers to provide for a broad statutory framework but leave the specific requirements to the regulations. This approach gives regulators, the experts in the field, more opportunity to adjust to changing technology and provide flexibility where appropriate.

Depending on the underlying products that may be introduced in the future, it is important that law enforcement and regulators strike an appropriate balance of clarity and regulatory policy. Where the intent is to allow full commercial-style casino games, a more robust form of oversight is likely warranted. Where there are other forms of online gaming entertainment that fall short of these definitions, lighter forms of regulation may suffice.

I have a couple concluding remarks. One, I would not leave this subject without specific reference to what I consider to be the much bigger policy challenge. In my opinion, illegal gaming operators need to be put in the spotlight. These operators continue to exist in the shadows and enjoy untaxed and unregulated operations.

This is an area where States that have authorized gaming and those that have not need to work together with Federal law enforcement to continue to reveal these rogue operators. It is a continual effort, but cooperation between all levels of government, financial institutions, and licensed operators is critical. If illegal non-taxing operators are allowed to freely compete untested with unregulated products, the playing field will remain unlevel and consumers will be unprotected.

Nevada, New Jersey and Delaware, as well as many test labs, have begun to reverse this trend. In the short and the long term, the lasting impacts on licensed operators will be significant. This knowledge must be shared with other States and the Federal Government as policies are shaped.

Number two, the pace of U.S. legalization has to date been modest. This has largely abated concerns 5 years ago that igaming would spread too quickly without proper oversight and without actual knowledge that it could be effectively regulated. Even with our law in Nevada in place for over 15 years, we remain only a poker jurisdiction, and several States, after study, elected not to proceed with igaming legislation.

Three, there's a host of attendant businesses that desire further clarity around igaming policy. These include financial institutions, handset providers, network providers, credit card issuers, and



many others. In nearly every case, they too seek the advantage of legal markets and seek to avoid those who are not providing such clarity.

Four, technology innovation is taking place at a higher and higher speed and consumers are adopting mobile preferences. Newer technology to protect State choices on allowing or prohibiting igaming is getting stronger and more diverse. For example, the proximity of New Jersey to New York and Pennsylvania highlights these protections in operation.

Five, consistency in igaming regulation is very important. The security of any system is made more difficult if we end up with an application code that varies widely from market to market. If policy changes are considered, this should be kept firmly in mind.

And lastly, you have no doubt heard and will continue to hear from those who suggest that the risks are simply too great or that you cannot be given complete assurance that legal igaming can be properly governed. As chairman, these concerns were very real for me. No other State had taken up the regulation of igaming, and we had a 75-year history to protect. My Governor, himself a former Gaming Commission chair, attorney general, and Federal judge, made it clear to me that outside risk was not in his or our State's interest.

However, after spending 6 years with experts in the field, developers of products, independent test labs, and regulators, from Alderney, the United Kingdom, Gibraltar, France, Italy, Malta, and the Isle of Man, Singapore, and many others, I can give you confidence that the regulated market model does work.

That said, you must be willing to accept that this market, like any market, is not entirely bulletproof prove. As markets grow, there will no doubt be challenges. I expect we will uncover new risks that we did not anticipate despite our exhaustive efforts. State regulators and independent test labs have and will continue to act to address those challenges.

Thank you very much for your attention. I am happy to answer any questions you may have.

[Prepared statement of Mr. Lipparelli follows:]

### **Introduction**

Thank you Mr. Chairman and members of the Committee for the invitation to speak before you today.

I am Mark Lipparelli and I was asked to present as a result of the emphasis of my work for the past seven years and my overall 22 years in the gaming technology field.

In January 2009, I was appointed by the Governor of my state to the Nevada Gaming Control Board. In January 2011, I was elevated to the position of Chairman. I also served on our state's Gaming Policy Committee that adopted support of regulated interactive gaming in our state. This is relevant because during my tenure on the Board, our state embarked on creating the first set of gaming regulations governing "legal" interactive gaming ("igaming") in the United States. I concluded my tenure on the Gaming Control Board in October, 2012 and since that time have provided advisory work to a number of entities engaged in the gaming, technology, sports, and investment sectors. I am also a Co-Founder of the International Center for Gaming Regulation at the University of Nevada, Las Vegas and currently serve as a Nevada State Senator.

I would add that prior to serving on the Board, I spent 15 years in senior management positions with some of the gaming industry's leading technology providers.

The comments I make today are my own.

### **Current Backdrop**

As you continue your review of igaming and the related role of law enforcement, I can tell you confidently your committee is now in a position to benefit from a significant amount of deliberation and contribution from many well-informed and experienced operators, regulators, technologists and industry experts.

Unlike 2009, we are no longer in the greenfield. We have learned a great deal in the past six years. The creation of enabling law and regulation in three states, a large number of informed studies and debates as well as, perhaps most importantly, the creation, testing and deployment of many igaming systems throughout the world has provided concrete knowledge that does and should replace speculation. A healthy portion of the knowledge gained also comes from international markets that, by US standards, are not highly regulated.

From a regulatory and law enforcement perspective, Nevada, New Jersey and Delaware have been successful. Where there were concerns over licensing, protecting children and the vulnerable, player protection, taxes, money

laundering, and geolocation these states have had good success. I have provided further discussion of these items in my full remarks. We know there have been many attempts to compromise these systems, but those issues are being revealed, thwarted, evaluated and, where warranted, new standards are implemented. This is a hallmark of gaming regulation of traditional casino operations.

I would provide praise to my former colleagues in Nevada for beginning this effort and particular praise to the efforts of Dave Rebuck and the New Jersey Division of Gaming Enforcement. Unlike Nevada where regulations currently authorize only online poker, New Jersey chose to implement all forms of gaming. This no doubt expanded the scope of effort and energy to get it right.

Like any innovation, ongoing diligence and continued product improvements will be necessary to meet the constant work of those who seek to compromise laws and regulation.

### **Striking the Right Balance**

The three existing US markets and several regulated markets in Canada have now applied their knowledge to actual operations and historical speculation has given way to their success and foundation knowledge. Future regulatory agencies that consider igaming legislation will be subject to inquiry from those seeking clarity on subjects ranging from licensing investigations, product submissions, site approvals, employee registrations, and many other regulatory questions. These questions have been widely debated, tested and largely addressed.

To the degree possible, I have advised state governments, law enforcement and regulatory policy advisors to provide for broad statutory frameworks but leave specific requirements to regulations. This approach gives regulators (the experts in the field) more opportunity to adjust to changing technology and provide flexibility where appropriate.

Depending on the underlying products that may be introduced in the future, it is important that law enforcement and regulators strike an appropriate balance of clarity and regulatory policy. Where the intent is to allow full commercial styled casino games online, a more robust form of oversight is likely warranted. Where there are other forms of online gaming entertainment that fall short of these definitions, lighter forms of regulation may suffice.

### **Concluding Comments**

A couple of concluding remarks.

One, I would not leave this subject without specific reference to what I consider to be the much bigger policy challenge. In my opinion, illegal gaming operators need to be put in the spotlight. These operators continue to exist in the shadows and enjoy untaxed and unregulated operations. This is an area where states that have authorized gaming and, those that have not, need to work together with federal law enforcement to continue to reveal rogue operators. It is a continual effort but cooperation between all levels of government, financial institutions and licensed operators is critical.

If illegal, nontaxpaying, operators are allowed to freely compete with untested and unregulated products, the playing field will remain unlevel and consumers will be left unprotected. Nevada, New Jersey and Delaware, as well as the testing labs, have begun to reverse this trend. In the short and long term, the lasting impacts on licensed operators will be significant. This knowledge must be shared with other states and the federal government as policies are shaped.

Two, the pace of US legalization has been, to date, modest. This has largely abated concerns five years ago that igaming would spread too quickly without proper oversight and without actual knowledge that it could be effectively regulated. Even with our law in place for nearly 15 years, Nevada remains a poker only jurisdiction and several states have passed on legalization.

Three, there are a host of attendant businesses that desire further clarity around igaming policy. These include financial institutions, handset providers, network providers, credit card issuers and many others. In nearly every case, they too seek to take advantage of legal markets and seek to avoid those who are not providing such clarity.

Four, technology innovation is taking place at higher and higher speeds and consumers are adopting mobile preferences. Newer technology to protect state choices on allowing or prohibiting igaming is getting stronger and more diverse. The proximity of New Jersey to New York and Pennsylvania is a great example of these protections in operation.

Five, consistency in igaming regulation is very important. The security of any system is made more difficult if we end up with application code that varies widely from market to market. If policy changes are considered this should be kept firmly in mind.

Lastly, you have no doubt heard (and will continue to hear) from those who suggest that the risks are simply too great or that you cannot be given complete assurance that legal igaming can be properly governed. As Chairman, these concerns were very real for me. No other state had taken up the regulation of igaming and we had a 75 year history to protect. My Governor, himself a former

Gaming Commission Chair, Attorney General and Federal Judge, made it clear to me that outsized risk was not in his or our state's interest.

However, after spending six years with experts in the field, developers of products, independent test labs and regulators from Alderney, the United Kingdom, Gibraltar, France, Italy, Malta, the Isle of Man, Singapore and many others I can give you confidence that the regulated model does work.

That said, you must be willing to accept that this market, like any market, is not entirely bullet proof. As markets grow, there no doubt will be challenges. I expect we will uncover new risks we did not anticipate despite our exhaustive efforts. State regulators and independent test labs have and will continue to act to address such challenges.

Thank you very much for your attention and I am happy to answer any questions.

## **Appendix:**

### **Common Elements of Igaming Legalization and Regulation**

While there may be several specific elements you consider, there are likely 4-5 major elements that normally follow the analysis around igaming legalization. These have been debated for a number of years now and I find them to be generally consistent from market to market. These elements generally include Regulatory Licensing, Player/Patron Protection, Taxes, Money Laundering, and Geolocation.

#### **1. Regulatory Licensing**

Regulatory licensing is perhaps one of the most important elements in regulating igaming. When asked, I normally suggest that if licensing is established successfully, the rest of the legal framework is not the subject of as much great debate. Naturally, many stakeholders will weigh in on the subject.

First, the analysis will relate to whom shall be qualified to apply for a license and, appropriately, this will vary from market to market. The determination of qualified applicants will be largely dependent on the type of gaming licenses in the given market. This could include casinos, tribal operations, bingo operators, lotteries, racetracks, card rooms among others.

There will likely be little debate about licensing requirements of the primary operator and the key technology providers with a bit more reasonable disagreement how far down the service provider chain will require licensing or registration.

Secondly, and perhaps as critical, is the level of regulatory scrutiny applicants will be subjected to in seeking licensure. In my view, the igaming licensee, should be subject to what is generally known in the gaming regulatory community as full licensing. Qualified applicants would be required to meet the highest standards for qualification, integrity, acumen and reputation. In other respects, state systems may need to account for tiers of products that fall outside the traditional definitions of full igaming activities that do not require such extensive licensing burdens.

#### **2. Player/Patron Protection**

One of the central reasons we are here today is concern over protecting online patrons. I have found broad consensus that igaming can be successful and are not subject to the outsized risks many warned could come. The first generation systems have proven that it is possible. Many of the patrons today who gamble

on illegal sites would likely be shocked at the vulnerability of their funds and lack of protection.

Either through specific language in statutes or, preferably, through regulation igaming products can be subjected to various levels of testing by long established independent test labs to ensure that player funds are protected, that collusion can be reasonably detected, that risks are monitored and corrected, and that patron disputes are properly administered.

Player protection also extends to providing for requirements geared towards minimizing the harmful effects on the more vulnerable. Despite arguments you may hear to the contrary, online gaming provides materially greater protections than are generally available to brick and mortar casino operators.

Lastly, first generation systems have been largely successful in preventing underage gaming. None of the initial states have cited this concern as a major source of challenge. As the next generation of solutions come to market, more can be done to ensure that patrons are recognized.

### **3. Collection of Taxes / Auditing**

Taxes are often complicated. However, it is my experience that gaming systems have proven, over time, to be highly effective and efficient as it relates to the tracking of revenue for the assessment and collection of taxes both in brick and mortar and in the igaming market. Coupled with the privileged nature of gaming licensing, there is a strong incentive for licensed operators to maintain a nearly perfect record of tax payments.

In fact, online systems are substantially more capable for a couple of key reasons. One, normally such systems are built on more modern and robust technology frameworks. Two, transactions in online systems are recorded at a granular level compared to several elements found in physical casinos that do not lend themselves to granular tracking (e.g. table game play).

While this is not scientific, I should note it is also worth mentioning that igaming tax policy, generally, is an important consideration. It is my judgment that defaulting to higher rates of tax is not optimal as established illegal operators will exploit this in the form of "price advantage."

### **4. Money Laundering**

The internet is often cited as a law enforcement concern regarding the movement of funds illegally. While I won't speak to the illegal operators, I can say regulated online gaming would not be an obvious or an attractive place to launder funds or move money outside the traditional financial system.

Regulated operator requirements require tracking of granular level events and presents substantial evidentiary trails for law enforcement with regard to money laundering.

Further, patrons on regulated gaming sites are subjected to rigorous identity mandates when player accounts are created. If anonymous movement of funds were the goal, regulated gaming would not be the best place to do it. If such patrons are complicit in nefarious actions, their identities will be known. Little, if any, such enforcement tools are in place on illegally run gaming sites.

## **5. Geolocation**

The last of the major areas often discussed as a law enforcement challenge are mandates that reasonably assure gaming remains within the market where such activity is legalized and regulated. Given that the internet was designed with the mindset that it becomes readily accessible from anywhere, this is a reasonable concern.

Substantial progress has been, and continues to be made, by service providers who have perfected methods to pinpoint patron location and gain knowledge of technology used to misdirect actual patron location. You should not presume that the regulated markets were accepting of basic internet protocol ("IP") as a method of determining the location of patrons. The adopted technical requirements and ongoing monitoring, particularly in New Jersey where population density around its borders was a much bigger challenge, have proven to be robust and capable. More and more tools are becoming available and this will be an ongoing effort.



### **Nevada's Background**

While it is important to note that a good amount of progress in igaming legalization work in the US was accomplished in the past six years, Nevada's enabling legislation was actually created in 2001.

As such, I believe it is important to know how the US market for regulated igaming came to be.

Shortly after Nevada's adoption of law in 2001, a question was raised about the applicability of the 1961 Wire Act (a long standing federal law). At the request of Nevada's regulators, in 2002, Michael Chertoff, then a senior official of the US Justice Department's Criminal Division, mailed a letter to the former chairman of the State Gaming Control Board stating that it was the view of the US DOJ that igaming was a violation of the Wire Act. This placed the State of Nevada in a stalemate position. Nevada's 2001 initial interactive law included a mandate that the State needed federal clarity before it could proceed.

With the receipt of the Chertoff letter, even though Nevada had created its igaming law, there were no regulations adopted. A similar DOJ letter was published in 2005 to the State of North Dakota reiterating the position.

While this was the opinion of the Criminal Division of the USDOJ there were mixed judgments coming out of the US federal courts some arguably concurring with the Chertoff position and others countering the position.

Igaming had continued to rapidly expand both within (albeit illegally in most cases) and outside the US. Material lobbying efforts, both pro and con, were also taking place here in Washington DC.

In 2006, partly in response to the rapid growth of illegal online gaming, Congress adopted the Unlawful Internet Gambling Enforcement Act. While this was a significant policy statement emanating from Congress, it generally did not change the underlying applicability of the Wire Act. The passage of UIGEA did have an impact on the marketplace. As a result of passage of the act, several foreign companies made an affirmative decision to discontinue accepting wagers from US patrons. Others did not.

In the years following the passage of UIGEA, a good deal of business progress continued. Igaming was growing at great speed in markets outside the US. Regulated markets developed in the Isle of Mann, Alderney, Gibraltar and Malta. Importantly, it was also during this time that Italy, France and Spain elected to address the "grey" nature of online gaming and ring fenced their markets. In essence, the economics on online gaming was beginning to bear fruit and individual markets were paying attention.

Uncertainty about whether legal online gaming in the US would come to be was further complicated in April, 2011, an event now commonly referred to as Black Friday. The USDOJ unsealed an indictment and seized the domain names of three major online gaming companies. The indictment related to charges of bank fraud, money laundering and illegal gaming offenses. These indictments had a chilling impact on legalization efforts. However, some argue, including me, that these indictments shed a bright light on the scope of illegal gaming in the US and that, without federal changes, states would likely become the incubators of legalized gaming in the US.

In December 2011, one of the next major milestones was passed and one of the reasons for today's hearing. With federal legislation efforts mired in disagreement, the USDOJ Office of Legal Counsel published an opinion, in essence, countering the previously held view that the Wire Act prohibited gaming at the state level. This opinion was a response to a request by the state of Illinois and the State of New York who were considering online expansion of their lottery products.

As a result of this opinion, the State of Nevada now arguably had its clarity under its law. We began the process of drafting regulations, conducting public workshops, framing testing requirements, and compiled application requirements. In the ensuing months, licenses were issued (June, 2012), systems were tested and online poker commenced (April, 2013).

This brief history by no means covers the decade in full scope but it does give you some important key steps that bring us to today's hearing.

Chairman CHAFFETZ. Thank you.

Before I get to our questioning, I have two UC requests. First, the chair notes the presence of our colleague, Congresswoman Dina Titus from Nevada. While she's not a member of the Oversight Committee, we thank her for the interest in the hearing topic, and I'd ask unanimous consent that Ms. Titus be allowed to fully participate in today's hearing.

Without objection, so ordered.

I also have a series of letters that I would ask unanimous consent to enter into the record. (1) A letter from eight State attorneys general urging Congress to restore the longstanding interpretation of the Wire Act. (2) A letter from the Nevada attorney general, Adam Laxalt, expressing the need for congressional review of the Wire Act and the 2011 OLC memo. (3) A letter from 16 State attorneys general urging Congress to restore the longstanding interpretation of the Wire Act. (4) A letter from Congressman Bill Young that was dated September 20, 2013, stating online casinos are vulnerable to a wide array of criminal schemes. (5) A letter from the FBI to Congressman Spencer Bachus dated November 13, 2009, expressing concerns with online gaming, including its potential use for money laundering.

Individual letters from various governors across the country, all expressing concerns with online gaming and the need to address the Wire Act: (6) Arkansas Governor Asa Hutchinson from Arkansas, (7) Utah Governor Gary Herbert, (8) Florida Governor Rick Scott—again, these are all individual letters—Florida Governor Rick Scott, (9) South Carolina Governor Nikki Haley, (10) Texas Governor Rick Perry, (11) Indiana Governor Mike Pence.

(12) A letter from Congressman George Holding expressing concerns with online gaming. (13) A letter from the Family Research Council expressing support to restoring the Wire Act. (14) As well as a Newsweek cover story on the issue.

Without objection, I would like to enter these into the record. Without objection, so ordered.

Chairman CHAFFETZ. Now we'll get to the questioning. I would like to recognize the gentleman from Kentucky, Mr. Massie, for 5 minutes.

Mr. MASSIE. Thank you, Mr. Chairman. And thank you for holding this hearing.

Mr. Campbell, my first question is for you. Approximately how much of the FBI's budget is dedicated to regulating and enforcing laws on Internet gambling? What percentage, if you would, not asking for an exact number.

Mr. CAMPBELL. I don't have with me the exact percentage related to the budget that we dedicate it to. However, I can tell you that—

Chairman CHAFFETZ. If you can move—all of you, if you can that microphone up close and snug and turn it right—there you go. Thank you.

Mr. CAMPBELL. Okay. However, in regard to our investigations regarding this violation, it could cross a number of areas that of course are funded, such as transnational organized crime, potential terrorism financing, other criminal enterprises involved in it.

Mr. MASSIE. Speaking of that, have you prosecuted anybody for terrorism financing using Internet gambling as a nexus?

Mr. CAMPBELL. We do have one investigation that we did conduct where the individual used, among other things—

Mr. MASSIE. Was there a prosecution?

Mr. CAMPBELL. —gambling for money laundering purposes and so forth.

Mr. MASSIE. Was it one of these Internet gambling sites in one of these three States that allow it?

Mr. CAMPBELL. I don't have that information. I can provide you with more particulars on that.

Mr. MASSIE. How big of a priority is this and how prevalent of a problem is it compared to, say, terrorism—for the FBI—compared to terrorism, insider trading, counterfeiting, political corruption? Is it more important than any of those?

Mr. CAMPBELL. Well, it fits into the priority in the sense that as we go after critical organizations that can hurt America—and, again, whether those are transnational organized crime groups, other criminal enterprise groups, terrorism, etcetera—we look for any and all violations that those individuals are involved in. And certainly if it involves online gaming, we're going to pursue that threat and fully investigate that aspect.

In addition, as information comes to us whereby online gaming may be occurring in an illegal manner or promoting those types of threats, we're going to drive most definitely as a priority.

Mr. MASSIE. But your testimony is that today, so far, you are not aware of any terrorism that's been financed using Internet gambling in any of the three States.

Mr. CAMPBELL. As I said, I can take that back, and we can do some further analysis to determine—

Mr. MASSIE. But right now you're not aware of it.

Mr. CAMPBELL. But as I sit here, I do not have that answer.

Mr. MASSIE. Mr. Campbell, following up, can't States just pass laws to prevent their own citizens from gambling on the Internet?

Mr. CAMPBELL. Well, certainly it's up to the States to determine how they might want to police online gaming. From our perspective, we use a number of statutes, the illegal gambling business statute, Unlawful Internet Gaming Act, as well. The Travel Act, the money laundering statutes, bank fraud, wire fraud, mail fraud, etcetera. And we partner with States in investigations and prosecutions.

Mr. MASSIE. Attorney General Wilson, same question for you. Can't your State just pass laws regulating this in your State?

Mr. WILSON. It's my opinion that it would not be practical for States on a state-by-state and a quilt-like matter to pass laws on something that the Federal law has passed unanimously across all 50 States.

Mr. MASSIE. Is that because of enforcement?

Mr. WILSON. Well, it is very difficult from an enforcement purpose. I mean, it is extremely difficult to enforce.

Mr. MASSIE. Well, here's my concern. And my next question is for Mr. Lipparelli. I want to know if you have the same concern that I do that if we pass a national online gambling prohibition, under the presumption that it's necessary for Federal legislation to over-

turn—essentially overturn State laws, to deal with a State problem on it, you know, because they don't want to do it on a state-by-state basis, couldn't that logic be used in the same way with gun control, for instance? Because if a State's allowed to sell guns in one State, that makes enforcement of gun control laws in another State difficult. Isn't there sort of the same logic at play there? Or do you share that concern?

Mr. LIPPARELLI. I wasn't prepared to discuss gun control in today's hearing. But what I would say to that question is—

Mr. MASSIE. Well, let's just back it up to the 10th Amendment, then.

Mr. LIPPARELLI. Right. What I would say to that question are two things. State laws that exist today that either authorize or make illegal gaming operations apply every bit as much to something that is exposed on the Internet as it would be in a brick-and-mortar facility. For example, in the State of Nevada, you no more have a right to expose a gambling game on the Internet as you do going down the street and opening up a building without a gaming license. So those State laws apply regardless. And so that would be my response, is State law already prevails regardless of whether it's Internet or not.

Mr. MASSIE. So just in closing, I would say that I do have that concern, that if we use this logic at the Federal level that it's hard to enforce, for instance, gun control laws in one State so we have to have a universal ban, that seems like the same logic that we're using here by prohibiting Internet gaming. That is just my concern, Mr. Chairman. And thank you. I yield back.

Chairman CHAFFETZ. No, listen, I appreciate your thought on this. I know you care about this issue.

I would just add to my colleague that the Department of Justice, second only to the financial sector, more than a billion dollars in fines—a billion. So they are pouring an awful lot of resources into this, and there have been quite a few incursions in this category.

We now recognize Mrs. Watson Coleman for 5 minutes.

Mrs. WATSON COLEMAN. Thank you, Mr. Chairman.

You know, the three States that have created a regulatory framework to allow licensed online gambling operators have already greatly reduced the risk of collusion of money laundering due to regulated sites.

So, Mr. Campbell, I need to ask you, has the FBI had any successful convictions of a regulated gambling operator, or have you seen an increase in criminal activity through the regulated gambling sites?

Mr. CAMPBELL. So for the FBI, we're more concerned with those businesses that are operating illegally outright. However, we do look at information that we receive that could demonstrate that a regulated gambling business might be acting illegally. I think an important point to make is that individual subjects, criminals, could still be utilizing any legal gambling business for illegal activity, such as money laundering, and then to support other illicit criminal activity.

Mrs. WATSON COLEMAN. Possibly. However, has the FBI any record of these instances that I've asked about?

Mr. CAMPBELL. I don't have the specific details regarding that. I can take that back and see whether that does in fact exist.

Mrs. WATSON COLEMAN. And whether or not you've seen an increase in criminal activity on those sites.

The other thing, Mr. Campbell, I wanted to ask you, what are some of the challenges that the FBI faces in going after illegal online gambling schemes that are unregulated and offshore? And are there measures to counteract those challenges on the regulated sites?

Mr. CAMPBELL. Well, certainly, as with any investigation, whether it's nationally or globally based, we're going to utilize all investigative techniques in order to gather information about what criminal activity may be occurring, which includes working with our State, local, Federal, and private sector partners, and even foreign government partners related to that particular threat. So regardless of the circumstance, we're going to apply the same techniques and utilize every capability to obtain evidence for a prosecution.

Mrs. WATSON COLEMAN. I can appreciate that. So I just kind of want to, for the record, in that that might be the case, you have not come here today with any particular knowledge about problems of this nature in the three States that have the regulated online gambling and you would have to find out if there's such a record and let us know. Is that right?

Mr. CAMPBELL. That is correct.

Mrs. WATSON COLEMAN. Thank you, Mr. Campbell.

Mr. CAMPBELL. I would have to provide you some other information on that. That's correct, yes.

Mrs. WATSON COLEMAN. With the little bit of time that I have left, I'd like to contrast the kind of challenges that have been discussed here by the panel with what happens when States do regulate online operations.

And so, Mr. Lipparelli, I'd like to know from you, from your experience, what controls are in place on regulated online gambling sites that make it easier to catch attempts at criminal activity like money laundering or collusion?

Mr. LIPPARELLI. It's a very fair question. One thing that is probably misrepresented too many times in the public is the U.S. regulated industry of igaming dramatically differs from our counterparts in most foreign jurisdictions. We set in place what many people in foreign jurisdictions criticize us as a very tight system.

So everything from player registration all the way down to player transactions is completely transparent to the regulator. So there is a relational database that identifies issues associated with potential fraud, collusion, player manipulation, credit issuance, the laundering of money.

It would be my considered opinion that if you were going to try to launder money, a legal regulated site would probably be the last place that you'd want to try to do that. From a law enforcement perspective, the tools we put in place are quite robust and would lead right to the doorstep of those that were using illegal site for those kinds of purposes.

Mrs. WATSON COLEMAN. I know that no system can be perfect and no enforcement effort is actually perfect. But to your knowl-

edge, are there sufficient layers of identification requirements that would ensure that an individual is playing from a legalized State in a State that has regulated gambling, a geolocation issue?

Mr. LIPPARELLI. There are, to answer your question directly and separately. Beyond that, it's not just simply identifying the IP address. The standards that I think were referenced by one of the witnesses here relate to very specific knowledge of the location of the transaction. It also incorporates tools that require users to disable certain functions on their computer so as to prevent people from disguising their location. If those applications are actually operating while the site is accessed, the site will deny access.

Mrs. WATSON COLEMAN. Thank you.

Mr. LIPPARELLI. So there are number of technical standards that have been put in place and tested to prevent that from happening.

Mrs. WATSON COLEMAN. Thank you, Mr. Lipparelli.

My time is up. Thank you, Mr. Chairman.

Chairman CHAFFETZ. Thank you.

I now recognize the gentleman from South Carolina, Mr. Mulvaney.

Mr. MULVANEY. I thank the chairman.

Thank you, gentlemen, for participating.

Alan, thanks especially for coming up. It's always good to have folks from back home contribute to this process. And thank you for your service to our State.

Help me, because when I heard you were coming up I was excited, but I didn't expect you to be on this side of this issue. You've taken some positions that I support in other areas, from health care, to gay marriage, to EPA regulation. You've been taking the position against Federal control, which I wholeheartedly support.

And I read your testimony today, not the stuff that you were able to get to when you opened, but your testimony has got some really good lines in it. "The members of this committee should recognize that under our Constitution, particularly the 10th Amendment, the States have virtually exclusive authority over gambling." "Each State is entitled to decide for itself how or whether to regulate gambling or ban it all together. Congress has always recognized the preeminent State interest in gambling regulation." I could go on. And then to have you come up and take a position here that sounds like you're for Federal control, I can't square those two things.

I've got this last quote, which says that, "The DOJ opinion strikes at the very heart of...It should not legalize gambling activities the States make illegal." I get that and I agree with that, the Federal Government should not legalize stuff that the States have made illegal.

But I'm waiting for the other half of that statement, Mr. Chairman, which is, should the Federal Government also make illegal that which other States have made legal? And there are three States who have done this.

So help me square these two things.

Mr. WILSON. First off, let me say this. I'm not up here—I'm not going to speak for anyone else today—I'm not up here to say that gambling should be made illegal. I think if New Jersey—my wife is from New Jersey, I love your State—New Jersey or other States want to have a robust gambling industry, they should be free to

pursue that. The members in this room who want that should be allowed to have it.

Mr. MULVANEY. But if the bill passes, that's why she's here, she's afraid if the bill passes she loses the right to do that.

Mr. WILSON. What we are talking about is interstate commerce, which Congress has the authority to regulate under Article I, Section 8. There is no dispute up here that Congress can write the Wire Act, that Congress can regulate online gambling because it is interstate in nature. That is not the dispute. If—

Mr. MULVANEY. Alan, let me stop you there, because I think that's right, and I'm hopefully moving to an area we can agree on, because I am wondering if there is not a better way do what we want to do in South Carolina, where it's not legal, but still allow New Jersey and Nevada to do what they want to do, which is to use technology instead of regulation. If we can figure out a way to make sure that only New Jersey residents gamble online, in licensed New Jersey enterprises, using technology, isn't that another way to accomplish what you want to accomplish?

Mr. WILSON. I believe that if online gambling, if it is allowed by the Federal Government, you're basically putting a virtually floating casino over every State or in every pocket of every teenager or young person who wants to be able to access it.

Mr. MULVANEY. I get that, but in your testimony what you say is that the reinterpretation essentially allows States to operate online casinos in States like Nevada, Delaware, New Jersey without any assurance that these online casinos are not being accessed in States like South Carolina. You also say that the original Wire Act, with respect to states' rights and prerogatives, should thus be restored so that casino gambling does not operate over the Internet in the States which have outlawed it in their communities.

And what I am asking you is, isn't there perhaps another way to prevent kids in South Carolina from accessing gambling sites, legal gambling sites in New Jersey, Nevada or Delaware, other than Federal regulation?

Mr. WILSON. And I don't know that that way exists. I heard Ms. Coleman eloquently say that she believes as a matter of policy that verification can be enforced. I saw the little points up there on the map. I don't know if those were 18-year-olds or people crossed the river to gamble. The point is, is that if you make online gambling legal at the Federal level, then you have basically legalized it in States where they don't want gambling at all.

Mr. MULVANEY. Your objection to this is not that the information might happen to cross state lines in the process of going over the Internet. That's not the issue here, right? It's the process of having a person in South Carolina access something in Nevada, that's the interstate nexus for you here, correct?

Mr. WILSON. Correct.

Mr. MULVANEY. So if we could figure out a way to fix that, I would simply suggest if there's a way to fix it through technology that Mr. Lipparelli has mentioned, maybe that is an alternative and less intrusive way to deal with the issue.

And here is why I care. And I have all the respect for my colleague from New Jersey. But unbeknownst to you and maybe the other folks on the committee, in fact maybe folks on the committee



here, she's introduced a bill that has a lot of similarities to what Mr. Massie mentioned earlier, which is to ban Internet ammunition and gun sales through a similar requirement to what you've just been talking about here, by making people actually show up in person to show their ID. I can't remember the name of the bill—the Stop Online Ammunition Sales Act of 2015. And that's one of my fears here, is that they are asking you to instead of being consistent in the state rights position, they come out and say, well, here is a place where we really do need Federal intervention so that people in South Carolina can't access legal Internet gambling in Nevada, and then use it to say, oh, by the way, it really is hard for New Jersey to enforce our State laws on gun control because you can just go online and buy one in South Carolina. And that's what I'm worried about, is that we're going to go through regulation and expand the role of the Federal Government as opposed to limit it.

So, anyway, with that, I yield back the balance of my time.

Sorry. Go ahead.

Mr. WILSON. May I respond real quick? And, Representative Mulvaney, I agree with you on many of your points. I would just add that one of the points regarding—what was the last comment you made? It was—

Mr. MULVANEY. Gun control.

Mr. WILSON. The gun control. I absolutely would be against that. I just believe at the end of the day that online gambling is a very unique industry and that when you make online gambling proliferate across the country, it is very difficult for States like South Carolina to enforce its gambling laws. I believe under the 10th Amendment States should be able to outlaw Internet gambling, but those States that want gambling in there can certainly pass those laws that allow it to occur.

Mr. MULVANEY. Last question, Mr. Chairman, I promise.

Chairman CHAFFETZ. I need to go to—no, I need to go to—

Mr. MULVANEY. Oh, come on, you took, like, 10 minutes.

Chairman CHAFFETZ. I know. I didn't ask any questions.

So we're going to go to Mr. Cummings from Maryland.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

I'm listening to all this, and if I were a judge listening to this, the first question I would want to get to is the bottom line. And what I said in my opening statement, it's about money. Would you agree that if we were to outlaw online gambling, that the bricks-and-mortar people would make more money? Anybody disagree? I don't see any disagreement down there.

And I guess the reason why I'm getting to go that is because, I mean, you know, we in the Congress, we are—most of us—well, some of us, but I don't—have the kind of money that the big players are playing with. And we have to try to figure—we're trying to figure out how to deal with this dispute. But there are some things that are coming through from what you're saying that I think we can kind of get down to the bottom line of this.

It sounds like the issue of illegal gambling, which I don't think—I think all of us want to get rid of illegal gambling—it's one thing, Mr. Campbell. And my question is, so you don't feel that you have

the tools to deal with illegal gambling? Hold that for a second, hold that.

And then I want to come to you, Mr. Lipparelli. Let me ask, with you it sounds like what you're saying, if we can steer more gamblers, in other words, if we're going to—if we can—if the States can do the regulating, then a lot of the problems that Mr. Campbell talks about should be resolved because you used the term relational database.

What he's talking about is information, and you're saying we're getting the information that would actually allow him to do a more effective job. Am I missing something? Because this is what seems like out of everything that you all have said, to me, this whole thing boils down to what I just said. Help me.

Mr. LIPPARELLI. Mr. Cummings, the requirements that we put in place were exactly that. If we're going to allow online gaming, there will be player registrations, there will be complete tracking of activity, so that to the extent these sites were ever to be used or attempted to be compromised, the audit trail or the transparency trail is there for the regulators.

So the quick answer to your question is, yes, we want players to move to and off of illegal gaming sites. That's often missed in this discussion, is these illegal sites are readily available to all the U.S. public. They were available prior to 2011 letter or the opinion that was authored. They were available.

And by the way, the reference of the chairman with respect to the substantial fines that were paid were paid by people who broke the law who were illegal. Those weren't legal regulated sites that paid those fines, those were people that were trafficking in our country, in our States, who ran to the steps of the Justice Department and said, "We want to get right and we're willing to pay to do that."

Mr. CUMMINGS. So now, Mr. Campbell, can you answer my question? I gave you some time to think about it.

Mr. CAMPBELL. Certainly, sir. As I mentioned earlier, we use a variety of statutes to go after individuals and organizations that are involved in illegal online gambling. And then of course we use statutes, such as those and others, then to target those criminal organizations that are using online gaming to support other types of more serious and nefarious criminal activity, like human trafficking, like narcotics trafficking, corruption, that type of thing. So we use a variety of tools in order to target that particular threat.

Mr. CUMMINGS. Now, going back, in 2011, going back to a point you made, Mr. Lipparelli, the Department of Justice Office of Legal Counsel interpreted the Wire Act to prohibit only sports betting, based on the text of the statute and the relevant legislative history and other materials.

After that opinion was issued, some States legalized Internet gambling within their borders and regulated it. Some have questioned that legal opinion.

Now, Mr. Wilson, DOJ cited two conflicting court decisions. One was the Federal Circuit Court of Appeals case known as in re: MasterCard, I know you're familiar, which held that, and I quote, "A plain reading of the statutory language clearly requires that the object of the gambling be a sporting event or a contest," end of

quote. The contrary position was taken by a lower Federal court in *U.S. v. Lombardo*. Is that right? Is that correct?

Mr. WILSON. I haven't read that case.

Mr. CUMMINGS. Okay, no problem. DOJ took the position of the higher court citing the legislative history and a natural reading of the statute.

Mr. Campbell, some of today's testimony has criticized the DOJ opinion for opening the door for Internet gambling in the States, but illegal unregulated Internet gambling existed in the States well before the 2011 opinion and continues to pose a risk of harm to citizens. Is that correct? Is that correct, Mr. Campbell?

Mr. CAMPBELL. Well, I can't speak to exactly the circumstances before 2011, but, again, we use a variety of tools to target that threat as it exists and as we receive that information.

Mr. CUMMINGS. But, Mr. Lipparelli, can you answer that by prior to 2011?

Mr. LIPPARELLI. Mr. Cummings, I would answer that by saying the opinions that people form about the 2011 letter, I think it mischaracterized in such a way that before 2011 there was a Criminal Division letter in the form of a 1-page letter sent to two different States that drew a different conclusion. The 2011 analysis by the OLC was a, I think, 16-page, fairly substantial opinion that interpreted the Wire Act. The decision of the Justice Department prior to that came in the form of criminal justice interpretations that came in the form of a 1-page letter.

In our State, even though we had that opinion as a criminal interpretation by Mr. Chertoff at the time, we no more had a sense of whether that was the only potential interpretation of the Wire Act and whether that would prevent us as a State from doing what we thought could be done legally. And you see the impact of that. In 2011, that opinion changed.

So I would say that there was a 1-page letter that interpreted the Wire Act one way and now a 16-page opinion that interpreted it a different way. Both of those were interpretations of an underlying law that a lot of people struggle with.

Mr. CUMMINGS. Thank you very much, Mr. Chairman. Thank you.

Chairman CHAFFETZ. Thank you.

Members are advised that we have a vote on the floor. There are 11 minutes left. It's the intention of the chair to recognize Mr. Hice of Georgia for 5 minutes and then go into recess. We'll resume with the Democrats going first after the two-vote series.

So, Mr. Hice, you're now recognized for 5 minutes.

Mr. HICE. Thank you, Mr. Chairman. And I want to thank you for holding this hearing today and for each of those who are joining us on the panel.

Before I begin my questions, I've got to make it perfectly clear that personally I am opposed to all gambling in every shape, form, or fashion, be it in person or online or whatever it may be. Having been a pastor for over 25 years, I've personally seen the destruction of various addictions, and gambling being among them.

So this type of hearing puts me somewhat in a quandary to begin with because I am opposed to gambling all together. And I fully agree with Georgia's Governor, Nathan Deal, who has publicly op-

posed the construction of a casino in metro Atlanta, and who I also know for a fact opposes any lottery offerings that resemble casino games.

So I'm opposed to gambling. With that being said, I'm also a supporter of the 10th Amendment and our Constitution and the right of States. The fact is the people of Georgia voted to have a lottery, and there's no question that the Georgia Lottery has contributed over a billion dollars to the HOPE Scholarship and pre-K education since its inception in 1994. No one can deny the contribution to those programs.

And I also know that the Georgia Lottery has been in recent years exploring online sales and, in fact, they have contributed and invested a considerable amount of money to ensure that those sales that customers make are in accordance with both State and Federal law.

So all that being said, my first question is really to each of you and a brief answer. But if the technology exists to ensure that online sales are kept away from minors and kept within the State of Georgia alone, why does the Federal Government have a role to play? Or does it?

I'll just start, Mr. Campbell, with you.

Mr. CAMPBELL. Right. So I'm not here to take a particular position in regard to all the aspects of your question, but just, again, to reiterate that the FBI enforces the laws as they exist and as we receive information about criminal activity. That's really our role.

Mr. HICE. Mr. Wilson.

Mr. WILSON. The Wire Act was originally ushered in through the Kennedy administration when then U.S. Attorney General Robert F. Kennedy was the Attorney General of the United States in an effort to help States.

There is no violation of State sovereignty or 10th Amendment because Congress has the authority under Article I, Section 8 to regulate interstate commerce. A brick-and-mortar building—

Mr. HICE. I'm talking about in the State of Georgia, not interstate. If the technology is there to stay within the State, what role does the Federal Government have? That's my question. And please be quick, I've got just a couple minutes left.

Mr. WILSON. If it crosses State lines, an Internet transaction, you have a role in that regard.

Mr. HICE. That is not my question.

Mr. Kleine.

Mr. KLEINE. Well, the very essence of what we are talking about here is the Internet has such interstate complications. As a local prosecutor, that's what we're looking for, is help from the Federal Government, to say, "Hey, we can't handle this." And I'm not aware of any way, if I said—if Nebraska said, "We want to ban the Internet," there's no way it's going to happen, people are going to have access to the Internet. So we're looking for help here.

Mr. HICE. Mr. Lipparelli, what would you say?

Mr. LIPPARELLI. The technology exists to keep it within the State border. So in your direct question, surely is that there wouldn't be a role in that sense. There may be business ideas down the line that may incorporate multistate activities, but the quick answer to your question is they wouldn't have a role.

Mr. HICE. Okay. Mr. Campbell, are you aware of any circumstances where the Georgia Lottery has failed to complete with State or Federal law?

Mr. CAMPBELL. As I sit here, I really do not have any information about the Georgia Lottery in general, sir.

Mr. HICE. Okay. Well, my time a wrapping up. But it just seems to me that the Federal Government should not be dictating to the States how they operate their State lotteries or casinos, State-sanctioned casinos, if those States have chosen to go that route. And, I mean, we have got to protect the 10th Amendment whether or not we like the gambling issue as a whole. And, frankly, if there is any legislation that infringes upon states' rights in that regard, I believe it flies right in the face of our Constitutions and the limited powers that the Constitution provides.

So with that, Mr. Chairman, I thank you, and I yield back.

Chairman CHAFFETZ. Impressive timing.

The committee is with 5 minutes, 30 seconds left of the vote, the committee will stand in recess. We will return no sooner than 3:10, but be flexible as regards to—be a little flexible in terms of when the vote series is concluded. We'll stand in recess and we'll be back and continue from there.

[recess.][3:15 p.m.]

Mr. PALMER. [Presiding.] The chair recognizes Mr. Lynch for 5 minutes.

Mr. LYNCH. Thank you very much, Mr. Chairman.

I have enormous respect for the chairman and the sponsor of this measure. I think, however, that we have different expectations of the result of what would happen if this bill were to go forward.

In Massachusetts, I use our own example, we have an excellent, a smart, hard-working attorney general who handles this matter for us, along with our secretary of state. And, unfortunately, I think if the measure went forward as written, it would take our attorney general and the other 49 attorney generals off the field basically, off the battlefield, and they would no longer be helping in this effort, as well as the secretaries of state that carry responsibility in some States and our gambling commissions.

So by preemption it would take that whole State framework off the field. And to be honest with you, I would rather see a situation where we had cooperation between the FBI and our State gambling commissions, our attorneys general, and to use the combined resources of those offices to get at this problem.

I think the end result of this legislation would basically be to push the gambling offshore. And that's what we have right now and we can't reach it. And so I think it creates a more difficult problem. Again, I would rather see the FBI's office working together with our State officials, State attorneys general to get at this problem, and I think that would bring a better result.

Also, I know that some States are working very hard on this. I know that my colleague Ms. Titus from Nevada has put a lot of work on this, she has got some good experience on it. And I would say within this committee, within the Congress she's probably an expert on this. So I think a good use of my time would be to yield what time I have remaining, at least these 3 minutes, to Ms. Titus of Nevada.

Ms. TITUS. Well, thank you very much, Mr. Lynch. Thank you for those compliments and for yielding. And I thank the chairman for allowing me to sit in on this committee.

As I've heard the testimony I have been pretty astounded that Mr. Campbell could come representing the FBI to talk about the problems of regulated Internet gaming and not be able to cite a single case in which has been the problem or give us any statistics that indicate it is a problem.

And, Attorney General, how you can use the 10th Amendment argument to say that Federal regulation gives you more states' rights is kind of jabberwocky to me. And also I wonder, if you're so concerned about somebody in Nevada—I mean, in South Carolina—gambling on a site that's located in, regulated by, and limited to Nevada, what you're doing to protect those teenagers with a cell phone in South Carolina from gambling illegally and overseas.

But I'd really like to have my time spent by Mr. Lipparelli sharing with us how our extensive background in regulation of gaming in bricks and mortar has helped us to develop regulation for online gaming and to answer some of the questions where people say, well, if you're in South Carolina you can gamble on a site that is located in Nevada, how when you cross the line to California those sites turn off, how we can regulate those sorts of things. Would you lay some of that out for the committee?

And I would be glad to welcome any members of the committee to come to Nevada for a tour and a visit and see how this really does work.

Mr. LIPPARELLI. Thank you, Ms. Titus, for the question.

All of the gaming regulation that has been passed throughout the United States essentially have four tiers. I think it is important to highlight those. It is the statutory framework, the regulatory framework, and most people understand those two tiers pretty well. What many people don't realize, that below those tiers are a series of technical standards. And then beyond the technical standards are the interpretations of those technical standards by staff.

So to represent that someone can anonymously play on a regulated Internet site is completely inaccurate. You have full-blown registration requirements that mandate people turn over Social Security numbers, personal identification. And by the way, all of their activity, all of their wagers, all of their deposits, all of their withdrawals, all of their head-to-head matches are all recorded within the system. So to suggest that regulated sites can operate in anonymity or without transparency I believe is completely inaccurate.

So in the case of illegal operators, that's very possible, and that's been part of my testimony, is you have this dichotomy of the illegal people that probably are exploiting customers in South Carolina and I'm confident that they are exploiting customers in every State in the country.

In the case of Nevada and New Jersey, and New Jersey's probably a better example because they've adopted all forms of gaming, those same stringent technical standards and rules interpretations apply. So the technical people that are assigned to approve these systems, this is a privileged industry and you don't just get your product approved because you submit it. The burden is always on the applicant to prove that their system meets the technical stand-

ards. So there is no free pass when it comes to deploying these systems.

Ms. TITUS. Thank you.

Thank you, Mr. Chairman.

Mr. PALMER. The chair recognizes the gentleman from North Carolina, Mr. Walker.

Mr. WALKER. Thank you, Mr. Chairman.

I am conflicted to some sorts as far as gathering all the information today, being a big believer in the 10th Amendment and making sure that we continue to operate with the individual liberty that the States so guide us to do so, or the Founding Fathers guide us to do so.

I am concerned about some statistics that I'm running across. In the past in doing some work, maybe some of our poorer communities, if you will, even some of the minority communities, I was alarmed to find out that nearly 40 percent of all online gamblers make less than \$50,000. In fact, 14 percent makes less than \$25,000. Are you aware of those statistics, any of you gentleman, have you done—or you're just now hearing it? Okay.

Fifty-four percent of all online gamblers are minorities, which obviously this should cause us some concern because many of these wonderful people live in some of these poorer communities.

So I struggle with this, and I've got a couple questions I want to get to, but I do want to lay something out in my time that's allotted to Mr. Lipparelli. Several news sources have noted Senator Harry Reid's attempt to place a provision in the omnibus in the spending bill that would bail Caesars casino out of bankruptcy. Others have also reported on Caesars' need for more States to authorize Internet gambling so that Caesars can get more players on its New Jersey site.

So my questions, so with the modified interpretation of the Wire Act, is this what we're talking about? I guess the bottom line question is, are we talking about helping bail out an unprofitable casino?

Mr. LIPPARELLI. Thank you for the question, Mr. Walker.

The interpretation of the Wire Act has been a question before 2011 and it remains a question now. That is one of the areas in all forms of gaming development where that question constantly is brought to the table. You have a situation now where you have old law that hasn't kept up with innovation. So the question of that I think is irrelevant to anything relating to any one company's ambitions, that that interpretation of the Wire Act is the same interpretation today as it was yesterday, as it was in 2009, as it was in 2001 when we passed our law.

Mr. WALKER. You may be correct. Time will tell. I can't imagine that Senator Reid would try to do that into the omnibus, but we'll see how that works out.

Mr. Campbell, is there a Federal agency that has the resources and personnel necessary to place a patchwork of State Internet gambling regulatory regimes, protect States that do not do not permit Internet gambling, and permit the use of Internet casinos and lotteries for moneys that are laundered or other criminal activities? Any information that you could speak to that?

Mr. CAMPBELL. Well, again, I think it would harken back to statements earlier about the importance of the Federal agencies, including the FBI, working with State and local agencies to identify where this illegal activity is occurring and combining resources to do so. I think a couple of cases that demonstrate effectiveness in that area, the Legendz Sports case out of Oklahoma, which was a 10-year illegal gambling activity, over \$1 billion, victimizing Americans involved in sports betting. And then also the Full Tilt Poker Sports case as well, where there was a seizure of over \$500 million related to that as well. And of course there were international ties to those cases.

So I think it's important that regardless of the landscape, where the threat occurs, and where illegal activity is occurring, by whatever individuals or organizations, it needs to be a combined effort by many agencies to target that threat.

Mr. WALKER. Okay. Let me follow up. In your earlier testimony, I believe you mentioned something about the FBI may have an investigation involving online gambling and terrorism. It piqued my interest. Would you mind unpacking a little bit more about that case to the committee, whatever you can share, and why the FBI may be looking into such matters?

Mr. CAMPBELL. Right. And we can provide you some more specifics on that in future.

Mr. CAMPBELL. But that was an investigation involving an individual that was providing monetary support, and one of the methods for that was money laundering through online gambling. And so in regard to that particular threat, as the FBI pursues investigations and we're targeting our top threats, which could be within terrorism or transnational organized crime, we look for whatever tools those bad guys essentially are utilizing that can help promote their criminal activity to hurt Americans. So it certainly is a priority for us.

Mr. WALKER. I'd like to have more time, but my time has expired. Thank you, Mr. Chairman, I yield back.

Mr. PALMER. Thank you, Mr. Walker.

The chair now recognizes Mr. Lieu from California for 5 minutes.

Mr. LIEU. Thank you, Mr. Chairman.

Thank you, Mr. Wilson, Mr. Kleine, for your public service. Thank you for your testimony today. And I have no doubt you believe in your testimony, but I do need to point out that parts of your testimony were simply wrong when it comes to technology.

Mr. Kleine, you had testified essentially that any smartphone can be used for online gambling. That's virtually impossible to pinpoint location.

And, Mr. Wilson, you said essentially that any smartphone can you used as a virtual casino.

The notion that you can't pinpoint location is simply incorrect. Just look at GPS next time on your smartphone, it will tell you where you are relatively accurately. And if you have lots of folks who are using these devices, they are going to be able to do it within their own State, but not outside the State in terms of online gambling.

When you look at the programs that these States have put in, they are relatively effective. So we have a video that we're going



to show from one such geolocation company, it is called GeoComply. We're going to show it. It's about a minute and a half.

And as it's cuing up, I do want to know, the notion that you have ordinary South Carolina citizens who are somehow playing a Las Vegas online casino has no basis in reality or fact, and that's because they can't access that. Las Vegas and Nevada will block these things. So will New Jersey.

So we're going to show this one for GeoComply, which New Jersey uses. And if we want to run the video, that would be great.

[Video shown.]

Mr. LIEU. Thank you.

My colleague Mr. Mulvaney earlier today asked is there a less intrusive way to solve this problem. We just showed it to you. And there are ways to make sure that folks are not playing illegally.

Now, is it possible that a very smart hacker could spend countless hours trying to hack into one of these systems? Sure, anything is possible. But then we have got much more to be worried about, about that hacker than if that person from South Carolina wants to play, for example, the Illinois State Lottery online.

And then let me ask some questions for Mr. Lipparelli. In Nevada, for someone to actually play online, they've got to give their name, their address, their driver's license, their bank account, and a whole host of our information, correct?

Mr. LIPPARELLI. That is correct, sir.

Mr. LIEU. But if they walk in a brick-and-mortar casino they can walk in, put \$5,000 on black on the roulette wheel, win, and then walk out without giving their name or address or driver's license, correct?

Mr. LIPPARELLI. They can do that, but the marketing department at the casino would more likely track them down and try to get that information from them.

Mr. LIEU. Right. So let's say they win a thousand. Now, based on what you said earlier, it seems like with online regulated gambling you have far more information on who it is, what their bank account is. So they, in fact, were not anonymous. In the same way we don't say online banking is anonymous, we don't say online stock trading is anonymous.

This is not anonymous, this is almost the exact opposite. You have so much information about these people who are online gambling that this is exactly what law enforcement wants. And I do want to suggest that what some of the witnesses are arguing today are essentially that South Carolina should decide what the over 49 States should do, that is wrong, that violates the 10th Amendment.

And with that, I yield back.

Mr. PALMER. The chair now recognizes the gentleman from Wisconsin, Mr. Grothman.

Mr. GROTHMAN. Sure. First for Mr. Campbell, just hypothetically. Do you think States should have the right to set the gambling policy within their own borders?

Mr. CAMPBELL. I really can't speak to that. Again, we simply pursue our investigations based on existing Federal statutes. I would defer to our partners from the States in regard to that answer.

Mr. GROTHMAN. Okay. Well, I'll ask you all. This is for any one of the four of you to step forward.

I think the problem we address is a lot of States want to limit gaming, and they want to limit gaming kind of for the reasons that Congressman Walker said. They feel that it's something that takes advantage of the poor, people who for whatever reason have a weakness, and results in messing up their lives financially.

Now, the last question pointed out there's all sorts of information being gathered. Do any of you have anything that you would like to add to my last comment? I mean, in your positions do you see people mucking up their lives because of Internet gaming? Do you have any anecdotal evidence or real evidence you can tell me about? Any one of you four. Who is ever the most aggressive can go first.

Mr. WILSON. I don't know if I'm the most aggressive, but we have seen anecdotal evidence in South Carolina through a lot of the sweepstakes situations we've had. We obviously had video poker back in the '90s. Anecdotal evidence, children were left in cars who died because the mother was in there gambling for hours at a time.

I would like, if I may real quick, and I respect Mr. Lieu who give his little video presentation, I'm not here today and I confess I'm not prepared to litigate or debate whether or not what he put in that video is provable and defensible. But what I can say is, is that it is not a violation of the 10th Amendment when Congress has the authority to regulate online gambling under the Commerce Clause.

For 50 years the Wire Act, Wire Act enforcement and precedent has kept gambling out of the air and on the ground where States could better regulate it, whether they prohibit it or regulate it or support it. When the prohibition was removed unilateral by a lawyer at the Justice Department they put it up in the air as well on the ground where States can't regulate it as easily.

Removal of the online gambling provision of the Wire Act has eroded the States' ability to prohibit or regulate however they want the gambling in their States. And so my comment to that is, if we don't pass RAWA and no one here codifies what was in that legal memorandum, then that legal memo amended Federal law, they legislated from the Justice Department, and that is only something that this Congress can do.

Mr. GROTHMAN. As a practical matter—well, first of all, do any other folks have anything to say on my question? No, okay.

So I'll give you this question. As a practical matter, as this is left hanging out there, do you believe this is resulting in a significant increase in gaming in States whose public policy is probably to discourage that gaming?

Mr. LIPPARELLI. Well, sir, I can take a stab at that. The legalization of online gaming in Delaware, Nevada, and New Jersey, there's lots of debate about whether those are overlapping players or not. I would tell you that the growth in online gaming on illegal sites occurred without respect to any policy position taken by any government official. It grew out of just the natural evolution of technology being exposed to patrons.

So do I believe more people moved to mobile forms of gambling that were made available by illegal operators? I absolutely believe they did. That's why in our State and many of the people in our

industry want to see that become what we traditionally support, which is forms of regulated industry that are subject to fair forms of taxation and oversight.

Mr. GROTHMAN. Okay. I'll ask Mr. Kleine one final question.

You're here today, and I assume you're here today because you have an interest in this topic. Anecdotally, in your State, has this loophole or new rule or whatever you want to call it, do you believe it has resulted in more gaming in Nebraska that wouldn't have happened otherwise?

Mr. KLEINE. Yes. Anecdotally, I will say that certainly we have seen people who have problems with gambling generally, to your question earlier. But is there a greater propensity if people have access? Sure there is.

And to your point, to the Congressman's point about geolocation, that's with regard to regulated areas. We're still not talking about the illegal gambling sites that may be in another country or whatever that people have Internet access to it. And my understanding is this would give the FBI or the Justice Department the ability to go after those folks. We're still talking about the enforcement perspective about people who are doing illegal operations, and that's what we're looking to, is how do we enforce the law. And we need a law to be there to be able to be enforced. Do you see what I'm saying?

Mr. GROTHMAN. Right. And apparently Nevada has the opinion that, you know, the more the better, as long as it's regulated. But in Nebraska, you as a State, you gambling is something that takes advantage of people's weaknesses, and you are familiar with examples of people's lives who have been——

Mr. KLEINE. Sure. We don't have casino gambling in Nebraska. There is casino gambling in Iowa, which is right across the Missouri River from Omaha. We have a multitude of cases, criminal cases that come out because of the issues that are caused when people go over and blow all their money in the casinos in Iowa.

Mr. GROTHMAN. It is Iowa, what can you expect?

Mr. KLEINE. Right.

Mr. GROTHMAN. Okay, thanks.

Mr. KLEINE. Sure.

Mr. PALMER. The gentleman's time has expired.

The chair now recognizes the gentlelady from the Virgin Islands, Ms. Plaskett.

Ms. PLASKETT. Thank you, Mr. Chairman.

Thank you, Ranking Member.

And thank you gentlemen for testifying on this very important issue and attempting to give us some insight and clarification as to your interpretation of the import of online gambling and where in fact the line is clearly drawn.

So I have an interest in this because in 2001 the United States Virgin Islands passed the Internet Gaming and Internet Gambling Act, and over the past decade the Government of the Virgin Islands has really been handcuffed by incorrect interpretations, they believe, of the Wire Act. And I believe that if the act was allowed to be implemented and regulated properly, much needed revenue might be brought to many different States that have this law in its place.

So I was really interested in a much more historical look back on how this came about. I've worked at the Department of Justice, worked in the Deputy Attorney General's Office, and understand how long it takes for an opinion to come out of Legal Counsel, the department of Legal Counsel. So the idea that that was drafted and written and signed in middle of the night to me is somewhat a difficult stretch of my imagination knowing the inner workings of the Justice Department and how long it takes for an opinion to come out.

So I wanted to look at the interaction between the Justice Department and Congress over the many years in which before that opinion was drafted.

So, Mr. Kleine, I understand that in 2002 there was a case called in re: MasterCard in which the fifth circuit appellate court ruled that the Wire Act applied only to online sporting betting. Is that correct?

Mr. KLEINE. That's my understanding.

Ms. PLASKETT. Okay, that's your understanding. And that the fifth court made that decision, that would have been 9 years before the Department of Justice's legal opinion, correct?

Mr. KLEINE. That's also my—

Ms. PLASKETT. Okay. And since then, during that time, 2009, even before that Congress has weighed in pretty consistently on this issue, up until now, that there seems to be some question about it.

So, Mr. Wilson, were you aware that between 1996 and 2006 Congress passed a series of bills to update the Wire Act and made it clear that the act should not apply to online casino operators duly licensed by a State to offer casino games to people located in those States?

Mr. WILSON. Into which, I'm sorry, which States?

Ms. PLASKETT. To any State. This was an act passed by Congress.

Mr. WILSON. No, I'm not.

Ms. PLASKETT. Okay. Are you aware that Representative Goodlatte in the 106th, 107th, 108th, 109th Congress offered legislation on this matter, Senator Jon Kyl, Representative Leach as well?

Mr. WILSON. No.

Ms. PLASKETT. Okay. And that even though none of these laws was enacted, the passage of those bills in both congressional houses gave clear evidence, I would think, that there is congressional intent on this matter.

So in 2006 Congress enacted the only law that deals directly with Internet gaming. Are all of the witnesses, are you familiar with the Unlawful Internet Gambling Enforcement Act, otherwise known as UIGEA? Are you all aware of that? I take that as a yes?

Mr. WILSON. Yes.

Ms. PLASKETT. Okay. I don't want to go into lawyer mode. Okay. Thank you. So I'd ask that the record reflect that all of the witness said that they're aware of that.

And I have a slide that I'd like to show.

[Slide.]

Ms. PLASKETT. Here is what UIGEA said, that the term unlawful Internet gambling does not include placing, receiving, or otherwise

transmitting a bet or wager where a bet or wager is initiated or received or otherwise made exclusively within a single State.

And then it goes on to say the bet or wager and the method by which the bet or wager is initiated and received or otherwise made is expressly authorized by and placed in accordance with the laws of such State.

And finally, and the law—State law or regulations include age and location verification requirements reasonably designed to block access to minors and persons located out of such State, and appropriate data security standards to prevent unauthorized access by any person whose age and current location has not been verified in accordance with such State laws or regulations.

Mr. LIPPARELLI, is that the correct pronunciation of your name, sir?

Mr. LIPPARELLI. Yes, it is.

Ms. PLASKETT. Okay. I'm pretty sensitive to that myself. Is it clear to you from the reading of this law that Congress never intended to ban States from authorizing and regulating online gambling within their own borders?

Mr. LIPPARELLI. The language debated in and around UIGEA was intense, and I believe you're correct that that was the intent.

Ms. PLASKETT. The final intent and what the language of the law itself says.

Mr. LIPPARELLI. Yes.

Ms. PLASKETT. And so, Mr. Lipparelli, did the State of Nevada consider this language in drafting its regulations?

Mr. LIPPARELLI. It did. And I would remind the committee that we actually passed our State law back in 2001, so the adoption of UIGEA actually was part of what informed our regulatory structure. The regulations are controlled by our Nevada Gaming Commission. So clearly they, at the advice of our attorney general, considered the elements within UIGEA when we adopted our regulations.

Ms. PLASKETT. So this legislation, which was passed, incidentally, in a Republican-controlled Congress and signed into law by President Bush, that the Department—it was—were you aware this was—this precise language of UIGEA is what the Department of Justice Office of Legal Counsel utilized in determining that it was needed to update DOJ's position to conform with Congress and with the courts?

Mr. LIPPARELLI. I believe that's correct.

Ms. PLASKETT. Okay. I think that I have in fact run out of time, but I will ask that the record remain open that I could put the rest of my testimony into the record.

Mr. PALMER. Without objection.

Ms. PLASKETT. Thank you.

Mr. PALMER. The chair recognizes the gentleman from Colorado, Mr. Buck.

Mr. BUCK. Thank you, Mr. Chairman.

Mr. Campbell, are there other statutes that the Federal Government could use to prosecute the unregulated illegal online gambling?

Mr. CAMPBELL. Yes, that is correct. We use the Illegal Gambling Business Act, the Travel Act, various money laundering statutes,

bank fraud, mail fraud, wire fraud, among others, in order to target that type of threat, and of course organizations and individuals involved in that activity.

Mr. BUCK. And what's the purpose of the Wire Act being used in this way then?

Mr. CAMPBELL. I can only refer to the opinion itself and the Department's interpretation of the statute.

Mr. BUCK. Is there evidence of any regulated entities using the gambling opportunities for money laundering?

Mr. CAMPBELL. I'm sorry, the regulated—

Mr. BUCK. The online gambling.

Mr. CAMPBELL. Well, there is evidence of criminals utilizing those forums potentially for money laundering activity.

Mr. BUCK. Have you prosecuted any cases? Has the Department of Justice brought any cases based on that theory?

Mr. CAMPBELL. I would have to refer to them and maybe provide some other information related to that.

Mr. CAMPBELL. I'm not—as I sit here, I can't define specific cases involving the money laundering aspect.

Mr. BUCK. And are there cases that criminals have used brick-and-mortar casinos to launder money?

Mr. CAMPBELL. Again, I'd have to refer back to provide you some information regarding that.

Mr. BUCK. Well, I can answer that one for you. I prosecuted some of those. So it has happened at brick-and-mortar casinos. Why would you need this statute then? Why couldn't you use other statutes to prosecute these cases if you can in other—in the brick-and-mortar situation?

Mr. CAMPBELL. Well, certainly we are utilizing these various statutes, that's correct, in regard to any criminal activity, illegal activity relating to gaming. That is correct.

Mr. BUCK. Mr. Wilson, do you worry that if the Federal Government goes down this path that the Federal Government could also go down the path of legalizing gambling in all States?

Mr. WILSON. I mean, I suppose I haven't put much thought into them legalizing gambling. That's always been the policy of them, to leave that solely within the purview of the States. That's always been the policy of the Congress, is give great deference to the States in how to regulate gambling. I don't see that changing, but—

Mr. BUCK. Well, you're seeing it change now. I mean, we're having a hearing based on—

Mr. WILSON. I'm seeing an erosion, yes, sir.

Mr. BUCK. Okay. I yield back my time, Mr. Chairman.

Chairman CHAFFETZ. Will the gentleman yield?

Mr. BUCK. Yes.

Chairman CHAFFETZ. Just to answer the question, I would like to ask unanimous consent to enter into the record a Washington Post article. It is a little bit older, but it says: "Three worked the Web to help terrorists." One line from the sentence: "Authorities also say the men laundered money from stolen credit card accounts through more than a dozen online gaming sites."

I ask unanimous consent to enter that into the record.

Mr. PALMER. So ordered.

Mr. PALMER. The chair now recognizes the gentlelady from New York, Mrs. Maloney.

Mrs. MALONEY. I thank the chair for calling the committee and for all of the panelists on this important issue for being here today and testifying.

I would really like to focus on the law enforcement aspect of this. And the National Fraternal Order of Police submitted a letter to the committee expressing their law enforcement perspective on regulating online gambling. And I would like unanimous consent to place their letter in the record.

Mrs. MALONEY. And I'd like to quote from the letter. It says, quote: "It is imperative that States be able to reserve the right to create a strong regulatory framework to allow law enforcement to successfully protect consumers and to drive illegal operators out of the marketplace."

So, Mr. Lipparelli, as you have experience in this area, would you agree that a strong regulatory framework for online gambling would support law enforcement efforts, consumer protections, and drive illegal operators out of the business and the marketplace?

Mr. LIPPARELLI. Clearly, I believe that should be the priority of both State and Federal law enforcement. This was an issue prior to our State's legalization and regulation of online gaming, and it only became more apparent once there were economic interests quote/unquote, in the game, where they, themselves, were able to analyze the impact of those operating illegally without paying taxes and registering customers without any form of serious confirmation. So, clearly, the answer to that is yes.

Mrs. MALONEY. Okay. Mr. Campbell, I'm guessing or assuming that a strong regulatory framework aids the FBI's efforts if investigating a player or transaction related to a regulated online gambling operation or platform.

Mr. CAMPBELL. Well, certainly both statutory law and regulation can have an effect in regard to ensuring operators continue their operations within the law. That is true.

Mrs. MALONEY. And, Mr. Lipparelli, some States have concerns about the difficulty and cost of regulating online gambling within their State borders. Can you please share some insight from your experience in Nevada drafting the State regulations for oversight?

Mr. LIPPARELLI. I can certainly speak to our experience in Nevada. I was chairman at the time we adopted these regulations. And at that moment in time we added no new resources in terms of human capital to our agency. We did it within the confines of our existing staffing levels.

It's an important question. There was, I believe, some cyber resources added in our just-passed legislative session. I think the better question with regard to that relates to empowering law enforcement potentially in other ways to potentially go after the illegal operators. There are State laws on the books today that clearly delineate those as illegal activities, so there are tools in place already. But if there is a desire to enhance that capability, you won't get any disagreement from me.

Mrs. MALONEY. Okay. And how were you able to design a regulatory structure that was easy to implement the various oversight and enforcement aspects and manage the costs?

Mr. LIPPARELLI. I don't want to represent in any way that it was easy. I would concur. I would also suggest that my colleagues in New Jersey at the time would probably also not call it easy. Any regulation of any new technology presents questions, concerns by the incumbent players. But this has been the hallmark of gaming regulation since the late '70s. In the 1950s that foundation was laid. But beginning in the 1970s and after, when technology really started to affect our business, each and every time we've taken evolutionary steps—for example, slot machines used to be mechanical devices, then they became proprietary software written only by the people who supplied that. Today most of it is PC technology. That's an example of the evolution of the technology.

Each one of those presents risks and uncertainties. But in each case I think the gaming regulators rose to the occasion, created the right technical standards. And often we overcorrect and then back off.

So I wouldn't characterize any of the work that my colleagues have done over the years as easy, but they have great experience in doing it.

Mrs. MALONEY. Well, do you think that Nevada's experience and Nevada's regulatory standards could be used as an example for other States?

Mr. LIPPARELLI. Well, clearly, I made those comments in my prepared remarks. If compliance is the goal—and if you talk to any regulator, that's always their desire, right, we want our regulated people to comply with the rules and the regulations—any time you diverge, having wildly different standards from State to State, that creates potential conflicts and issues.

So to the degree that regulators cooperate, which they often do, the industry, the players, the State, everyone benefits from that. Wildly different standards can create issues. But generally speaking, many States, Nevada, New Jersey, Pennsylvania, Mississippi, have all been very cooperative, and the independent test labs also contribute to that base of knowledge that says, what's the most efficient way to regulate, what can create the outcome?

And we're constantly at that effort. It never goes away. Every time a new piece of technology comes along, it presents new challenges. And I think the industry, to its credit, deserves praise for the fact that you don't see widespread scandal in our industry. I think that's something to be proud of.

Mrs. MALONEY. I would agree with you.

My time has expired. Thank you very much.

Mr. PALMER. I now recognize myself for 5 minutes.

One of my concerns is the harm that Internet gambling will cause, particularly for adolescents. There's numerous studies that indicate there's much higher rates of harm for adolescents. There's a much higher prevalence of disorders among adolescents as a result of gambling. Adolescent gambling is linked to deviant behavior. A few years ago, the National Academy of Pediatrics published a research paper and said that there's a pandemic of gambling addiction, not an epidemic, but a pandemic of gambling addiction among adolescents. And you talk about being able to control access across State lines.



One of the things that I would like to explore here is what is the legal liability that parents might have for their children if they've gotten addicted to gambling or if they've spent enormous amounts of money gambling?

Mr. Wilson.

Mr. WILSON. I would argue that would be fact specific. I mean, we have laws in South Carolina, contributing to the delinquency of a minor, and obviously that would be fact specific as to what the parent was doing in relation to the child and were they putting them in that position, were they encouraging it. It's very fact specific. But, yes, it could actually exist in South Carolina where there could be some criminal liability on part of the parent.

Mr. PALMER. How about civil liability?

Mr. WILSON. I would argue—I'm not a civil attorney, but, yes, I think you could have civil liability.

Mr. PALMER. And there's examples of this already. The FTC won a \$325 million settlement from Apple because the company billed consumers for millions of dollars in charges incurred by their children who were using mobile apps without their parents' consent. And one of my concerns is there's nothing to prevent a nonparent, even a nonfamily member, to give a minor access, you know, log on to an Internet casino on the phone, give them the phone, or for them to get access to an adult's logon information.

And, you know, when you're talking about South Carolina didn't want it in South Carolina but North Carolina did, is it the State's responsibility, North Carolina, to control that? Again, is that going to be something that just has to be litigated in civil cases or is there a criminal issue here?

Mr. Wilson.

Mr. WILSON. I'm trying to understand the question, Mr. Chairman.

Mr. PALMER. What are the limits? You know, how does one State protect itself from another State that has introduced something that is clearly hazardous to people?

Mr. WILSON. It is very difficult, and it is undefinable. I don't think, if I had the balance of your time, I would eat that up and a lot more. I don't know how I could define that. But it would be extremely difficult to guard against that between interstate laws and policies.

Mr. PALMER. Let me ask you this, then, General Campbell. Should online gambling proliferate in the U.S., as it is expected to as a result of the OLC opinion, do you believe the burden of enforcing the newly established laws—and this is Mr. Campbell, I'm sorry—and regulations in multiple States will be a drain on your current resources?

Mr. CAMPBELL. We're still targeting the most significant threats. So, regardless, we're going to commit the resources that we have available against those top threats and where appropriate, partner with our—with other State authorities.

Mr. PALMER. Do you—or you, General Wilson—believe that the Department of Justice took into consideration the right of American families to keep online casinos out of their homes and off their children's cell phones and tablets and laptops?

Mr. WILSON. I do not believe they did. No, sir.

Mr. PALMER. Would you like to comment on that, Mr. Campbell?

Mr. CAMPBELL. Again, I would simply refer to the opinion itself and what's available there as far as the processes that went into the development of the opinion.

Mr. PALMER. Should the government be in the business of facilitating such an activity?

I have been involved in this from a think tank perspective for years and studying this and looking at what happened in South Carolina when you had the proliferation of electronic gambling, video gambling. There were more places to gamble in South Carolina than there were in Nevada. It got to the point that the manufacturing association, the South Carolina Chamber of Commerce joined with religious groups to get it out of their State. It got to the point that it was hurting economic development because companies didn't want to come in.

And that's one of my concerns about this, is proliferation of this and how it's going to impact not only families, but the ability to do business, the workplace environment. Those are some serious concerns that I think need to be taken into consideration as we go forward here.

My time has expired. Would you like to respond, General Wilson?

Mr. WILSON. Mr. Chairman, I didn't have the opportunity earlier. Representative Plaskett was mentioning UIGEA, and I did not want—she ran out of time and another Member started talking, and I was respectful of the balance of their time.

I want to just put on the record that she was mentioning UIGEA may conflict with the Wire Act in allowing interstate gambling. I wanted to just go ahead and put on the record that the provision that she was referring to in UIGEA is intrastate. It's a technical amendment put in UIGEA that would allow retail lottery terminals or gambling terminals to communicate with a processing center somewhere within the same State. It wasn't an interstate gambling provision, it was intrastate. So it doesn't conflict with the Wire Act. That was all.

Mr. PALMER. Thank you, General Wilson.

The chair now recognizes the gentleman from Missouri, Mr. Clay.

Mr. CLAY. Thank you, Mr. Chair. And, Mr. Chair, I'd like to ask unanimous consent to enter 31 letters for the record supporting States' rights to regulate online gambling.

Chairman CHAFFETZ. [presiding.] Without objection, so ordered.

Mr. CLAY. Thank you, Mr. Chair.

Mr. Chair, along the same lines of questioning as Mr. Palmer, and this is a panel-wide question, starting with Mr. Campbell, is there a foolproof method developed by the States or anyone else to prevent minors from online gambling? Is there an app? Is there a method that has been proven by a State or the Federal Government that can detect the age of the participant at the online gambling site?

And I'll start with you, Mr. Campbell.

Mr. CAMPBELL. At this time, I'm not aware of any particular technology that can specifically do that.

Mr. CLAY. Okay.

Mr. Wilson.

Mr. WILSON. No, sir, I'm unaware of any technology. And I could probably bring an expert in here to contradict others.

Mr. CLAY. Sure.

Mr. Kleine, are you aware of anything?

Mr. KLEINE. I'm not aware of any.

Mr. CLAY. Mr. Lipparelli.

Mr. LIPPARELLI. I have an affliction, having been in the industry for 20 years. The goal of gaming regulation is always to set the bar appropriately high. I don't think there's—I haven't met that coder yet that can write perfect software. I wish I could. It would have solved a lot of headaches for me in the past.

But generally speaking, operators with respect to regulated online space have set the bar unusually high. If the ambition of a gambler is to access a site and they're going to go through the panoply of requirements of a legal regulated site, they'll probably get to the second or third entry point in the site and move on back to their illegal site.

So the quick answer to your question is there are outlets for those kinds of people to play today. Those are the illegal operators. The legal operators put in a panoply of requirements, and there's no guarantee that a minor could ever access a site, but generally speaking, the standards are quite high.

Mr. CLAY. Now, you and I have heard the horror story of a minor getting ahold to maybe a parent's credit card and running up thousands of dollars' worth of debt on these sites. And it's too late by the time the parent finds out about it. So, I mean, that happens, that actually happens. And it gives me pause and makes me wonder, do the States have a handle on the regulation of this type of online gaming?

Mr. LIPPARELLI. Well, this is where I go into my—usually my commentary about that risk exists in all consumer businesses to the extent you're transacting, and gaming is really no different. The only argument I would make is that in the case of gaming, typically the standards that we require are significantly greater than what you would see in any consumer transaction out there. You can buy all kinds of things online and it doesn't require any of the kinds of protections that our industry have put in place.

Mr. CLAY. Sure. But it's easy for you to detect a person's age in a brick-and-mortar facility, which is how gambling originally got started in this country.

Mr. LIPPARELLI. And there are prosecutions each and every year in the various States that allow brick and mortar for minors violating that law.

Mr. CLAY. For sure. But I'd just be curious as to how many prosecutions occur in the online aspect of gambling.

Mr. LIPPARELLI. I know that the colleagues that I have talked to have told me that, and it was my concern when we adopted our regulations, in the conversations I've had with them as recently within the last 30 days, they do not cite that as an issue that's causing them distress. They have not been warned. They have not been told of horror stories of that kind of thing happening. So I can only go by what their personal experiences are that they relayed to me.

Mr. CLAY. Okay. Any other panelists have any anecdotal evidence of—

Mr. WILSON. This is very anecdotal, Representative. My 7-year-old is fond of hacking my iTunes account and downloading video games. I don't know what would stop him if he had a penchant for gambling on my iPhone if I had an app on there. So that's more anecdotal than anything.

Mr. CLAY. And probably with these new fantasy football leagues and all of that, I'm sure that young people getting excited about participating in that forum too.

Let me—yeah. Yeah. I'll yield back, Mr. Chairman.

Chairman CHAFFETZ. I thank the gentleman.

It is the intention of the chair to recognize Mr. Carter and then represent myself and then we'll adjourn. Members are advised that there is less than 13 minutes in an extensively long vote series. And we'll go that direction.

Mr. Carter, you're now recognized for 5 minutes.

Mr. CARTER. Thank you, Mr. Chairman.

And thank you for being here. This a great panel. Certainly an important subject. Certainly all of us are interested in it.

Mr. Campbell, let me start with you. Can you just briefly describe a casino-grade geolocation system to me?

Mr. CAMPBELL. No, I do not have information about that. I cannot provide information on that.

Mr. CARTER. On the casino-grade geolocation system?

Mr. CAMPBELL. No, I am not familiar with that system.

Mr. CARTER. Okay. Okay. Well, let me ask you, are you aware that the Georgia Lottery Corporation conducts third-party penetration testing of their geolocation and age-verification solutions? And this is very important to me. I know it's somewhat specific to my State, but the Georgia Lottery has been very successful, and by statute all of those proceeds from that go to education. So we're looking at potentially losing \$10 million in revenue directly to education. So that's why it's of concern to me.

Mr. CAMPBELL. Certainly. No, I am not familiar with the Georgia Lottery or its processes.

Mr. CARTER. Okay.

Senator, let me ask you. If we were able to control—if we were able to control where online lottery sales can be done and the age of the person who purchases those tickets online, if we're able to control that, then how is it the Federal Government's problem? Why should the Federal Government be getting involved in it?

Mr. LIPPARELLI. I'm not sure I'm totally tracking the question. But the States that establish their statutes, regulations, and technical standards, I have found over 20 years of experience, those local requirements, those local technical standards usually address the resident issues that crop up with those regulatory agencies. So in the case of an online lottery business, there will be particular requirements that may not be what you see in a traditional casino environment. So if there are specific elements related to lottery, I'm sure the lottery players in that game will contribute to very detailed debates on what should and shouldn't be included.

In the case of lotteries specifically, it's no different than what we saw with our online accounts. The one difference that they may de-

cide to adopt is some of the registration requirements that we required in our State. That may not be the case, but that is one example that could bring greater transparency. But those tools are available, and they're getting better and better each day.

Mr. CARTER. So the tools to be able to identify where the ticket is bought, where it's originating from, and the age, the verification of the age of the person who's purchasing it?

Mr. LIPPARELLI. I don't see the difference between any purchase transaction and any gaming transaction. It all comes in the form of complete tracking. So that I think those are very similar.

As it relates to age verification, those will be continued challenges. There's more and more technology coming onboard. But you probably shouldn't be able to register in the first place for an online transaction unless you've provided your identifiers, your personal account information, your access to whatever card you're using to transact.

Again, building that wall as high as you can so that to the extent that a parent is going to then turn over that account information is no different than a parent being irresponsible in any other consumer transaction.

Mr. CARTER. Okay. Well, gentlemen, my concern is this, okay? I don't want to lose \$10 million in revenue to education. I mean, it's very, very important to us in the State of Georgia. It's worked well. And we feel like we're able to control where that ticket originates from, where that purchase originates from. We feel like we're able to control—to verify the age of the purchaser.

So why come to Washington, D.C. and for me to say, "No, I'm not going to allow you to do it," if we're able to control that?

Mr. KLEINE.

Mr. KLEINE. What you're talking about is intrastate, I think. And what we're talking, I think, for the most part is interstate issues with regard to gambling.

Mr. CARTER. Well, let me get clarification then. Do you have any problem with intrastate?

Mr. KLEINE. I don't have a problem if Georgia has a lottery and they run it intrastate and they regulate it intrastate. Nebraska has a lottery also that we have intrastate and we get the money and it goes to education. But I don't think—that's not what I guess I'm talking about here.

Mr. CARTER. Okay. Okay. I just want to make.

Mr. WILSON.

Mr. WILSON. We have a lottery too, Representative, and I absolutely have no problem with that. This is absolutely within the borders of each individual State. We're talking about cross State borders online gambling.

Mr. CARTER. Fair enough. I just want to make sure because, quite honestly, I have concerns about that as well. But, again, for the third time, I just don't want to interrupt something that is working so well in our State and that we feel like we have under control. So I just want to get clarification on that, okay?

Mr. Chairman, that's all I had, and I'll yield back. Thank you.

Chairman CHAFFETZ. Well, I thank the gentleman, and now recognize myself for 5 minutes.

And the reason we're here is because the Office of Legal Counsel issued an opinion reinterpreting what had been in the books for more than 50 years. That's one of the issues that we're here for.

There are some that believe—and the other point I'd make is there are an untold number of gambling sites offshore. If you really want to gamble right now you can go online and do it. It's against the law. But what the administration is talking about, what's showing up in this OLC opinion, which is one person's opinion, gives some to think that they have legal rights and reasons to bypass the States at the Federal level and be able to offer their gambling sites in States across the country.

Now, that poses a problem for a lot of States, States that have legalized gambling, States like myself who have no gaming and don't want to have any gaming. And I think it's naive at best to think that you can put a wall on the Internet and just say: Hey, this is just—you know, we're not going to be able to penetrate this. You can't.

With gaming there are lots of issues other than just location. Location is a big one. It's a core part of it. But it also has to do with your age. It has to do with your intoxication. It has to do with a whole host of things that can be addressed with somebody in person at a physical facility.

And if an individual wants to—if an individual State wants to move this direction, then look at the Federal law. But I think we would both agree, certainly with the gentleman from Georgia, that you don't just unilaterally change the law with one OLC opinion. And the concern that's being expressed here from a variety of different States is that this is a problem.

There's a reason why the second highest, as best I can tell, revenue to the Department of Treasury through the Department of Justice on fees and fines is because of gaming issues. Now, a lot of that has to come with PokerStars and some of those settlements that skewed the numbers exceptionally high. But it is a problem. And we've had numerous attorneys general, numerous governors saying: You can't do that to our State.

If somebody wants to come in and pass a piece of legislation and change the way we're going to do this, than introduce a bill and pass it. But what we're seeing now is the proliferation that is going to cause untold problems.

Mr. Lipparelli, I want to make sure that I'm just crystal clear. You're very nice, very competent. You represent your own personal views. You're not here representing the Nevada Senate, correct?

Mr. LIPPARELLI. That is correct. That's why I made that statement—

Chairman CHAFFETZ. You're not here—

Mr. LIPPARELLI. —at the beginning of my testimony.

Chairman CHAFFETZ. You're not here representing the gaming board in Nevada?

Mr. LIPPARELLI. That is correct.

Chairman CHAFFETZ. And it's very interesting to me, at least with the piece of legislation that I sponsored, the wide array of support on both sides of the aisle. On the one hand, in the Senate you've had support from Dianne Feinstein and Mike Lee, from Senator Graham to Kelly Ayotte to—I mean, you've got a whole host

of people. Myself and Tulsi Gabbard in the House. You've got people from really the full political spectrum here that are saying: This is a problem, we do need a bit of a timeout.

But, Mr. Lipparelli, let me go back to your—I'm not sure I'm following your logic here. You are arguing, you have said, quote "We can all agree that a world with 50 State-specific standards would be a nightmare," correct?

Mr. LIPPARELLI. I made that reference with respect to the technical standards.

Chairman CHAFFETZ. So do you want a national gaming board? Is that what you're asking for?

Mr. LIPPARELLI. No. It comes down to the possible versus the desired state. The desired state—

Chairman CHAFFETZ. So are you advocating that you should be able to do gaming—that the residents of Nevada should be able to gamble on the Georgia State Lottery?

Mr. LIPPARELLI. No, I'm not at all.

Chairman CHAFFETZ. Why not?

Mr. LIPPARELLI. That's controlled by Georgia law and Nevada law.

Chairman CHAFFETZ. But why wouldn't the resident of Las Vegas be able to gamble on the Georgia Lottery site? Why wouldn't you advocate for that?

Mr. LIPPARELLI. Well, the State law applies if—to your—I would agree with you. If there is a national acceptance or if there is a willingness. And we've actually been in these chambers before looking at the prospect of interstate online gaming. There were a lot of potential arguments for why that didn't pass and, you know, what were some of the impediments that got that going.

But today in Nevada they define their gaming law, Georgia would define whatever forms of entertainment or gaming they want to define, and it doesn't necessarily hold that as a result of that we should just have a national policy that says everybody can gamble on each other's various State law's back.

Chairman CHAFFETZ. So you're okay with online gaming as long as it's on an online gaming site within your State under your regulations?

Mr. LIPPARELLI. Right. Or if there's a willingness among various States to cooperate and enter into common contests. I wouldn't object to that if those States desired to do so.

Chairman CHAFFETZ. So if you teamed up, you know, because the majority, right, 47 of the States they don't have this, they're not participating in it, you're okay with compacts that would then regulate this.

Mr. LIPPARELLI. I am.

Chairman CHAFFETZ. And then you could essentially create national gambling. You think that that's an avenue to go. And who would regulate that?

Mr. LIPPARELLI. The question about compacts has been addressed, at least in its first iteration, with the connections between New Jersey, Delaware, and Nevada. I was a part of that process before I left the Gaming Control Board, and the prospect that States could come together similar like they come together in the

form of lottery, set common standards that seem to be addressing the common issues between those States.

Chairman CHAFFETZ. And, Mr. Campbell, how are you going to enforce an expansion of gaming online? How many resources—he was asked earlier how many resources you can allocate to this. But if somebody in Nevada has a problem with the State in Delaware, who’s going to enforce that?

Mr. CAMPBELL. Well, again, as we go about our intelligence and information gathering, we assess for the most serious threats that we would target that could be related to online gaming from support to terrorism or transnational organized crime and so forth. And then, again, as we do always, that’s how we would dedicate our resources and potentially incorporate the State and local authorities in that effort as well.

Chairman CHAFFETZ. Mr. Lipparelli, you have been quoted as saying that New Jersey should not be permitting PokerStars to return to the U.S. market. Why did you take that position?

Mr. LIPPARELLI. I don’t think I ever took that specific position. The position that I took vis—vis PokerStars and other companies like them who had entered the U.S. marketplace in violation of State laws, including my own in Nevada, was they should stand for suitability just like every other applicant. If they can survive that scrutiny and they can have an appropriate answer, it’s for each one of these regulatory boards to decide whether that’s a suitable method of operation, that if they were here before and settled their differences with the Justice Department to the tune of hundreds of millions of dollars, I think every gaming commission chairman or every board member that authorizes licenses should take that into consideration.

Chairman CHAFFETZ. You said, quote, “Essentially trading”—you said—your quote regarding PokerStars, your quote: “Essentially trading their credibility away. You might as well not have a licensing process,” end quote. So you’ve changed your position since then?

Mr. LIPPARELLI. I take exception to the term “PokerStars.” What I made in that comment was if the bar would be set so low by licensing boards to ignore the kinds of activities that PokerStars was engaged in, then, yes, I think there is a real question as to the validity of licensing if that kind of activity is allowed.

Chairman CHAFFETZ. Fair enough. Okay.

I have gone past my time. We have zero time on the clock with 300 people who have not yet voted on the Cole amendment on the floor.

I want to thank you all for being here. You offer an interesting perspective, the local region, the State perspective, the Federal law enforcement issues. I do appreciate all of you being here.

This is an important topic. It’s something that is permeating the United States. It’s on a lot of people’s minds. There are various pieces of legislation in both directions out there. And I do appreciate your participation. It was a good hearing today.

At this point, the committee stands adjourned.

[Whereupon, at 4:20 p.m., the committee was adjourned.]



## **APPENDIX**

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MATERIAL SUBMITTED FOR THE HEARING RECORD

**State Attorneys General**

**A Communication from the Chief Legal Officers  
of the Following States and Territories:**

**Maine \* Michigan \* Missouri \* Nebraska  
Nevada \* Oklahoma \* South Carolina \* South Dakota**

December 7, 2015

The Honorable Bob Goodlatte  
Chairman, Committee on the Judiciary  
United States House of Representatives  
2138 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Chuck Grassley  
Chairman, Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable John Conyers, Jr.  
Ranking Member, Committee on the Judiciary  
United States House of Representatives  
B-351 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Patrick Leahy  
Ranking Member, Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chairman Goodlatte, Chairman Grassley, Ranking Member Conyers, and Ranking Member Leahy:

As the states' top law enforcement officers, we the undersigned Attorneys General send this letter to express our unwavering support of H.R. 707 and S.B. 1668 ("Restoration of America's Wire Act") and to request Congress take action to reverse the U.S. Department of Justice's (DOJ) interpretation of the Wire Act, 18 U.S.C. Section 1084, as it applies to Internet gambling.

For many years, the federal government consistently interpreted the Wire Act to prohibit all forms of gambling involving interstate wire transmissions – including transmissions over the Internet. In late 2011, DOJ's Office of Legal Counsel issued a legal opinion reversing its own longstanding interpretations.

DOJ's revised interpretation of the Wire Act opened the door to expansive Internet gambling and has had significant negative impacts on our states from money laundering to exploitation of children to helping finance terrorist organizations. Additionally, the expansion of online gambling has undermined state and local law enforcement efforts to outlaw gambling which is prohibited in many states. As such, we urge Congress to adopt the Restoration of America's Wire Act.

Since DOJ reinterpreted the Wire Act as inapplicable to Internet gambling, Nevada, New Jersey, and Delaware have passed legislation legalizing various forms of Internet gambling. Pennsylvania, California, and New York are also considering expanding gambling to include Internet gambling, with Massachusetts and Connecticut identified by the online gambling industry as the next targets.

In this same time period, states like South Carolina have had to combat the menace of Internet sweepstakes operations. We fear that if RAWA is not adopted we will see a return to the wild west of Internet gambling. This will create tremendous hurdles for law enforcement and have a negative impact on the general welfare of our states.

As predicted, regulation of online gambling has proven difficult for states. This June, New Jersey announced it would not prosecute illegal gambling sites that have been operating in the state since 2013, provided the companies cease business within the next five months. Given the inherently *interstate* nature of Internet gambling transactions, we anticipate that it will become increasingly difficult to effectively regulate such conduct as additional jurisdictions consider legalizing Internet gambling.

In addition, substantial harms have been documented with the proliferation of online gambling. The anonymity of the Internet and the ability for youth to access online gambling sites presents a significant risk to teens. According to the Columbia University Medical Center's research, teenagers make up half of the 16 million people in the United States with gambling addictions and teens succumb to gambling addiction at rates between two and four times the rate of adults. A study of Connecticut youth and gambling showed that 20.5% of adolescent gamblers reported gambling online.

Online gambling affects more than our nation's youth. In 2011, DOJ filed a civil complaint for money laundering that sought \$3 billion being held by the nation's three largest online gambling companies. The anonymity of the Internet offers vast opportunity for criminal activity, terrorist financing, and money laundering through online gaming sites.

In response to the enforcement challenges associated with Internet gambling and the serious threats posed to the citizens of our states, we ask that Congress adopt the Restoration of America's Wire Act and reestablish the decades-long prohibition of Internet gambling under the Wire Act.

To be sure, we believe Congress may only regulate transactions which are interstate in nature, consistent with fundamental constitutional principles. Our system of government commands that *intrastate* matters, including the regulation of gambling at brick-and-mortar facilities and intrastate lotteries is clearly vested in the states. However, Internet gambling is inherently *interstate* in nature and states are ill-equipped to enforce gambling laws against interstate and international companies, particularly when age and location verification mechanisms are subject to compromise and the technological vulnerabilities of the Internet. Accordingly, it is critical that Congress act now to reinstitute the federal ban on online gaming.

Our primary concern is the restoration of the Wire Act to its original form in 2011. This letter does not opine on unintended collateral and peripheral consequences policymakers will have to consider throughout the legislative process.

We appreciate your consideration of this request.

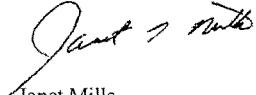
Sincerely,



Chris Koster  
Missouri Attorney General



Alan Wilson  
South Carolina Attorney General



Janet Mills  
Maine Attorney General



Bill Schuette  
Michigan Attorney General



Doug Peterson  
Nebraska Attorney General



Adam Paul Laxalt  
Nevada Attorney General



Scott Pruitt  
Oklahoma Attorney General



Marty Jackley  
South Dakota Attorney General

Copy: The Honorable Paul Ryan, Speaker, United States House of Representatives  
The Honorable Nancy Pelosi, Minority Leader, United States House of Representatives  
The Honorable Mitch McConnell, Majority Leader, United States Senate  
The Honorable Harry Reid, Minority Leader, United States Senate



STATE OF NEVADA  
OFFICE OF THE ATTORNEY GENERAL  
100 North Carson Street  
Carson City, Nevada 89701-4717

ADAM PAUL LAXALT  
*Attorney General*

WESLEY K. DUNCAN  
*Assistant Attorney General*

NICHOLAS A. TRUTANICH  
*Assistant Attorney General  
Chief of Staff*

December 7, 2015

The Honorable Bob Goodlatte  
Chairman, Committee on the Judiciary  
United States House of Representatives  
2138 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Chuck Grassley  
Chairman, Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable John Conyers, Jr.  
Ranking Member, Committee on the Judiciary  
United States House of Representatives  
B-351 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Patrick Leahy  
Ranking Member, Committee on the Judiciary  
United States Senate  
224 Senate Office Building  
Washington, D.C. 20510

Dear Chairman Goodlatte, Chairman Grassley, Ranking Member Conyers, and Ranking Member Leahy:

As Nevada's Attorney General, I am writing to articulate my position regarding H.R. 707 and S.B. 1668 (collectively, "Restoration of America's Wire Act" or "RAWA"). As a signatory to the letter circulated by General Chris Koster of Missouri and General Alan Wilson of South Carolina on the same topic ("RAWA Letter") and as the top law enforcement officer of the country's preeminent gaming jurisdiction, I outline below some nuances in my own position regarding RAWA.

The stated purpose of H.R. 707 is to "restore long-standing United States policy that the Wire Act prohibits all forms of Internet gambling. . . ."<sup>1</sup> The present need for congressional review of the Wire Act of 1961 results from the 2011 Department of Justice ("DOJ") opinion titled, "Memorandum Opinion for the Assistant Attorney General, Criminal Division"<sup>2</sup> ("Opinion"), addressing "whether proposals by Illinois and New York to use the Internet and

<sup>1</sup> Restoration of America's Wire Act, H.R. 707, 114th Cong. (2015).

<sup>2</sup> Memorandum Opinion for the Assistant Attorney General, Criminal Division, by Virginia A. Seitz, Assistant Attorney General (September 20, 2011).

December 7, 2015

Page 2

out-of-state transaction processors to sell lottery tickets to in-state adults violate the Wire Act.”<sup>3</sup> In that opinion, the Office of Legal Counsel, Department of Justice, concluded that “[i]nterstate transmissions of wire communications that do not relate to a ‘sporting event or contest’ fall outside the reach of the Wire Act.”<sup>4</sup> As the 2011 Opinion recognizes, the Criminal Division of the Department of Justice had “uniformly taken the position that the Wire Act is not limited to sports wagering and can be applied to other forms of interstate gambling.”<sup>5</sup> This prior DOJ Criminal Division interpretation of the Wire Act was consistent across time, although various courts across the country offered sometimes conflicting holdings on the same subject.<sup>6</sup> The impact of the 2011 Opinion was to dramatically narrow the interpretation of the Wire Act in a way that not only upended prior DOJ Criminal Division memoranda on the issue, but that effectively settled Wire Act interpretation and resulting enforcement actions across the U.S. in a manner best reserved to Congress. More precisely, the result of the 2011 Opinion was more akin to lawmaking than to legal interpretation by executive branch attorneys. So, while the DOJ surely has authority to provide interpretations of provisions of federal law for certain purposes, the impact of this particular interpretation went far beyond the narrow effect that such an interpretation would ordinarily have. Consequently, I believe it is time for Congress to review and clarify the Wire Act.

My own position regarding RAWA must account for Nevada’s robust regulated and licensed gaming manufacturing and casino resort economy. The State’s regulated and licensed gaming manufacturers provide devices and services to gaming enterprises around the world. The work of these gaming equipment manufacturers is critical to the success of brick-and-mortar gaming operators. Without the ability for operators to put new and exciting device technology on the gaming floor, and to use modern management tools, they simply cannot adapt to the demands of modern gaming consumers. Gaming is available around the world. To be competitive, gaming operators in Nevada and across the U.S. must have access to best-in-class games and devices, management tools, and accounting, financial, and player reward systems. I strongly support innovation and technological advances in the gaming industry and generally.

Consequently, as Congress reviews the language of the Wire Act, it is critical that policymakers understand that state and tribal-licensed gaming equipment and accounting, financial, and player reward information systems often do rely upon wire communication that occurs over networks that employ packet-switching technology and that should not be prohibited

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<sup>3</sup> *Id.* at 1.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 2 (quoting Memorandum for David Barron, Acting Assistant Attorney General, Office of Legal Counsel, from Lanny A. Breuer, Assistant Attorney General, Criminal Division (July 12, 2010)).

<sup>6</sup> Compare Report and Recommendation of United States Magistrate Judge Regarding Gary Kaplan’s Motion to Dismiss Counts 3-12, at 4-6, *United States v. Kaplan*, No. 06-CR-337CEJ (E.D. Mo. Mar. 20, 2008) (interpreting the Wire Act to apply to non-sports wagering), with *In re Mastercard Int’l, Inc., Internet Gambling Litig.*, 132 F. Supp. 2d 468, 480 (E.D. La. 2001) (“[A] plain reading of the statutory language clearly requires that the object of the gambling be a sporting event or contest.”), *aff’d*, 313 F.3d 257 (5th Cir. 2002).

December 7, 2015  
Page 3

by an overly broad iteration of the Wire Act. Examples of such equipment and systems include the following: (1) self-service lottery terminals, (2) lottery subscriptions via PC or mobile phone, (3) video lottery terminals (VLTs) with government central monitoring systems, (4) wide area progressive (WAP) VLT systems, (5) commercial casino data systems, (6) tribal casino data systems, (7) mobile sports wagering, (8) mobile gaming systems, and (9) system or server-based games. There are undoubtedly other examples of gaming equipment and systems that should be provided a safe-harbor exemption from the prohibitions of the proposed amendment to the Wire Act.

I would also offer a point of clarification on the following statement included in the October 30th RAWA Letter: "DOJ's revised interpretation of the Wire Act opened the door to expansive Internet gambling and has had negative impacts on our states from money laundering to exploitation of children to helping finance terrorist organizations."<sup>7</sup> With regard to Nevada-licensed Internet gaming operators, both current and past, I am unaware of any evidence to suggest that the foregoing description applies. On the contrary, I would note that Nevada's gaming regulatory agencies are the finest in the world and have required any person or entity, prior to deploying any Internet-based or related technology, to submit to exhaustive background and business probity investigations. I am confident in the work of Nevada gaming regulators to ensure the quality of Nevada gaming licensees. With regard to *unlicensed* Internet gaming, I share the potential concerns expressed in the RAWA Letter.

So, while I agree with the spirit of RAWA—recognizing the quasi-legislative impact of the 2011 Opinion and the resulting need for Congress to review and opine on the reach and application of the Wire Act—I also believe that it is incumbent upon the policymakers of Congress to protect current and future technological innovation of licensed and regulated gaming-related devices, table games, accounting, financial, and player reward systems, as well as other systems and networks central to the success of land-based casino resorts, from any prohibition that may result from overly broad amendment language to the Wire Act of 1961.

I appreciate your consideration of my position.

Sincerely,



Adam Paul Laxalt  
Nevada Attorney General

APL:vjb

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<sup>7</sup> Letter from Chris Koster, Attorney General, Missouri, and Alan Wilson, Attorney General, South Carolina, to U.S. Congressional Judiciary Committee Leadership, "Letter to Congressional Committee Leadership supporting H.R. 707 and S.B. 1668 to clarify the Wire Act to prohibit all forms of Internet Gambling," (Oct. 19, 2015).

December 7, 2015  
Page 4

Copy: The Honorable Paul Ryan, Speaker, United States House of Representatives  
The Honorable Nancy Pelosi, Minority Leader, United States House of Representatives  
The Honorable Mitch McConnell, Majority Leader, United States Senate  
The Honorable Harry Reid, Minority Leader, United States Senate



**State Attorneys General**

**A Communication from the Chief Legal Officers  
of the Following States and Territories:**

**Arizona \* Florida \* Guam \* Hawaii \* Kansas  
Michigan \* Missouri \* Montana \* Nebraska \* North Dakota  
South Carolina \* South Dakota \* Texas \* Utah  
Vermont \* Wyoming**

February 4, 2014

The Honorable Bob Goodlatte  
Chairman, Committee on the Judiciary  
United States House of Representatives  
2138 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Patrick Leahy  
Chairman, Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable John Conyers, Jr.  
Ranking Member, Committee on the Judiciary  
United States House of Representatives  
B-351 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Chuck Grassley  
Ranking Member, Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chairman Goodlatte, Chairman Leahy, Ranking Member Conyers, and Ranking Member Grassley:

We write to request that Congress carefully consider the policy implications of a recent reversal of the U.S. Department of Justice's (DOJ) interpretation of the Wire Act, 19 U.S.C. Section 1084, as it applies to Internet gambling.

For years, the federal government had consistently deemed the Wire Act to prohibit all forms of gambling involving interstate wire transmissions – including transmissions over the Internet. In late 2011, reversing its own longstanding interpretations, the DOJ's Office of Legal Council issued a legal opinion stating that the Wire Act only bans sports betting, and that it does not apply to online lottery sales.

The impact of this opinion – which in effect opens the door to the spread of Internet gambling – will have a potentially significant impact on state and local law enforcement. As such, we urge Congress to fully review, assess, understand and debate the significant policy implications entailed in the spread of Internet gambling, including concerns related to money laundering; access by minors; fraud; exploitation of individuals with a gambling addiction; and terrorist financing.

Since the 2011 opinion, Nevada, New Jersey and Delaware have already passed legislation legalizing various forms of internet gambling. The rules now vary in each of these jurisdictions, and given the inherently *interstate* nature of internet gambling transactions, we anticipate that it will become increasingly difficult to effectively regulate such conduct as additional jurisdictions consider legalizing internet gambling.

Given the expected enforcement challenges to various state laws, we ask that Congress restore the decades-long interpretation of the Wire Act to allow Congress and the states to more fully consider the public policy ramifications of the DOJ's reinterpretation of the Wire Act and to give federal and state law enforcement agencies time to fully assess and report on the implications Internet gambling has on our respective charges to protect the citizens of our states.

To be sure, we believe Congress may only regulate transactions which are interstate in nature, consistent with fundamental constitutional principles. Our system of government commands that other matters be left to the state authorities. To the extent Internet gambling is interstate in nature, federal oversight, in addition to state regulation, is appropriate.

We appreciate your consideration of this request, and stand ready to assist as you more fully consider the public policy implications raised by this recent decision.

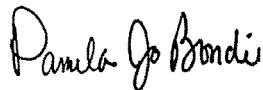
Sincerely,



Chris Koster  
Missouri Attorney General



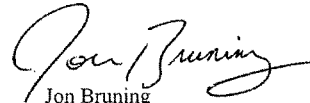
Alan Wilson  
South Carolina Attorney General



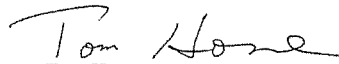
Pamela Jo Bondi  
Florida Attorney General



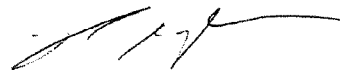
David Louie  
Hawaii Attorney General



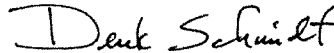
Jon Bruning  
Nebraska Attorney General



Tom Horne  
Arizona Attorney General



Lenny Rapadas  
Guam Attorney General



Derek Schmidt  
Kansas Attorney General



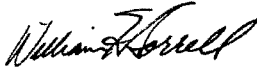
Bill Schuette  
Michigan Attorney General



Wayne Stenehjem  
North Dakota Attorney General



Greg Abbott  
Texas Attorney General




William H. Sorrell  
Vermont Attorney General



Tim Fox  
Montana Attorney General



Marty J. Jackley  
South Dakota Attorney General



Sean D. Reyes  
Utah Attorney General



Peter K. Michael  
Wyoming Attorney General

Copy: The Honorable John Boehner, Speaker, United States House of Representatives  
The Honorable Nancy Pelosi, Minority Leader, United States House of Representatives  
The Honorable Harry Reid, Majority Leader, United States Senate  
The Honorable Mitch McConnell, Minority Leader, United States Senate



U.S. Department of Justice  
Federal Bureau of Investigation

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Washington, D. C. 20535-0001

SEP 20 2013

The Honorable C. W. Bill Young  
U.S. House of Representatives  
Washington, DC 20515

Dear Congressman Young:

I am writing in response to your August 7, 2013, letter to the FBI. You requested information regarding money laundering via online gambling.

Online casinos are vulnerable to a wide array of criminal schemes. For example, criminals may participate in games with exclusively criminal players, exchanging money to launder criminal proceeds; or a criminal might intentionally lose a game to a public official in order to effect a bribe payment. Transnational organized crime (TOC) groups might exploit legal online gambling to generate revenue, steal personally identifiable information (PII), and engage in public corruption. TOC groups could hire hackers to rig games in favor of TOC members playing a particular game—depriving the game operators of revenue. TOC groups could also use intrusions to steal PII from players, which the groups could employ in future financial fraud schemes.

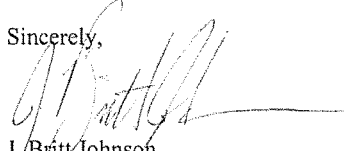
Money launderers are resourceful and find innovative ways to exploit any medium available to launder illicit funds. Even well-regulated entities, such as US banks, are commonly unwitting conduits for money laundering. Similarly, physical casinos remain popular venues for money laundering, despite regulation and the implementation of anti-money laundering and compliance programs. Online gambling, therefore, may provide more opportunities for criminals to launder illicit proceeds with increased anonymity. Individuals may use a wide array of mechanisms to conceal their physical location, or give the appearance of operating in a different jurisdiction, when accessing a website. Many of these methods could be detected and thwarted by a prudent online casino, for example, by blocking software designed to enable online anonymity. However, some sophisticated methods would be difficult to readily identify or deter.

Many US-based groups have experience running their own illegal gambling operations, including offshore operations, and some have leveraged new technology to conduct complex multimillion dollar illegal online gambling ventures. If legalized gambling expands to more states, TOC groups may draw upon their experience with their illegal gambling operations to legitimize at least a portion of their enterprise.

The Honorable C. W. Bill Young

If you have any additional concerns, please contact the FBI's Office of Congressional Affairs at (202) 324-5051. I thank you for your inquiry, and I hope this information will be helpful to you.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Britt Johnson", with a long horizontal flourish extending to the right.

J. Britt Johnson  
Deputy Assistant Director  
Criminal Investigative Division



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

November 13, 2009

Honorable Spencer Bachus  
Ranking Member  
Committee on Financial Services  
House of Representatives  
Washington, DC 20515

Dear Congressman Bachus::

I am writing in response to your letter to Director Robert S. Mueller, dated October 19, 2009, concerning your questions relating to Internet gambling. I will address these as you mentioned them in your initial correspondence:

- Does technology exist that could facilitate undetectable manipulation of an online poker game?

Yes, the technology exists to manipulate online poker games in that it would only take two or three players working in unison to defeat the other players who are not part of the team. Technically, the online poker vendors could detect this activity and put in place safeguards to discourage cheating, although it is unclear what the incentive would be for the vendor. It really comes down to a cost analysis for the vendor. How much money will I make or lose by detecting cheating and implementing the safeguards?

- Could technology be used to illicitly transfer or launder money in the guise of "innocent" participation in an online poker game, or the undetectable theft of money from one participant in such a game, by others acting in concert? If yes, to what degree?

Yes, online poker could be used to transfer ill gotten gains from one person to another, or several other people. Private tournaments exist on several online poker programs which would allow a subject to create a private game with his/her money mules. Once the game is created, the subject could raise the pot, to whatever maximum amount is allowed, and then fold before the hand is finished. This would allow the subject to transfer the money from his account to the mule account. This activity could repeat itself several times, virtually "washing the money." Once again, this activity could be detected by the vendors, but at what cost? Also, there are several ways to cheat at online poker, none of which are illegal. Teams of players could work in

unison, revealing to each other what cards they have in their hands. Based on the known cards, the team could use this knowledge to raise the pot. The players who are not part of the team would be at a distinct disadvantage because they do not have the knowledge of what cards are already in play. Several bots, software programs, have been created to play online poker. These bots are programed to take in all the information about a given hand and use that information to formulate the chances of the bot having the winning hand. Most online poker sites have a specific section of their user agreement that bans bots from their poker rooms. Bots have a distinct advantage over real players in that they can use the processing power of the computer to determine the chances of winning.

- Does the Federal government have the ability in terms of qualified personnel and financial resources to regulate Internet poker if it is legalized?

FBI investigative resources are focused on our highest priorities, that being Counterterrorism, Counterintelligence, and Cyber threats to critical infrastructures.

- Do you believe the claims of vendors who say they have technology solutions that would validate the age of a potential player in an online poker game, or the physical location, beyond a shadow of doubt?

While the vendors may claim that they can validate age and location, they are more than likely relying on credit card information and geolocation to gather this information. Both can be spoofed. For age verification, the possession of a credit card is usually the only validation these sites require. Credit card numbers are easily compromised and can be bought by the hundreds on several "underground" websites. Therefore, the simple act of owning a credit card number does nothing to validate someone's age. For location verification, the vendors are more than likely going to rely on geolocation. While geolocation can be accurate when used to determine the physical country of residence, it becomes exponentially less accurate when determining the city or zip code. Additionally, the use of Internet Protocol (IP) address based information for geolocation allows for the manipulation of geolocation information. By changing the IP address information, someone can make it appear that their residence is in a different location.

- Has U.S. law enforcement discussed potential vulnerabilities of online poker with foreign counterparts? If so, what views have been expressed?

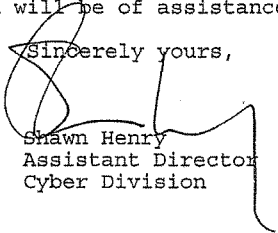
The FBI has not engaged in this discussion with our foreign partners.

- Please detail any known or alleged incidents of online cheating, particularly efforts by online casinos themselves, to manipulate the outcome of games using technology such as "pokerbots", for example.

While casino software could very easily be employed to manipulate games, the FBI has no data in this area.

I hope this information will be of assistance to you.

Sincerely yours,



Shawn Henry  
Assistant Director  
Cyber Division





STATE OF ARKANSAS  
ASA HUTCHINSON  
GOVERNOR

December 8, 2015

The Honorable Jason Chaffetz, Chairman  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
2157 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Chaffetz:

Two days before Christmas in 2011, the Office of Legal Counsel (OLC) in the Department of Justice issued a legal opinion reversing 50 years of interpretation of the federal Wire Act, opening the door for online casinos – as long as those casinos do not accept bets on sporting events.

I applaud your Committee for investigating this opinion's implications -- especially for criminal activity, including money laundering, theft, and funding of illicit activities. This is an issue of great concern to our law enforcement agencies and to the citizens of my state.

Internet gambling is a direct threat to the fundamental right granted states to control gambling within our borders. The Internet knows no state boundaries, making it extremely difficult, if not impossible, for our law enforcement agencies to prevent online casinos from preying on our citizens, including children.

The difficult task imposed on states not wanting Internet casinos infiltrating its borders has long been recognized. Back in 2007, the current Chairman of the House Judiciary Committee, Robert Goodlatte, observed:

With the development of the Internet, however, state prohibitions and regulations governing gambling have become increasingly hard to enforce as electronic communications move freely across borders. Many gambling operations are beginning to take advantage of the ease with which communications can cross state lines in order to elicit illegal bets and wagers from individuals in jurisdictions that prohibit those activities.

If anything, technological advances, and the ease of access to the Internet by children, makes the challenges imposed on states that have outlawed or have not authorized Internet gambling even greater today. Indeed, last year, sixteen Attorneys General warned Congress that because of the “inherently interstate nature of internet gambling transactions, we anticipate that it will become increasingly difficult to effectively regulate” the activity.

With funding and resources in our state already stretched, it is unfair to law enforcement, and to our citizens whom they protect, to impose on them the additional burdens of policing Internet gambling and protecting families from having online casinos appear on their children’s mobile devices, tablets and laptops.

The burden imposed on law enforcement by Internet gambling can be significant. The FBI has warned that “online casinos are vulnerable to a wide array of criminal schemes,” “may provide more opportunities for criminals to launder illicit proceeds with increased anonymity,” and can be used by criminals “to generate revenue, steal personally identifiable information and engage in public corruption.”

When asked during her confirmation hearings about the use of online gambling sites by terrorist organizations, Attorney General Loretta Lynch stated:

*I think certainly that what we’ve seen with respect to those who provide the material support and financing to terrorist organizations, they will use any means to finance those organizations.*

It is important to note the Department of Justice Office of Legal Counsel (OLC) opinion being relied upon by online casinos and lotteries does not carry the force of law. This fact was confirmed by Attorney General Loretta Lynch, who testified that she is “not aware of any statute or regulation that gives OLC opinions the force of law.”

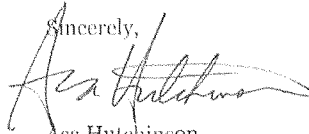
In developing this opinion, DOJ did not consult with me, or I believe with any other governor. As far as I can tell, Congress was not involved, law enforcement officials were not consulted, and there was no opportunity for public comment. This is no way to make policy – especially one threatening my state’s right to control gambling within our borders.

Internet gambling represents a fundamental change in gambling policy in this country – taking it from a tightly controlled activity requiring travel to a destination and making it available 24/7 on every mobile device, tablet and laptop.

Whether the law should be changed to allow online casinos, and if so, how, should be the result of an open process in which all stakeholders – including the states

and our law enforcement agencies – can be heard and participate, rather than through a legal opinion developed behind the closed doors of a federal agency.

I appreciate your Committee holding hearings on this issue, and support your effort to restore the long-standing interpretation of the Wire Act to give all of us time to fully assess the issue of Internet gambling, and assure that any decision to permit online casinos is done through a legislative process in which the concerns of my state, and others, can be voiced and considered.

Sincerely,  
  
Asa Hutchinson

CC: The Honorable Elijah Cummings, Ranking Member  
The Honorable John Boozman  
The Honorable Tom Cotton  
The Honorable Rick Crawford  
The Honorable French Hill  
The Honorable Steve Womack  
The Honorable Bruce Westerman



STATE OF UTAH

GARY R. HERBERT  
GOVERNOR

OFFICE OF THE GOVERNOR  
SALT LAKE CITY, UTAH  
84114-2220

SPENCER J. COX  
LIEUTENANT GOVERNOR

March 19, 2015

The Honorable Jason Chaffetz  
Representative  
2236 Rayburn House Office Building  
Washington, D.C. 20515

Dear Representative Chaffetz,

I join a long list of Utah leaders, past and present, who oppose gambling in our state. In December 2011, the Obama administration issued new guidance on the federal Wire Act, which interpreted the act differently than every previous administration. This new interpretation deviates from decades of precedent, allowing online gambling.

I support the right of each state to determine its own laws with regard to gambling. I am also very concerned about online gambling that can be accessible via interstate commerce through phones and computers, where state enforcement is difficult or impossible.

For these reasons, I support returning to the original intent and interpretation of the federal Wire Act. If you have any questions or concerns about my position on this issue, please contact my Director of State and Federal Relations Wesley Smith at [Wesley.Smith@utah.gov](mailto:Wesley.Smith@utah.gov).

Thank you for your service to our state and nation. I look forward to working with you on this issue.

Sincerely,

A handwritten signature of Gary R. Herbert in black ink.

Gary R. Herbert  
Governor



**rick scott**  
GOVERNOR

April 22, 2014

The Honorable Bob Goodlatte  
Chairman, Committee on the Judiciary  
United States House of Representatives  
2138 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Patrick Leahy  
Chairman, Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable John Conyers, Jr.  
Ranking Member, Committee on the  
Judiciary  
United States House of Representatives  
B-351 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Chuck Grassley  
Ranking Member, Committee on the  
Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chairman Goodlatte, Chairman Leahy, Ranking Member Conyers, and Ranking  
Member Grassley:

I write you to express my concern at the U.S. Department of Justice's abrupt  
reversal of its long-standing interpretation of the Wire Act, 18 U.S.C. § 1084, as that  
statute applies to Internet gambling.

The regulation of gambling, subject to broad federal limitations (such as the Wire  
Act) and requirements (such as those found in UIGEA) has properly been the domain of  
the states - and should remain so. But, when gambling occurs in the virtual world, the  
ability of states to determine whether the activity should be available to its citizens and  
under what conditions - and to control the activity accordingly - is left subject to the  
vagaries of the technological marketplace. This seriously compromises the ability of  
states to control gambling within its borders.

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The Honorable Bob Goodlatte; The Honorable Patrick Leahy; The Honorable John Conyers, Jr.; and The Honorable Chuck Grassley  
 April 22, 2014  
 Page Two

For decades, the United States government consistently deemed the Wire Act to prohibit *all* forms of Internet gambling. However, with Congress out of session, the Department of Justice (DOJ), acting on an opinion provided by its Office of Legal Counsel (OLC), and without input from Congress, state and local officials, or the public, abruptly overturned years of precedence<sup>1</sup>. This reversal directly conflicted with the longstanding position of DOJ itself *and* with a 2010 opinion of the DOJ Criminal Division<sup>2</sup>. The OLC stated that only online *sports* betting is barred by the Wire Act and that the Act does not apply to online state lottery sales. I believe the reasoning behind this alarming reversal by the DOJ is flawed and that Congressional action is necessary to resolve this issue. Additionally, I believe the DOJ did not adequately account for all of the policy concerns surrounding the expansion of gaming to the Internet. I think these policy concerns are for the U.S. Congress and other law enforcement interests to study and analyze before Internet gaming is unleashed on the states.

Allowing Internet gaming to invade the homes of every American family, and be piped into our dens, our living rooms, our workplaces, and even our kids' bedrooms and dorm rooms is a major decision. We must carefully examine the short and long-term social and economic consequences before Internet gambling spreads.

The law enforcement community has identified the risks associated with Internet gambling, although more investigation is needed. The FBI in 2009 warned that Internet gambling could be used by criminal elements for money laundering and fraud. The agency questioned whether the technology exists to guarantee that children and people with gambling problems are kept off, countering claims that such technology was available. In the same letter, it also rattled off a litany of potential abuses, including money laundering.

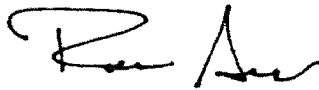
Congress needs to step in now and call a "time-out" by restoring the decades long interpretation of the Wire Act.

Congress, the states, law enforcement, and the public need – and deserve – an opportunity to fully review, assess, understand, and debate the significant policy implications entailed in the spread of Internet gambling before it becomes pervasive in our society. We appreciate your consideration of our views and look forward to working with you on developing a sensible policy that protects Americans and preserves the traditional role of the states in controlling gambling within their borders.

The Honorable Bob Goodlatte; The Honorable Patrick Leahy; The Honorable John Conyers, Jr.; and The Honorable Chuck Grassley  
April 22, 2014  
Page Three

Thank you for your consideration of this important measure to ensure the safety, security, and well-being of Florida families and families throughout our nation.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott", with a stylized flourish at the end.

Rick Scott  
Governor

cc: The Honorable John Boehner, Speaker, United States House of Representatives  
The Honorable Nancy Pelosi, Minority Leader, United States House of Representatives  
The Honorable Harry Reid, Majority Leader, United States Senate  
The Honorable Mitch McConnell, Minority Leader, United States Senate  
Florida Congressional Delegation

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<sup>1</sup> Memorandum for Lanny A. Breuer, Assistant Attorney General, Criminal Division, from Virginia A. Seitz, Assistant Attorney General, Office of Legal Counsel (September 20, 2011).

<sup>2</sup> Memorandum for David Barron, Acting Assistant Attorney General Office of Legal Counsel, from Lanny A. Breuer, Assistant Attorney General, Criminal Division (July 12, 2010) (USDOJ 2010 Memo).



## State of South Carolina

### Office of the Governor

NIKKI R. HALEY  
GOVERNOR

1205 PENDLETON STREET  
COLUMBIA 29201

March 24, 2014

The Honorable Patrick Leahy  
Chairman, Committee on the Judiciary  
United States Senate  
437 Russell Senate Office Building  
Washington, D.C. 20510

The Honorable Bob Goodlatte  
Chairman, Committee on the Judiciary  
United States House of Representatives  
2309 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Chuck Grassley  
Ranking Member, Committee on the Judiciary  
United States Senate  
135 Hart Senate Office Building  
Washington, D.C. 20510

The Honorable John Conyers, Jr.  
Ranking Member, Committee on the Judiciary  
United States House of Representatives  
2426 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Leahy, Chairman Goodlatte, Senator Grassley, and Congressman Conyers,

I write you to express my concern at the U.S. Department of Justice's (DOJ) abrupt reversal of its long-standing interpretation of the Wire Act, 18 U.S.C. § 1084, as that statute applies to Internet gambling.

The regulation of gambling, subject to broad federal limitations (such as the Wire Act) and requirements (such as those found in UIGEA) has properly been the domain of the states – and should remain so. But, when gambling occurs in the virtual world, the ability of states to determine whether the activity should be available to its citizens and under what conditions – and to control the activity accordingly – is left subject to the vagaries of the technological marketplace. This seriously compromises the ability of states to control gambling within its borders.

For decades, the United States government consistently deemed the Wire Act to prohibit all forms of Internet gambling. However, on December 23, 2011, with Congress out of session, the DOJ, acting on an opinion provided by its Office of Legal Counsel (OLC) and without input from Congress, state and local officials, or the public, abruptly overturned years of precedence.<sup>1</sup> This reversal directly conflicted with the longstanding position of DOJ itself *and* with a 2010 opinion of the DOJ Criminal

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The Honorable Leahy, Goodlatte, Grassley, and Conyers  
 March 24, 2014  
 Page 2

Division.<sup>2</sup> OLC stated that only online *sports* betting is barred by the Wire Act and that the Act does not apply to online state lottery sales. I believe the reasoning behind this alarming reversal by the DOJ is flawed and that Congressional action is necessary to resolve this issue. Additionally, I believe DOJ did not adequately account for all of the policy concerns surrounding the expansion of gaming to the Internet. I think these policy concerns are for the U.S. Congress and other law enforcement interests to study and analyze before Internet gaming is unleashed on the states.

Allowing Internet gaming to invade the homes of every American family, and to be piped into our dens, living rooms, workplaces, and even our kids' bedrooms and dorm rooms, is a major decision. We must carefully examine the short and long-term social and economic consequences before Internet gambling spreads.

The law enforcement community has identified the risks associated with Internet gambling, although more investigation is needed. The Federal Bureau of Investigation in 2009 warned that Internet gambling could be used by criminal elements for money laundering and fraud. The agency questioned whether the technology existed to guarantee that children and people with gambling problems are kept off, countering claims that such technology was available. In the same letter, it also rattled off a litany of potential abuses, including money laundering.

Congress needs to step in now and call a "time-out" by restoring the decades-long interpretation of the Wire Act.

Congress, the states, law enforcement, and the public need – and deserve – an opportunity to fully review, assess, understand, and debate the significant policy implications entailed in the spread of Internet gambling before it becomes pervasive in our society. I appreciate your consideration, and I look forward to working with you on developing a sensible policy that protects Americans and preserves the traditional role of the states in controlling gambling within their borders. God bless.

My very best,



Nikki R. Haley

NRH/jdb

cc: The Honorable Harry Reid, Majority Leader, United States Senate  
 The Honorable Mitch McConnell, Minority Leader, United States Senate  
 The Honorable John Boehner, Speaker, United States House of Representatives  
 The Honorable Nancy Pelosi, Minority Leader, United States House of Representatives  
 South Carolina Congressional Delegation

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<sup>2</sup> See Memorandum for David Barron, Acting Assistant Attorney General, Office of Legal Counsel, from Lanny A. Breuer, Assistant Attorney General, Criminal Division (July 12, 2010) ("USDOJ 2010 Memo").



## OFFICE OF THE GOVERNOR

RICK PERRY  
GOVERNOR

March 24, 2014

The Honorable Bob Goodlatte  
Chairman, Committee on the Judiciary  
U.S. House of Representatives  
2138 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Patrick Leahy  
Chairman, Committee on the Judiciary  
U.S. Senate  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable John Conyers, Jr.  
Ranking Member, Committee on the Judiciary  
U.S. House of Representatives  
B-351 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Chuck Grassley  
Ranking Member, Committee on the Judiciary  
U.S. Senate  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chairmen Goodlatte and Leahy and Ranking Members Conyers and Grassley:

I write you to express my concern at the U.S. Department of Justice's (DOJ) reversal of its long-standing interpretation of the Wire Act, 18 U.S.C. § 1084, as that statute applies to Internet gambling.

The regulation of gambling, subject to broad federal limitations (such as the Wire Act) and requirements (such as those found in UIGEA), has properly been the domain of the states — and should remain so. But, when gambling occurs in the virtual world, the ability of states to determine whether the activity should be available to its citizens and under what conditions — and to control the activity accordingly — is left subject to the vagaries of the technological marketplace. This seriously compromises the ability of states to control gambling within their borders.

For decades, the U.S. government consistently deemed the Wire Act to prohibit all forms of Internet gambling. However, on December 23, 2011, with Congress out of session, DOJ, acting on an opinion provided by its Office of Legal Counsel (OLC) and without input from Congress, state and local officials, or the public, abruptly overturned years of precedence.<sup>1</sup> This reversal directly conflicted with the long-standing position of DOJ itself and with a 2010 opinion of DOJ Criminal Division.<sup>2</sup> OLC stated that only online *sports* betting is barred by the Wire Act and that the Act does not apply to online state lottery sales. I believe the reasoning behind this

<sup>1</sup> See Memorandum for Lanny A. Breuer, Assistant Attorney General, Criminal Division, from Virginia A. Seitz, Assistant Attorney General, Office of Legal Counsel (September 20, 2011).

<sup>2</sup> See Memorandum for David Barron, Acting Assistant Attorney General, Office of Legal Counsel, from Lanny A. Breuer, Assistant Attorney General, Criminal Division (July 12, 2010) ("USDOJ 2010 Memo").

The Honorable Bob Goodlatte  
 The Honorable Patrick Leahy  
 The Honorable John Conyers, Jr.  
 The Honorable Chuck Grassley  
 March 24, 2014  
 Page 2

alarming reversal by DOJ is flawed and that congressional action is necessary to resolve this issue. Additionally, I believe DOJ did not adequately account for all of the policy concerns surrounding the expansion of gaming to the Internet. I think these policy concerns are for the U.S. Congress and other law enforcement interests to study and analyze before Internet gaming is unleashed on the states.

Allowing Internet gaming to invade the homes of every American family, and be piped into our dens, our living rooms, our workplaces and even our kids' bedrooms and dorm rooms, is a major decision. We must carefully examine the short- and long-term social and economic consequences before Internet gambling spreads.

The law enforcement community has identified the risks associated with Internet gambling, although more investigation is needed. The FBI in 2009 warned that Internet gambling could be used by criminal elements for money laundering and fraud. The agency questioned whether the technology exists to guarantee that children and people with gambling problems are kept off, countering claims that such technology was available. In the same letter, it also rattled off a litany of potential abuses.

Congress needs to step in now and call a "time-out" by restoring the decades-long interpretation of the Wire Act.

Congress, the states, law enforcement, and the public need — and deserve — an opportunity to fully review, assess, understand and debate the significant policy implications entailed in the spread of Internet gambling before it becomes pervasive in our society. I appreciate your consideration and look forward to working with you on developing a sensible policy that protects Americans and preserves the traditional role of the states in controlling gambling within their borders.

Sincerely,

  
 Rick Perry  
 Governor

RP:lnp

cc: The Honorable John Boehner, Speaker, U.S. House of Representatives  
 The Honorable Nancy Pelosi, Minority Leader, U.S. House of Representatives  
 The Honorable Harry Reid, Majority Leader, U.S. Senate  
 The Honorable Mitch McConnell, Minority Leader, U.S. Senate  
 Texas Congressional Delegation



STATE OF INDIANA  
OFFICE OF THE GOVERNOR  
State House, Second Floor  
Indianapolis, Indiana 46204

Michael R. Pence  
*Governor*

May 1, 2014

Dear Members of the Indiana Congressional Delegation:

I write regarding Internet gambling, which I have long opposed. When I served in Congress, I was pleased to support the Unlawful Internet Gambling Enforcement Act of 2006 ("UIGEA").

Indiana does not currently permit any forms of Internet gambling, and it is a felony under Indiana law to engage in Internet gambling. Until recently, Internet gambling was consistently deemed by the federal Wire Act (18 U.S.C. § 1084) to be prohibited across the nation. However, on December 23, 2011, the Department of Justice issued a reinterpretation of the Wire Act that changed the long-standing prohibition of Internet gambling by the Wire Act to state that only online sports betting is barred. While I do not intend to allow Internet gambling in Indiana, some states have since moved forward with Internet lottery sales and other forms of Internet gambling.

Generally, states have the ability to regulate gambling within their borders, subject to broad federal limitations and requirements, such as those found in the Wire Act and UIGEA. It is imperative that states retain this power so they can decide for themselves what is right for their state. Indiana, for example, has decided over the course of the past decades to maintain a state lottery and allow 10 riverboat casinos, one land-based casino, and limited land-based horse racing venues with casinos. Indiana has carefully scrutinized and routinely denied expansion of gambling beyond these statutorily authorized activities.

I believe it is necessary for Congress to restore the original interpretation of the Wire Act that prohibited Internet gambling nationwide, and I encourage you to support legislation that would accomplish this end. Internet gambling crosses state lines and impacts the ability of a state to regulate and control gambling within its borders. By its very nature, the Internet involves interstate commerce. Internet gambling relies on technology, such as GPS location monitoring and other controls, that may be compromised. Internet gambling also relies on verification procedures for participant ages and payment information that are subject to similar vulnerabilities. Taken together with the mobility of our society and the widespread access to the Internet, a federal prohibition of Internet gambling is necessary. Otherwise the ability of states like Indiana to prevent and control Internet gambling within its borders, despite our best efforts, will be greatly diminished.

I appreciate your consideration and look forward to working with you on this issue. Thank you for your service to our state and nation.

Sincerely,

  
Michael R. Pence  
Governor of Indiana

GEORGE HOLDING  
THIRTEENTH DISTRICT, NORTH CAROLINA



COMMITTEE ON WAYS AND MEANS  
SUBCOMMITTEE ON HUMAN RESOURCES  
SUBCOMMITTEE ON OVERSIGHT

Congress of the United States  
House of Representatives  
Washington, D.C. 20515

The Honorable Jason Chaffetz  
Chairman  
House Committee on Oversight and Government Reform  
2157 Rayburn House Office Building  
Washington, D.C. 20515

December 7, 2015

Dear Chairman Chaffetz,

I commend the Committee on Oversight and Government Reform for focusing attention on the serious law enforcement concerns raised by Internet gambling. As a former United States Attorney, this issue is of particular interest to me.

During my tenure as a federal prosecutor, I saw firsthand how criminals can exploit the pervasive nature and anonymity of the Internet. Together with the FBI and other federal, state, and local law enforcement agencies, we convicted a number of child pornographers, some of whom received sentences in excess of 100 years, and all of whom had relied upon the Internet to carry out their crimes.

Our efforts to bring to justice these criminals opened my eyes to how resource-intensive pursuit of Internet crimes can be, and how difficult – if not impossible – the task will be for law enforcement if online casinos are allowed.

The FBI has warned Congress that Internet gambling is “vulnerable to a wide array of criminal schemes,” including abuse by criminals looking to launder funds, steal money and personally identifiable information, engage in public corruption, and fund criminal organizations. This makes sense. The potential that casinos could be exploited by criminal elements is one of the reasons legalized gambling has been so tightly controlled – and until now, limited to physical destinations.

In advising Congress, the Bureau inferred that it has higher priorities for its limited resources than regulating a legalized Internet gambling industry. I know firsthand just how stretched those resources are. Together with the FBI and other federal law enforcement agencies, we successfully prosecuted violent felons, terrorists, drug offenders, and corrupt public officials – in addition to child pornographers. We had our hands full with those and the other federal crimes on our plates.

WASHINGTON, D.C. OFFICE  
507 CARROLL HOUSE OFFICE BUILDING • WASHINGTON, D.C. 20515  
Phone: 202.275.3632 • Fax: 202.225.0181

RALEIGH DISTRICT OFFICE  
3725 NATIONAL DRIVE, SUITE 101 • RALEIGH, NORTH CAROLINA 27612  
Phone: 919.782.4400 • Fax: 919.782.4450

WWW.HOLDINGHOUSE.GOV

Two days before Christmas in 2011, the Office of Legal Counsel opened the door for online casinos when it issued a legal opinion overturning 50 years of consistent interpretation of the Wire Act. A decision of this importance, and which carries the law enforcement risks it does, should not have been left to a government attorney.

Rather, whether Internet gambling should be permitted, and if so, under what conditions, is a decision for Congress to make through the legislative process with full consideration as to the impact online gambling will have on crime. That is why I am proud to co-sponsor your legislation to restore the traditional interpretation of the Wire Act, and applaud the Committee for shedding light on the law enforcement issues surrounding online gambling.

Sincerely,

  
George Holding  
Member of Congress

CC: Chairman Bob Goodlatte  
House Judiciary Committee



ADVANCING FAITH, FAMILY AND FREEDOM

June 27, 2014

Representative  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative:

On behalf of the Family Research Council (FRC) and the families we represent, I urge you to support the bipartisan Restoration of America's Wire Act of 2014 (H.R. 4301) sponsored by Representative Jason Chaffetz (R-UT). This bill would restore the long standing federal ban on internet gambling and protect the vulnerable and their families from the 24-7 easy access of online gambling. It is urgent Congress act now to begin work on passing this important piece of legislation.

On December 23, 2011, the Justice Department unilaterally gutted the Wire Act, the 50 year old prohibition against the transmission of information related to bets and wagers, by reinterpreting its application to only apply to sports-related betting. They did so without input from Congress, law enforcement or the American public. Overnight, gambling interests in cash strapped states were given an avenue to pursue online gambling without fully appraising its consequences.

There is overwhelming evidence that the prevalence of compulsive gambling is three to four times higher among online gamblers than non-internet gamblers. The 24-7 ease of access, the speed of the game, the solitary nature of play and the ability to play multiple games at once, make online gambling inherently more dangerous than other forms of gambling.

In 1999, the National Gambling Impact Study Commission (NGISC) released its three year findings recommending an explicit moratorium on gambling expansion and a complete ban of internet gambling. The NGISC reported receiving "abundant testimony and evidence that compulsive gambling introduces a greatly heightened level of stress and tension into marriages and families, often culminating in divorce and other manifestations of familial disharmony," and that "respondents representing 2 million adults identified a spouse's gambling as significant factor in a prior divorce."

While online gambling initiatives are billed as a boon to state budgets, voters and policymakers should be aware that there is no proof expanding gambling positively impacts net state revenues. In fact, there's evidence to the contrary. Gambling functions like a regressive tax that disproportionately impacts the poor, diverting money away from local businesses and displacing existing sales tax revenue while fueling societal ills.

FAMILY RESEARCH COUNCIL

801 G STREET NW, WASHINGTON, D.C. 20001 • 202-393-2100 • 202-393-2134 FAX • (800) 225-4008 ORDER LINE • FRC.ORG

The increase in crime, financial hardship, lost work and the break-up of families have lead professor and economist at Baylor University, Earl L. Grinols to estimate the costs of gambling outweighing its benefits 3 to 1.

Online gambling vendors claim they will be able to screen out minors, ensure player's identities and validate they are physically located within proper jurisdictions. However, the FBI countered this claim in a 2009 letter to the Financial Services Committee stating, "While the [online gambling] vendors may claim that they can validate age and location, they are more than likely relying on credit card information and geolocation to gather this information. Both can be spoofed."

Again, I urge you to support the Restoration of America's Wire Act of 2014 (H.R. 4301) introduced by Representative Chaffetz (R-UT) and begin legislative work on this bill.

Sincerely,



David Christensen  
Vice President of Government Affairs



### **How Washington Opened the Floodgates to Online Poker, Dealing Parents a Bad Hand**

BY LEAH MCGRATH GOODMAN / AUGUST 14, 2014 7:10 AM EDT  
NEWSWEEK

In 2007, the head of the FBI's Cyber Crime Fraud unit, Leslie Bryant, issued a stern warning to Americans: "You can go to Vegas. You can go to Atlantic City. You can go to a racetrack. You can go to those places and gamble legally. But don't do it online. It's against the law."

Four years later, with much fanfare, the U.S. Department of Justice (DOJ) unsealed sweeping indictments against the online poker industry's Big Three—PokerStars, Full Tilt Poker and Absolute Poker. The companies, all located offshore, were hit with a raft of charges, including wire fraud, bank fraud, money laundering and operating in the U.S. in willful violation of the Unlawful Internet Gambling Enforcement Act (UIGEA).

A mere eight months later, on the Friday before Christmas Eve 2011, then-U.S. assistant attorney general Virginia Seitz quietly issued a 13-page legal opinion that changed everything. She reinterpreted the federal Wire Act of 1961, which, until that time, had been viewed by U.S. courts—and the DOJ's own Criminal Division—as prohibiting all forms of online gambling.

Seitz's opinion found that only wagers on a "sporting event or contest" were prohibited by the Wire Act ("wire" is interpreted as extending to the Internet). The effect was to lift a long-standing federal ban on non-sport betting on the Internet, such as poker and slots—some of the most popular and profitable games online—razing the foundation of the UIGEA, passed by Congress in 2006.

The opinion was issued in response to requests from the states of New York and Illinois to rule on whether proposed lotteries using the Internet to sell tickets would violate the Wire Act. But it ended up having much broader implications. The only federal restriction Seitz preserved was the ban against online betting on such events as horse racing or March Madness. Otherwise, she found the states were allowed to decide individually if they wanted to offer online gambling within their borders or team up with other states.

For Seitz, reversing 50 years of legal precedent came down to the placement of a comma. In the key passage of the Wire Act, the description of the ban on gambling over state or international lines applies to "bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers."

The first comma, for Seitz, was crucial. The question, she said, boiled down to whether "sporting event or contest" modified each instance of "bets or wagers" or only the instance it directly followed. She decided the former, writing, "We conclude that the [DOJ] Criminal Division's premise is incorrect and that the Wire Act prohibits only the transmission of communications related to bets or wagers on sporting events or contests."

She also noted that on the same day as the Wire Act was enacted in 1961, Congress passed a separate law regulating other forms of gambling, supporting the view that the Wire Act was aimed specifically at gambling on sports.

Punctuation aside, Seitz opened wide the door to online gambling—and in the process, critics say, may have opened a Pandora's box. Lawmakers and experts warn that online gambling is dangerously addictive for some, especially children raised in a culture of online gaming and smartphones.

Seitz, who came from the DOJ's Office of Legal Counsel (once characterized by Newsweek as "the most important government office you've never heard of," and the same office that wrote the legal justifications for drones and waterboarding), was appointed in June 2011 by President Barack Obama and previously worked at Chicago law firm Sidley Austin, where Obama and the first lady, Michelle Obama, met and worked until they married.

"That a single, relatively unknown person in an office at the Justice Department can just bring about such massive change to our economy in direct contradiction to what Congress sees as the governing law signals a gravitational shift in power that is very concerning," says Jonathan Turley, a professor of public interest law at George Washington University in Washington.

"The Office of Legal Counsel once held a unique and revered position within the DOJ and government as a whole," Turley continues. "It was viewed as the gold standard of legal analysis. This office was once tasked with the job of saying no to the president. Its job was to objectively interpret the intent of our laws passed by Congress. It had a tradition of independence and excellence, and that tradition was viewed as inviolate by past presidents. This was heavily damaged by the Bush administration, and this has only continued with Obama."

What has not changed about that tradition, says Turley, who voted for Obama, is that once the Office of Legal Counsel has spoken, its word is treated as sacrosanct by the other government agencies. (Reached by Newsweek, the DOJ, as well as the FBI, both confirmed that, as a result of Seitz's opinion, they have ceased cracking down on online gambling and will leave it up to the preferences of the states.)

"It's problematic that this office's opinions are treated as legally binding, as if they came down from Mount Olympus," Turley says. "Even in its heyday, it should never have been this way."

Seitz declined to comment on the reasons for her opinion or its impact.

So far in the U.S., the online gambling phenomenon is still new enough that only a handful of states have had a chance to approve it and roll it out. Nevada and Delaware—two states that have already teamed up over online gambling, sharing users and territory—and New Jersey have led the way, offering real-money gambling through websites and apps that can be downloaded straight to smartphones.

"This is just the beginning," predicts Jason Chaffetz, a Republican representative from Utah, the only state other than Hawaii that prohibits all forms of gambling, even the lottery. "I am afraid that if we don't move quickly and get some decent regulations in place, which we really don't have right now, it will be too late to stop it from reaching all the states."

Chaffetz is wary of claims that geolocational technology, which works better in cities than in rural areas and vast expanses of desert (due to their reliance on hot spots and cellular towers to triangulate players), can keep poker out of his state: "Many parents already can see how easy it is for a kid to get addicted to a video game that does not involve money. You put them on the Internet and they are gambling with money, now you have a real problem."

Chaffetz, a 47-year-old father of three (ages 21, 18 and 13), is one of the shrinking pool of politicians—Republican or Democratic—who do not rely on money from the gaming industry to fund his political activities. This past July, he wrote a letter (signed by 17 other representatives) to House Judiciary Committee Chairman Bob Goodlatte, a Virginia Republican, calling for hearings as soon as September on

the nation's "policy on the expansion of gambling" to ensure it is "established through legislative process."

That terminology—"legislative process"—speaks to the consternation of a growing number of lawmakers who fear the Obama administration may have opened the floodgates to online gambling in the U.S. without ever intending it to be put to a congressional vote.

"The way this all unfolded and the parties involved, I think it raises a big question mark," Chaffetz tells *Newsweek*. "I'd like to know a lot more about what happened, which is why I asked for a hearing. We can't have an office in the bowels of the DOJ going against decades of legal precedent without Congress having any say."

### Slots for Tots

Chaffetz, who has become a bit of a gaming connoisseur as he pushes to restrict the spread of online gambling across the states, is only too aware that the line between real-money "gambling" and social-media "gaming" has all but disappeared, especially for the young. Among the sites Chaffetz does not like is "Slotomania" from Caesars Entertainment Corp. in Las Vegas, which features Disney-looking cartoons of comely young girls, evil villains and cuddly monsters, all beckoning users to play for free. This is what critics derisively call "slots for tots," which the Nevada Gaming Control Board has outlawed in casinos but has not yet been aggressive about addressing online.

"The millennials are greater risk takers; they've grown up on the technology of video games and watching other young people winning the World Series of Poker [also from Caesars], and they think they are smarter than everyone else," says Jeffrey Derevensky, a professor of applied child psychology and psychiatry at Montreal's McGill University and one of the world's leading authorities on youth gambling addiction. On average, he says, 5 to 8 percent of university students are what he would classify as "at-risk gamblers," with 2 to 4 percent suffering from "a serious gambling addiction."

"Online and mobile gambling is going to be a big thing, and those aged 18 to 25 have the highest prevalence of gambling-related problems among adults," says Derevensky, who has treated dozens of kids at McGill's International Centre for Youth Gambling Problems and High-Risk Behaviors.

One of the hardest parts of the job, Derevensky says, is "getting parents and teachers to realize the dangers of gambling are often no less severe and sometimes much greater than drinking, reckless driving, drugs and unprotected sex." Once hooked, kids can take years to recover—or never recover—with the most severe cases only able to substitute one high-risk behavior for another. Some kids even commit suicide. "Once they're addicted, these kids will take their parents' credit cards, gas cards, anything they can find to gamble with," he says. "I had one kid, being raised by a single mother, who stole two of her credit cards and lost \$20,000 on PokerStars in one month."

Released last year, the fifth edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, commonly referred to as the DSM, sets up criteria for research into "Internet Gaming Disorder." The association said that studies of young Asian males indicated "that when these individuals are engrossed in Internet games, certain pathways to their brains are triggered in the same direct and intense way that a drug addict's brain is affected by a particular substance."

Marc Potenza, a professor of psychiatry at Yale University specializing in the neurobiology of gambling, impulse control and addictive disorders, has noticed the same link. "We are only beginning to understand this condition and the potential for treatments, using brain imaging to investigate the neurocircuitry that

underlies human decision making and similarities between substance abuse and gambling disorders," he tells Newsweek.

He worked with two research groups for the DSM-5, which now recognizes gambling disorder as a behavioral addiction. One revelation thus far: While U.S. law makes a clear distinction between online gaming for real money and virtual money (with the former being more heavily regulated), the human brain may not make the same distinction when it comes to getting addicted. "This is something we are actively investigating," Potenza says.

Online gaming sites by the hundreds are already testing that theory among young players, says Keith Whyte, executive director of the National Council on Problem Gambling, in Washington, D.C. "For an activity to be legally considered gambling, it must have a prize, chance and payment to participate," he says. "So what many of the social casino games do is remove, at least for a time, one of these three elements." (One of the industry's tricks is offering players a chance to play for free and boosting their confidence by offering them overly favorable odds and hefty virtual winnings—then turning the tables when the players enter a credit card. Another, Whyte says, is for online games to accept real money in exchange for virtual coins but never offer any cash winnings, so as to sidestep being regulated.)

"The legal and technical distinctions between whether or not the poker you are playing is gambling don't really matter to us or to the kids who get addicted," Whyte says. "The definition of addiction does not depend on whether the real money you bet and lose is translated into virtual coins. You are still betting and losing money."

Derevensky says one male college student told him his addiction started with an offer for free chips to play Texas Hold'em. "A general progression starts with these Facebook entertainment games which are purely for fun, and some people take it to the next level, where it's for fun and money," the student told him. "Some people then take it to the next level, where the fun has disappeared and they are just doing it for the money."

In the U.S., the number of young people getting addicted to gambling "increases a little every year," with the 24-hour accessibility of online gaming a key culprit, notes a spokeswoman for the Nebraska Council on Compulsive Gambling, which recently released a PBS documentary, *Growing Up Gambling*. The film, aired in May, prominently featured a picture of what appears to be Obama filling in a March Madness bracket.

In March, Chaffetz signed on as lead sponsor of bipartisan legislation introduced in the House of Representatives that is challenging the spread of online gambling, the Restoration of America's Wire Act. Lindsey Graham, a Republican from South Carolina, introduced a similar bill in the Senate. In a statement, Graham, who is a member of the Senate Judiciary Committee, observed that his state outlawed video poker machines back in 1999, ultimately removing more than 33,000 units from use. "Now, because of the Obama administration's decision, virtually any cellphone or computer can again become a video poker machine," he said. "It's simply not right."

States looking at legalizing online gambling include Illinois, New York, Iowa, Minnesota, Mississippi, Louisiana, California and Massachusetts. On the flip side, 16 state attorneys general wrote to Congress this year, asking it to restore the previous interpretation of the Wire Act and go back to a federal prohibition of online gaming. (They were from Arizona, Florida, Kansas, Michigan, Missouri, Montana, Nebraska, North Dakota, South Dakota, South Carolina, Texas, Utah, Hawaii, Vermont, Wyoming and Guam.) Governors Rick Perry of Texas, Nikki Haley of South Carolina and Rick Scott of Florida also support restoring the federal ban.

Without strong rules in place, Chaffetz fears young people will be able to log on and start placing bets without much trouble. Many sites assume players are old enough to play if they simply enter a credit card. "In the physical world of bricks-and-mortar casinos, it's easy to see a 13-year-old on a casino floor. On the Internet, there are no physical barriers, nothing stopping a child from becoming an addict," he says.

#### **Black Friday**

Until Seitz handed down her opinion in late 2011, agencies such as the FBI had forcefully cracked down on online gambling in the U.S. Only that spring, the DOJ, working closely with the FBI, had delivered what seemed to be a knockout blow to the major online poker companies, on what was dubbed "Black Friday" by many crestfallen poker enthusiasts across the country.

Among the companies targeted by the indictments were the most profitable online poker company in the world, PokerStars, owned by Rational Group, based in the Isle of Man; Full Tilt Poker, a competing company, based in Dublin; and Absolute Poker, based in Costa Rica. As part of its far-reaching action, the DOJ unsealed criminal indictments against 11 of the online poker companies' executives and their agents and suspended more than 75 bank accounts used by the companies.

But by July 2012, little more than a year after the charges had been filed—and just seven months after the release of Seitz's opinion—the DOJ settled all the charges. A release issued that month by Preet Bharara, the U.S. attorney for the Southern District of New York, stated that PokerStars, Full Tilt Poker and Absolute Poker used the same third-party payment processor, "working together" to funnel hundreds of millions of "illegal Internet gambling transactions" to the poker companies.

The payment processor, a man in his 50s named Ira Rubin, was sentenced to three years in prison in a Manhattan federal court after pleading guilty to bank and wire fraud, money laundering and conspiracy to violate the UIGEA. All eight defendants the DOJ managed to arrest pleaded guilty. The remaining three defendants residing outside the U.S.—two of them from PokerStars—remain at large.

The role of the payment processor had been pivotal, as most U.S. banks refused to process payments from online gaming, which were—until Seitz handed down her opinion—considered illegal. To circumnavigate the problem, PokerStars, Full Tilt, Absolute Poker and their agents, according to Bharara, "lied to U.S. banks about the nature of the poker transactions they were processing" by "creating phony corporations and websites to disguise payments" and set up hundreds of "phony front companies with websites purporting to sell everything from clothing and jewelry to golf clubs and bicycles." The websites tricked bank officials who visited them into believing they were legitimate companies, processing what Bharara's office said eventually amounted to "billions of dollars in payments" by masquerading as anything other than poker businesses.

In an unusual move, the DOJ, as part of its settlement with PokerStars, brokered PokerStars's acquisition of the assets of Full Tilt, its former competitor, which consisted of Full Tilt's database, software and client list, which the DOJ seized in 2011. In exchange for \$547 million, paid over three years, the DOJ handed over Full Tilt's assets to PokerStars and settled all civil and forfeiture claims against PokerStars. (The DOJ had initially planned on seizing PokerStars's assets too.)

PokerStars spokesman Eric Hollreiser tells Newsweek, "We never violated any U.S. law in our operations, and our settlement with the DOJ, in addition to acquiring Full Tilt, included no admission of wrongdoing and explicitly allowed for us to apply for licenses in the U.S."

Both the DOJ and PokerStars declined to disclose what dollar amount, if any, was paid by PokerStars of the \$547 million to settle its claims, which calls into question whether this wasn't just an asset purchase agreement that essentially left PokerStars a bigger, stronger company. "There was no specific separate payment for the purchase of the Full Tilt Poker assets or any breakdown," the DOJ says in a statement to Newsweek. The DOJ also declined to discuss the reasoning behind why it allowed PokerStars, a company it had accused of illegal gambling, wire fraud, bank fraud and money laundering, to purchase Full Tilt, a company it had accused of the same offenses, plus defrauding its players.

PokerStars, bolstered by Full Tilt's client list, now boasts more than 85 million players around the world. As part of the DOJ settlement, PokerStars agreed to return an additional \$184 million of funds to the defrauded Full Tilt players, as well as promise not to offer online poker in the U.S. "until it became legal," according to the DOJ. It did not have long to wait, as Nevada became the first state to legalize online gambling only months later, launching its first site in May 2013.

Rational Group, the parent company of PokerStars—which hires pricey, big-name lobbyists, including a one-time presidential hopeful, former Democratic House majority leader Richard Gephardt—just finalized a deal on August 1 to be acquired by the previously little-known Amaya Gaming Group, based in Pointe-Claire, Quebec, for \$4.9 billion. The transaction has created the largest gaming company in the world—and it considers offering online gambling throughout the U.S. a top priority.

#### **Follow the Money**

Seitz's opinion has essentially opened the U.S. market to what some estimate could be a \$1 trillion global industry. The Center for Public Integrity has reported on the battle between offshore companies and brick-and-mortar casinos over how to regulate online gambling, with both sides investing heavily in lobbying and campaign spending. Among the most prominent opponents of online gambling are Sheldon Adelson, chairman of the Las Vegas Sands, and casino mogul Steve Wynn of Las Vegas-based Wynn Resorts, while casino companies such as MGM Resorts International and Caesars Entertainment support it.

Grassroots poker advocacy groups such as the Poker Players Alliance have also played a role, although Executive Director John Pappas has confirmed that most of the group's funds come from offshore companies, including PokerStars.

As an Illinois state senator, Obama told National Public Radio in 1999 that he refused to take any money from the gambling industry, even though there were no limits on contributions in Illinois or on tribal donors. "It is very hard to separate yourself from the interests of the gaming industry if you're receiving money," Obama said. The president, who enjoys poker and blackjack, has often gone on the record stating his concerns about "the moral and social cost of gambling."

Yet by 2007 Obama had cracked the list of the U.S. Senate's top 10 biggest recipients of gaming money, and by 2008 he had risen to become the Senate's No. 3 highest-paid recipient. During his 2012 re-election campaign, he accepted more money from the gambling industry and tribal casinos than any individual politician now in Washington. (Adelson spent tens of millions of dollars in support of Mitt Romney and other Republicans, but most of that went to Super PACS and outside groups.) In fact, with the Seitz decision throwing the entire U.S. gaming industry into play, 2012 was a record year for casino and gaming contributions, which reached \$72 million, according to the Center for Responsive Politics, a Washington-based nonpartisan and nonprofit group tracking money in politics. About \$50 million of the

total came from Adelson, while donations to individual candidates were split almost evenly between Democrats and Republicans.

In 2012, Obama, in conjunction with the Democratic National Committee, received more than \$1.7 million in reported donations from the industry, according to the Center for Responsive Politics. Against other special interest groups, that's a tidy sum, but well below what larger industry sectors contributed to him—the biggest ones being law firms and education, which donated more than \$20 million each.

McGill's Derevensky, a consultant to international online gaming companies, says it's not just campaign finance that's at issue. Only a decade or two ago, most politicians would have been loath to cozy up to the gambling industry, he observes. But the financial crisis has brought a new urgency to raise revenue at both the state and federal levels, where the proceeds of gambling can provide valuable contributions. In the U.S., an online gambling license alone can cost hundreds of thousands of dollars annually, in addition to the proceeds states can reap from the winnings of casinos and online gambling companies.

"Since the economy tanked around the world, you're seeing the greatest move to gambling ever," Derevensky tells *Newsweek*. "Three states have online gambling, and you will see it proliferated throughout the United States. We're never going back. The governments are just too dependent on it for tax revenue."

The Obama administration's ties to the industry go beyond money. Jim Messina, Obama's 2012 campaign manager and a close confidant, earlier this year signed on as a consultant to the American Gaming Association, a powerful pro-gaming lobby in Washington that is pushing to make gambling more commonplace and less taboo.

Since Seitz handed down her 2011 opinion, Sidley Austin, her former employer, has expanded its deal-making practice in the gambling space, which now includes major markets in North America, Europe and Asia. In July, it advised Las Vegas-based International Game Technology on its merger with Italian lottery operator Gtech, which was valued at \$4.7 billion in cash and stock. A Sidley Austin spokeswoman in Chicago said the firm declined to discuss its work in the gambling niche, including whether it had ever worked with Rational Group, PokerStars, Full Tilt or Amaya.

Seitz, who left the DOJ's Office of Legal Counsel in December 2013, plans to return to Sidley Austin to practice law, the firm's Washington office tells *Newsweek*. In addition to being the place where the Obamas met, Sidley Austin has been one of the most generous contributors to Obama's two election campaigns, donating \$606,260 to his 2008 campaign and \$400,883 to his 2012 campaign, according to the Center for Responsive Politics.

Reached at her home in Washington, Seitz tells *Newsweek* she had no comment on her Wire Act opinion, other than to say, "It is just that—an opinion." She confirmed she will be returning to Sidley Austin but hasn't decided when. "I will be working on appeals, without a focus on a particular sector," she says. "It is really a normal lawyer job." Seitz contributed \$2,300 in 2007 to Obama and \$1,300 in 2008.

The White House declined to comment to *Newsweek* on the legalization of online gambling, deferring to the DOJ opinion written by Seitz. When pressed, a White House representative pointed to a statement issued in 2012 by Brian Deese, then-deputy director of the National Economic Council and now the deputy director of the Office of Management and Budget. The statement, issued in response to a petition in 2012, echoed many of the concerns that Chaffetz and others have raised.

It observed that online gambling posed "distinct challenges" when compared with gambling in physical locations such as casinos, since players might sidestep "restrictions on online gambling that can allow individuals from countries where gambling is illegal, or even minors, to play using real currency." It also noted the use of online gambling portals as a conduit "for money-laundering schemes, because of the volume, speed, anonymity and international reach made possible by Internet transactions."

Nonetheless, it said, "it is left to each state to determine whether it wishes to permit such activity between its residents and an online poker business authorized by that state to accept such wagers."

In the meantime, the DOJ estimates that total settlement payments from fraudulent online poker companies have, as of July, reached more than \$1 billion (\$1,027,511,816.52, to be precise), rivaling only the financial settlements paid by big banks.

Under the terms of the 2012 post-Seitz settlement, the DOJ is still returning money to defrauded customers of Full Tilt Poker—including Americans who had money in their Full Tilt Poker accounts on Black Friday, even though at the time those people should have known it was illegal to gamble online in the U.S. Turns out their bet paid off.





March 26, 2014

The Honorable Bob Goodlatte  
Chairman, Committee on the Judiciary  
United States House of Representatives  
2138 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Patrick Leahy  
Chairman, Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable John Conyers, Jr.  
Ranking Member, Committee on the Judiciary  
United States House of Representatives  
B-351 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Chuck Grassley  
Ranking Member, Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chairmen Goodlatte and Leahy, and Ranking Members Conyers and Grassley,

On December 23, 2011, Eric Holder's Department of Justice unilaterally reversed a long-held position that federal law prohibits Internet gambling. He effectively changed a law which had been on the books for 50 years, and did so without seeking Congressional input, consulting with law enforcement, or allowing for public comment. Since then, three states have legalized some form of Internet gambling and many others are actively considering following suit.

Today, Senator Lindsey Graham and Representative Jason Chaffetz took the first steps toward stopping the scourge of Internet gambling by restoring the longstanding interpretation of the Wire Act with the introduction of the Restoration of America's Wire Act.

Sen. Graham and Rep. Chaffetz's legislation will restore the law undermined by the Justice Department and, by so doing, will prevent every smartphone, tablet, and laptop across the country from being turned into a portable, virtual casino available 24 hours a day, seven days a week. Protecting the young, the poor, and the elderly from being targeted by Internet casinos and gambling apps is reason enough to pass this legislation immediately. But there are other serious concerns that have been raised as well.

The FBI has warned in letters to Congress that online casinos are vulnerable to a "wide array of criminal schemes," including identity theft and money laundering by "transnational organized crime." Moreover, the FBI warns that age and location verification technology "can be spoofed."

Sen. Graham and Rep. Chaffetz, along with their co-sponsors, Sens. Mike Lee, Kelly Ayotte, Dianne Feinstein, and Reps. Tulsi Gabbard, Jim Matheson, Lamar Smith, Emanuel Cleaver, Jim Jordan, Trent Franks, George Holding, Frank Wolf, and James Lankford, should be applauded for their actions to protect families across the country. We hope that you and your colleagues in both the House and Senate will see the common-sense wisdom of this legislation and act upon it quickly.

Sincerely,



**Tim Wildmon, President**  
American Family Association



**Micah Clark, Executive Director**  
American Family Association of Indiana



**Marion Boteju, Executive Director**  
American Principles Project



**Gary L. Bauer, President**  
American Values



**Andy Blom, President**  
Center for Civic Virtue



**Anthony Verdugo, Founder and Executive Director**  
Christian Family Coalition



**Penny Nance, President and CEO**  
Concerned Women For America Legislative Action Committee



**Rev. Bill Owens, Founder and President**  
Coalition of African American Pastors



**Carrie Gordon Earll, Senior Director of Public Policy**  
Focus on the Family

**Family Pac Federal**

**Sandy Rios, Vice President**  
Family-Pac Federal



**George Landrith, President**  
Frontiers of Freedom



**Colin Hanna, President**  
Let Freedom Ring



**Mat Staver, Chairman**  
Liberty Counsel



**Gene Mills, President**  
Louisiana Family Forum Action



**Massachusetts**  
Family Institute

**Andrew Beckwith, President**  
Massachusetts Family Institute



**Minnesota Family Council**  
**Tom Prichard, President**  
Minnesota Family Council and Institute



**Joe Ortwerth, Executive Director**  
Missouri Family Policy Council



**FAITH & FREEDOM COALITION OF OHIO**  
**Ken Blackwell, Chairman Emeritus**  
Ohio Faith and Freedom Coalition



**Oran Smith, President**  
Palmetto Family Alliance



**Michael Geer, President**  
Pennsylvania Family Council



**Sam Rohrer, President**  
Pennsylvania Pastors Network



**Allen Gutierrez, National Executive Director**  
**Hector Barreto, Chairman**  
The Latino Coalition



**C. Preston Noel III, President**  
Tradition, Family, Property



**Regina Brown, Founder**  
Transforming Florida

**David Nygaard, President**  
Common Sense Virginia

**Colleen Holmes, Former Executive Director**  
Eagle Forum

**Paul Caprio, President**  
Patriotic Veterans

**Deal Hudson, Chairman**  
Pennsylvania Catholics Network

**Miles Terry, Chairman**  
South Carolina Faith and Freedom Coalition

**Patrick Demmer, Superintendent**  
Graham Memorial Community Church

**Pastor Paul Burleson**  
Friendship Baptist Church of Christ Jesus

**Pastor Dwayne Taylor**  
Lighthouse Missionary Baptist

**Pastor Kraits Burleson**  
Loving Saints Christian Fellowship

**Dr. Anne Rice-James**  
Rose of Sharon Tabernacle

**Pastor Miriam Rosa**  
The City of Refuge Restoration Church

**Rev. Gholston**  
The Greater Denver Ministerial Alliance

**Pastor Kimble**  
Universal Baptist Church

12/7/2015

Three Worked the Web to Help Terrorists

## The Washington Post

### Three Worked the Web to Help Terrorists

British Case Reveals How Stolen Credit Card Data Bought Supplies for Operatives

By Brian Krebs  
 washingtonpost.com Staff Writer  
 Friday, July 6, 2007

The global jihad landed in Linda Spence's e-mail inbox during the summer of 2003, in the form of a message urging her to verify her eBay account information. The 35-year-old New Jersey resident clicked on the link included in the message, which took her to a counterfeit eBay site where she entered personal financial information.

Spence's information wound up in the hands of a man in Britain who investigators say was the brains behind a cell that sought to facilitate bombings in the United States, Europe and the Middle East.

Investigators say Spence's stolen data made its way via the Internet black market for stolen identities to a 21-year-old biochemistry student, Tariq al-Daour, one of three British residents who pleaded guilty this week to using the Internet to incite murder.

Much has been written about how radical Islamic groups use the Internet to distribute propaganda and recruit members. The British investigation, however, revealed a significant link between Islamic terrorist groups and cyber-crime, and experts say security officials must do more to understand and confront cyber-crime as part of any overall strategy for combating terrorism.

Investigators in the United States and Britain say the three used computer viruses and stolen credit card accounts to set up a network of communication forums and Web sites that hosted such things as tutorials on computer hacking and bomb-making, and videos of beheadings and suicide bombings in Iraq.

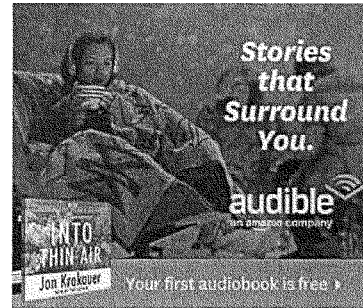
Authorities say one of the men, Waseem Mughal, a 24-year-old law student, was found with a computer containing a 26-minute video that included instructions in Arabic for preparing a suicide-bomb vest and a recipe for improvised explosives.

The third and perhaps best-known of the group, Moroccan-born Younes Tsouli, 23, became adept at setting up sites to host huge video files and other propaganda. Investigators said he became the de facto administrator of the online jihadist forum Muntada al-Ansar al-Islami, which once was the main Internet public relations mouthpiece of Abu Musab al-Zarqawi, the leader of al-Qaeda in Iraq who was killed last month.

The three men maintained their innocence during their trial over the past few months. This week, however, they changed their pleas to guilty. They were sentenced yesterday to prison terms ranging from 6 1/2 to 10 years.

According to documents gathered by law enforcement officials, the three men used stolen credit card

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Three Worked the Web to Help Terrorists

numbers at hundreds of online stores to buy items that fellow jihadists might need in the field. Authorities also say the men laundered money from stolen credit card accounts through more than a dozen online gambling sites.

Two law enforcement officials involved in the investigation provided information about the British case on the condition of anonymity out of concern that speaking on the record might jeopardize current investigations.

Investigators zeroed in on the three British residents in October 2005, following a tip from Bosnian authorities who also were investigating terrorism. British authorities raided Tsouli's basement apartment in West London. He was reportedly arrested while logged on to the Web site "youbombit.r8.org" using the online identity "IRH007."

It wasn't until weeks after his arrest that U.S. and British police learned that Tsouli was the person previously known to counterterrorism officials only as "Irhabi007." As Irhabi -- "terrorist" in Arabic -- Tsouli was thought to have hacked into dozens of Web sites to host huge computer files, mostly videos of beheadings and suicide bombings recorded in Iraq. Irhabi007 also spent a great deal of time creating and disseminating tutorials on hacking and hiding identities online.

Investigators said Tsouli later began using stolen credit card numbers and identities to buy Web hosting services. According to data gathered by U.S. officials, Tsouli and his two associates used at least 72 stolen credit card accounts to register more than 180 domains at 95 different Web hosting companies in the United States and Europe.

Rita Katz, director and co-founder of the SITE Institute, which gathers information on jihadist activity by monitoring online forums, said the evidence unearthed from items seized from Tsouli's arrest revealed that he had helped to create an online network used by jihadist cells across the world to exchange information, recruit members and plan attacks.

On Tsouli's laptop, authorities said, they found a folder named "Washington" that contained short video clips of the U.S. Capitol grounds, the World Bank building, a hazardous chemical response vehicle and local fuel storage facilities. Also on the laptop were instant message chat logs and a PowerPoint presentation detailing how to build a car bomb.

On a computer seized from al-Daour's West London apartment, investigators said they found 37,000 stolen credit card numbers. Alongside each credit card record was other information, such as the account holders' addresses, dates of birth, credit balances and credit limits.

Investigators said al-Daour and his compatriots made more than \$3.5 million in fraudulent charges using credit card accounts they stole via phishing scams and the distribution of Trojan horses -- computer programs embedded in innocent-looking e-mail messages or Web sites that give criminals control over infected computers.

Spence, the New Jersey woman whose information was among the data seized from the men, said thieves made \$2,000 in fraudulent charges to her account, all at a business based in Portugal. "I'm just mortified to think that my stolen information had any type of connection with terrorism," Spence said.

Authorities said both al-Daour and Mughal compiled shopping lists for items that fellow jihadists might need for their battle against U.S. and allied forces in Iraq, including global positioning satellite devices, night-vision goggles, sleeping bags, telephones, survival knives and tents. Records show the men purchased other operational resources, including hundreds of prepaid cellphones, and more than 250 airline tickets using 110 different credit cards at 46 airlines and travel agencies.

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Three Worked the Web to Help Terrorists

Al-Daour also allegedly laundered money through online gambling sites, using accounts set up with stolen credit card numbers and victims' identities, and ran up thousand-dollar tabs at such sites as AbsolutePoker.com, BetFair.com, BetonBet.com, Canbet.com, Eurobet.com, NoblePoker.com and ParadisePoker.com. Al-Daour and other members of the group conducted 350 transactions at 43 different online wagering sites, using more than 130 compromised credit card accounts. Winnings were withdrawn and transferred to online bank accounts the men controlled.

Investigators in the United States and abroad spent hundreds of hours tracking the financial activities of the three men across thousands of merchants in more than a dozen countries. The case against them relied on evidence that they had incited others to commit terrorist acts, rather than evidence of cyber-crime. But one investigator who worked on the case said the story of how the three men funded their operations is an indicator of methods that other terrorist cells either have already adopted or are likely to.

If Tsouli helped pioneer a number of methods for the jihadist forums, jihadist groups have since moved their Internet operations further underground. Experts said most of the major forums have consolidated their operations into small number of password-protected forums known as the Al Fajr Center.

Still, Katz said, Irhabi's legacy lives. His hacking and anonymity tutorials are widely traded on jihadist forums, and variations on Irhabi -- such as Irhabi008 and Irhabi009 -- remain some of the most popular screen names on those sites.

[View all comments](#) that have been posted about this article.

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**NATIONAL  
FRATERNAL ORDER OF POLICE<sup>®</sup>**

328 MASSACHUSETTS AVE., N.E.  
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PHONE 202-547-6189 • FAX 202-547-6190

CHUCK CANTERBURY  
NATIONAL PRESIDENT

28 October 2015

JAMES O. PASCO, JR.  
EXECUTIVE DIRECTOR

The Honorable Jason E. Chaffetz  
Chairman  
Committee on Oversight and Government  
Reform  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Elijah E. Cummings  
Ranking Member  
Committee on Oversight and Government  
Reform  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman and Representative Cummings,

I am writing on behalf of the members of the Fraternal Order of Police to urge you to oppose H.R. 707, the "Restoration of America's Wire Act (RAWA)," which would impose a blanket Federal ban on online gaming. We believe that its passage would put consumers at risk and undermine the efforts of law enforcement as we seek to protect our citizens from Internet-related crimes. For these reasons, we respectfully urge you to oppose the bill.

The FOP has been closely following the debate between regulating or attempting to prohibit Internet gaming. Our members have followed the success of regulation in a number of States with legal online gaming marketplaces and as a result we remain resolute that regulation and associated technologies provide the necessary safeguards to protect vulnerable populations like children and problem gamblers, enforce state decisions on what gambling is permissible within their borders, and crack down on fraud and other consumer abuses.

They say sunlight is the best disinfectant, and we agree—a Federal prohibition of online gaming would make our communities less safe, not more so. It is clear that the market demand exists—Americans spend nearly three billion dollars annually on offshore gaming sites that offer no safeguards and are out of the reach of law enforcement. Banning Internet gaming wholesale in the United States would further empower these illegal, offshore sites and leave law enforcement in our States and nationwide without the tools to protect our citizens.

In States like Delaware, New Jersey and Nevada, regulations require the use of advanced technologies that ensure the integrity of the games and their operators, prevent underage play, provide innovative responsible gaming protections, and ensure that online gambling takes place only within the borders of States that have expressly authorized it. In January, New Jersey's Division of Gaming Enforcement announced the achievements of regulated Internet gaming, citing the over half a million accounts created legally within the state that are protected from fraud. The Division of Gaming Enforcement has also successfully targeted illegal sites with cease-and-desist orders. By eliminating any grey area, the regulations governing the licensing process and legality of sites in these three States are causing

— BUILDING ON A PROUD TRADITION —

a-000000



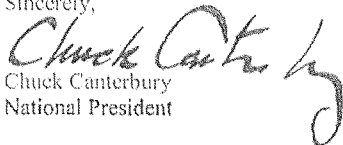
unlicensed sites to cease their operations, allowing law enforcement to protect users' money from the risk of predators.

We should be letting States and law enforcement work together to create a system that protects our communities. This ban proposed by H.R. 707 would only undermine the strides we have made in combating unlawful Internet activity. I hope that you will support our men and women in uniform and oppose this legislation.

For the FOP, the choice is clear between quixotic prohibition attempts versus regulation that has proven to safeguard children and adult consumers alike. If Congress moves forward H.R. 707 or similar ban on Internet gaming, it will perpetuate and expand the existing black market. It is imperative that States be able to reserve the right to create a strong regulatory framework to allow law enforcement to successfully protect consumers and to drive illegal operators out of the marketplace.

On behalf of the more than 330,000 members of the Fraternal Order of Police, I thank you both for your consideration of our views as law enforcement professionals. If I can provide any additional information on this or any other issue, please do not hesitate to contact me or Executive Director Jim Pasco in my Washington office.

Sincerely,

  
Chuck Canterbury  
National President



## AMERICANS for TAX REFORM

Grover G. Norquist  
*President*

July 17, 2013

The Honorable Claire McCaskill, Chairman  
The Honorable Dean Heller, Ranking Member  
Other Members of the Subcommittee on Consumer Protection, Product Safety and Insurance

Dear Senators,

I write concerning today's subcommittee hearing, "The Expansion of Internet Gambling: Assessing Consumer Protection Concerns".

ATR applauds the subcommittee's exploration of this issue, particularly subsequent to the administration's bracing expansion of the power of state-run gambling enterprises since 2011.

As you are aware, since the dramatic reversal in the Obama Justice Department opinion of September 2011, government-run intrastate online gambling is expanding in a number of revenue-hungry states while free-market online gaming remains strictly controlled and mostly prohibited.

The government-run lotteries that generated this ruling and expansion were motivated by a thirst for more revenue, exacerbated by a refusal to undertake structural reforms. These states (led by pension-besieged Illinois, among others) found a sympathetic ear in an Obama administration all too willing to grant powers to state enterprises prohibited to the free market. Unfortunately, Congress has yet to reassert the Constitutional role of the legislative branch in crafting legislation. Meanwhile, these state entities continue to expand unchecked, allowing state governments to continue to spend without undertaking the structural reforms they need. This temporary salve risks permanently planting a state enterprise in a field that is simply inappropriate for government. Taxpayers deserve to have this growth of state power and revenue evaluated and addressed.

Leaving aside the propriety of legalized gambling itself, ATR encourages you to consider whether, if games of chance are to be tolerated, consumers are best served when these are run by government-owned enterprises or whether they are better served by the free market, as they are in every other legal venue of entertainment.

Today's government lottery players are offered the gambling equivalent of the East German Trabant. State-run lotteries offer consumers an incredibly poor value with prizes-to-sales ratios dramatically far below those which exist everywhere a functional, competitive market exists for gambling. Moreover, the level of consumer protection offered by government controlled lotteries is substantially below that offered by licensed and regulated free-market enterprises. Given the poor product lotteries have so far offered consumers, together with government-run companies' 100-year histories of failure and sub-par products, it would be appropriate for the

committee to focus on consumers themselves and how they might be best served, if this activity is to be legal.

Additionally, state lotteries remove dollars from the productive free-market economies of the states and move them instead into the government sector where monies are less efficiently allocated. This means that state-run lotteries can actually inhibit growth.

As your subcommittee reviews the development of this sector subsequent to the 2011 DOJ opinion, I encourage you to consider the appropriate role of government, the poor value that state-run gambling entities offer consumers, and the substandard consumer protections that such entities provide to the public at large.

Sincerely,



Grover Norquist

# THE HILL

## Congressional ban on all online gaming is wrong for America

March 10, 2014

By former Rep. Michael Oxley (R-Ohio)

There has been talk recently about Congress banning all online gaming. This is something that I dealt with as chairman of the House Financial Services Committee years ago, and I want to be clear that it's the wrong policy for American families.

The question isn't whether or not Americans are participating in online gaming. The consumer base is in the millions, and the revenue is in the billions on overseas black markets. The question is whether Congress banning all online gaming would make consumers more or less safe on the Internet.

The answer to that question is clearly that American families, including children, would be less safe online should Congress pass this ban. The risk of exposure to identity theft, fraud, even money laundering on an unsafe, unregulated, overseas black-market website is serious. And ignoring that black market, rather than addressing it will only make us less safe.

Before serving in Congress, I served our nation in the Federal Bureau of Investigation. Based on my experiences, I can tell you that the proposed ban on online gaming would do nothing to stop the billions of dollars flowing through these black-market websites, which are often run by individuals the Justice Department says are engaged in serious criminal activity. Prohibition of that type didn't work with alcohol, and it won't work with the Internet today.

In fact, a ban would roll back the only consumer protections that currently exist.

Three states, Delaware, New Jersey and Nevada, have already moved forward and put in place consumer protections that prohibit minors from playing, and ensure the games are fair. Other states are considering it. Congress's response should not be to roll back these consumer protections in favor of some sort of modern-day prohibition.

These states are using modern age-verification technology to prohibit minors from using gaming websites, and highly sophisticated geo-location technology to precisely determine a potential player's physical location and thereby prohibit out-of-state gaming in legal and regulated markets. These sophisticated technologies have proven successful in existing regulated markets for online gaming and other online commerce. Congress shouldn't step in and stop their use.

Congress cannot reverse time or get rid of the Internet. We need to be focused on keeping consumers, businesses, and families safe when engaging in online activities. That means utilizing the best available technology and the best safeguards, not blocking their use.

I know my former colleagues in Congress want to keep American consumers and online activities safe. That's why I know they'll choose the right path and reject this misguided ban.

*Oxley represented Ohio's 4th Congressional District from 1981 to 2007 and, as chairman of the House Financial Services Committee, he co-authored the Sarbanes-Oxley Act of 2002. A former FBI agent, he is currently with BakerHostetler, a national law firm, and is co-chair for the Coalition for Consumer and Online Protection.*



## Congress Should Reject Adelson's Crony Power Play

March 29, 2014

By: Jerry Rogers

After blasting the deep-seeded cronyism of the Obama Administration for six years, a number of Republicans have decided to partake in some cronyism of their own.

A wealthy casino owner is asking the government to outlaw his potential competition, and Sen. Lindsey Graham (R-SC) and Rep. Jason Chaffetz (R-UT) have jumped at the chance to help him, introducing legislation this week to achieve that goal.

Billionaire casino owner Sheldon Adelson tried unsuccessfully to build an online gaming business. After failing to capitalize on the market, his company, Las Vegas Sands, has been arguing that online gaming represents a massive threat to the profitability of land-based casinos. With New Jersey, Delaware, and Nevada legalizing online gaming for their residents, the threat appears to be growing. So Mr. Adelson is doing what many billionaire political donors have done all too often — he is asking his friends in government to ban his competitors.

After bragging that he would "spend whatever it takes," to achieve his goal, Mr. Adelson launched the Coalition to Stop Internet Gambling, hired lobbyists to write legislation, and got his bill introduced.

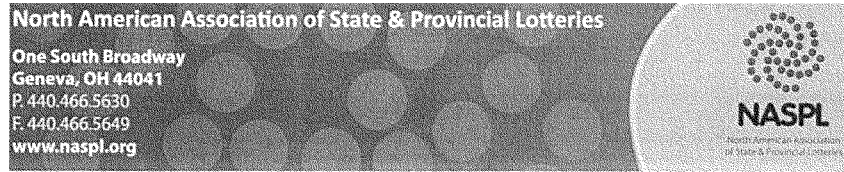
The Graham/Chaffetz bill turns the idea of federalism on its head. At the press conference announcing the bill, Chaffetz declared that states wanting to legalize Internet gaming need to come to Congress for permission. Such supplication is big government bullying at its worst, and it should be anathema to conservative members of Congress. Supporters of a limited federal government understand that states should be empowered to make these decisions.

When states decide to exercise their rights under the Constitution to become "laboratories of democracy," the last thing we want is the federal government policing and overturning those decisions to protect the well connected. As the federal government grows more powerful and oppressive, a number of states have joined efforts to fight back. Some states refused to implement the REAL I.D. law. Other states have urged nullification of ObamaCare. Still others have legalized marijuana. We may not agree with all or any of those decisions, but that is what federalism is all about.

Federalism is one of the most innovative concepts the Founders put into our Constitution. It allows Nevada and New Jersey to legalize Internet gaming while, at the same time, it doesn't mandate that Utah and South Carolina must do the same. States have the prerogative — the right — to establish these laws. The great irony here is that the very concept of federalism is what shaped the economic environment in Nevada that enabled Mr. Adelson to make his billions in land-based casinos. Nevada exercised its right to make legal — gambling casinos — what other states criminalized.

Supporters of Adelson's bill in Congress are turning their backs on the first principles of our Constitutional order solely to help a political supporter. The Graham/Chaffetz bill seeks to reward those who deal in favors and create law that benefits a single, special self-interest at the expense of entrepreneurs and free markets. Sheldon Adelson might be a great American — donating hundreds of millions of dollars to Republican groups and causes — but that doesn't justify abandoning first principles.

The Graham-Chaffetz bill is not about gambling. It is about undermining federalism and promoting crony capitalism. Congress should reject this billion-dollar power play.



March 31, 2014

The Honorable Lindsey Graham  
290 Russell Senate Office Building  
Washington, DC 20510

Dear Senator Graham:

I am writing you today as Executive Director of the North American Association of State and Provincial Lotteries (NASPL) regarding your legislation to restore the Wire Act as it relates to using the Internet for on-line gambling. We sincerely appreciate you and your staff working with us and thank you for your willingness to listen and act on most lottery concerns, and are grateful that your intent is not to disrupt lottery games which were in effect prior to the DOJ ruling in December 2011.

Our Association believes, and is on record, that all gaming should be left up to the individual states to determine the games that are offered, as well as the manner in which they are being delivered to their customers. This is, and has always been, a state's right to make these decisions as they relate to gaming within its respective borders. Since lottery products are sold in a competing market, it is important that we continue to design and offer secure games that people want to play so that lottery states can continue to fund the much-needed programs and/or services for which lottery revenues are earmarked.

We look forward to our continuing conversations and we are grateful that you and your staff have been open and willing to allow us to participate in discussions to this point and moving forward. It is our intent, and indeed our obligation, to protect our traditional games and to position our industry for growth.

Please feel free to contact me at any time as we move through these critical deliberations.

Sincerely,

David B. Gale  
Executive Director



## The Tortured Textualism and Faux Federalism of the Chaffetz-Graham-Adelson Online Gambling Ban

April 1, 2014

By: Jacob Sullum

As Scott Shackford anticipated a couple of weeks ago, Rep. Jason Chaffetz (R-Utah) and Sen. Lindsey Graham (R-S.C.) recently introduced a bill that would rewrite the Wire Act of 1961 to prohibit "any bet or wager" placed via the Internet. Chaffetz and Graham, who were recruited by casino magnate and GOP mega-donor Sheldon Adelson to help squash his online competitors, call the bill the Restoration of America's Wire Act. I think they (or Adelson's lobbyist, who co-wrote the bill) meant to say the Restoration of America's Wire Act, since the bill aims to "restore the long-standing interpretation of the Wire Act."

The problem, as the Justice Department finally recognized in December 2011, is that the interpretation Adelson and his pet legislators prefer is plainly at odds with the text of the statute, which refers to "bets or wagers *on any sporting event or contest*"—language that the Chaffetz-Graham-Adelson bill, H.R. 4301, would excise. Furthermore, since the Wire Act was passed decades before the Internet existed, it is rather problematic to say that Congress intended to ban online gambling. H.R. 4301 addresses that difficulty with new language referring to "any transmission over the Internet carried interstate or in foreign commerce, incidentally or otherwise." The bill does not "restore" anything; it imposes a brand new ban on Internet gambling. That includes online poker, which undeniably involves betting even if you consider it mainly a game of skill.

Graham claims admitting that the Wire Act applies only to sports betting—a conclusion endorsed by the U.S. Court of Appeals Court for the 5th Circuit back in 2002—is "yet another example of the Holder Justice Department and Obama Administration ignoring the law." If you pay close attention to a statute's actual words, according to Graham, you are ignoring the law. Being true to the law evidently requires excising the inconvenient parts.

Equally risible is Graham's claim that his legislation, which would block moves toward legalizing online gambling in states such as Nevada and New Jersey, is necessary to protect state autonomy:

In 1999, South Carolina outlawed video poker and removed over 33,000 video poker machines from within its borders. Now, because of the Obama Administration's decision, virtually any cell phone or computer can again become a video poker machine. It's simply not right.

Texas Gov. Rick Perry, quoted in the press release announcing the bill, endorses this argument:

When gambling occurs in the virtual world, the ability of states to determine whether the activity should be available to its citizens and under what conditions—and to control the activity accordingly—is left subject to the vagaries of the technological marketplace. This seriously compromises the ability of states to control gambling within their borders.

Since Perry is known as a 10th Amendment enthusiast, his support for the bill may carry weight among federalists. It shouldn't. Contrary to Perry's implication, H.R. 4301 would not let states decide whether Internet gambling is permitted within their borders. It would ban online gambling throughout the country, even in states that want to allow it. This is a strange sort of federalism.



## NATIONAL CONFERENCE of STATE LEGISLATURES

*The Forum for America's Ideas*

April 3, 2014

The Honorable Harry Reid  
Majority Leader  
U.S. Senate  
Washington, D.C. 20510

The Honorable Mitch McConnell  
Minority Leader  
U.S. Senate  
Washington, D.C. 20510

The Honorable John Boehner  
Speaker of the House  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Nancy Pelosi  
Minority Leader  
U.S. House of Representatives  
Washington, D.C. 20515

Bruce W. Starr  
Senator  
Oregon  
President, NCSL

Thomas W. Wright  
Chief of Staff to Speaker  
Alaska  
Staff Chair, NCSL

William T. Pound  
Executive Director

**Re: NCSL Opposition to the Restoration of America's Wire Act**

Dear Senators Reid and McConnell, Speaker Boehner and Leader Pelosi:

On behalf of the National Conference of State Legislatures (NCSL), we write to express our strong opposition to the Restoration of America's Wire Act, and urge you to respect the sovereignty of states to decide whether or not to allow gambling, and in particular online gambling.

Since its inception, NCSL has resisted unwarranted preemptions of state laws and federal legislation that threatens state authority and autonomy – especially in areas of successfully demonstrated state stewardship like gambling. States have proven that they are effective regulators of the gambling industry and the proponents of this legislation fail to make a case that we have been negligent in our responsibilities to the industry and consumers. This attempt to enact a wholesale prohibition of online gambling with the Restoration of America's Wire Act is merely a solution seeking a problem.

Since the 2011 Department of Justice opinion clarifying the scope of the Wire Act, Delaware, Nevada, New Jersey and the U.S. Virgin Islands have legalized some form of online gambling within their state, while Utah and Maine have acted to forbid such activity. Many more states are considering bills that would authorize, expand or restrict Internet gambling as well. This is the way it should work, each state making the decision that is best suited to the desires of its residents and not through a congressional mandate.

We appreciate the opportunity to express the views of our colleagues across the country on this topic. We respectfully request the state legislative perspective be considered as Congress continues to examine this issue. If you have any questions regarding the concerns of state legislatures or would like to discuss the issue further, please contact James Ward ([james.ward@ncsl.org](mailto:james.ward@ncsl.org); 202-624-8683) or Jeff Hurley ([jeff.hurley@ncsl.org](mailto:jeff.hurley@ncsl.org); 202-624-7753) in NCSL's Washington, D.C. office.

Sincerely,

Senator Bruce Starr  
Oregon Senate  
NCSL President

Senator Debbie Smith  
Nevada Senate  
NCSL President-Elect

cc: Members of the United States Senate and House of Representatives

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Denver, Colorado 80230  
Phone 303.364.7700 Fax 303.364.7800

Washington  
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Email [info@ncsl.org](mailto:info@ncsl.org)



## NCLGS

*The National Council of Legislators from  
Gaming States*

PRESIDENT  
Representative James W. "Jim" Waldman  
District 96 • 4800 West Copans Road  
Coconut Creek, FL 33063  
T: 954-956-5600 F: 954-956-5602

NATIONAL OFFICE  
185 Jordan Road  
Troy, NY 12180  
(518) 687-0615 PHONE  
(518) 687-0401 FAX

April 9, 2014

The Honorable Patrick Leahy  
Chairman, Committee on the Judiciary  
U.S. Senate  
437 Russell Senate Office Building  
Washington, D.C. 20510

The Honorable Bob Goodlatte  
Chairman, Committee on the Judiciary  
U.S. House of Representatives  
2309 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Chuck Grassley  
Ranking Member, Committee on the Judiciary  
U.S. Senate  
135 Hart Senate Office Building  
Washington, D.C. 20510

The Honorable John Conyers  
Ranking Member, Committee on the Judiciary  
U.S. House of Representatives  
2426 Rayburn House Office Building  
Washington, D.C. 20515

Dear Senators Leahy and Grassley, and Representatives Goodlatte and Conyers:

As leaders of the National Council of Legislators from Gaming States (NCLGS) and as fellow elected officials, we urge you to oppose recently introduced House Bill 4301/Senate Bill 2159, "The Restoration of America's Wire Act." This legislation, proposing to amend the Wire Act to prohibit transmission of wagering information for all types of gambling activities, including Internet gambling, would effectively preempt the states' historical ability to properly regulate gaming. It is our strong conviction, as legislators who chair and are members of the legislative committees that work diligently to develop sound public gaming policy, that states are the most appropriate entity to decide upon, and oversee, what kind of gaming should exist and what should not within their borders.

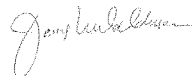
States have the expertise, developed over many years of experience, to oversee gaming for the best outcomes to the states and their consumers. Recognizing this, Congress in the Interstate Horse Racing Act found that "the States should have the primary responsibility for determining what forms of gambling may legally take place within their borders," not only terrestrially, but via "electronic media."

To be clear, NCLGS does not support or oppose legalization of Internet gaming and realizes that technological advances in gaming—Internet or otherwise—present multiple social and economic policy issues to be considered. NCLGS is currently working on a State Internet Gaming Policy Framework to safeguard both states that wish to participate in Internet gaming and those that do not.

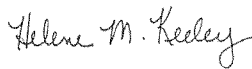
States like Delaware, Nevada, New Jersey, Utah, and Maine have recently passed bills to expand, legalize, or prohibit Internet gaming, and many others are currently considering measures. We assert that each state can and should determine what will best reflect and serve the needs of its residents.

Thank you for the consideration of our perspective, which we ask that you bear in mind as Congress deliberates upon this issue.

Sincerely,



Rep. Jim Waldman, FL  
NCLGS President



Rep. Helene Keeley, DE  
NCLGS Secretary

cc: The Honorable Harry Reid, Majority Leader, U.S. Senate  
The Honorable Mitch McConnell, Minority Leader, U.S. Senate  
The Honorable John Boehner, Speaker, U.S. House of Representatives  
The Honorable Nancy Pelosi, Minority Leader, U.S. House of Representatives  
The Honorable Kelly Ayotte, U.S. Senate  
The Honorable Emanuel Cleaver, U.S. House of Representatives  
The Honorable Tulsi Gabbard, U.S. House of Representatives  
The Honorable James Lankford, U.S. House of Representatives  
The Honorable Jim Matheson, U.S. House of Representatives  
The Honorable Frank Wolf, U.S. House of Representatives  
U.S. Senate Judiciary Committee Members  
U.S. House of Representatives Judiciary Committee Members



Mary Fallin  
Governor of Oklahoma  
Chair

John Hickenlooper  
Governor of Colorado  
Vice Chair

Dan Crippen  
Executive Director

May 9, 2014

The Honorable Harry Reid  
Majority Leader  
U.S. Senate  
Washington, D.C. 20510

The Honorable John Boehner  
Speaker of the House  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Mitch McConnell  
Minority Leader  
U.S. Senate  
Washington, D.C. 20510

The Honorable Nancy Pelosi  
Minority Leader  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Majority Leader Reid, Senator McConnell, Speaker Boehner, and Representative Pelosi:

The nation's governors are concerned with legislation introduced in Congress that would ban online Internet gaming and Internet lottery sales because it challenges the federal-state relationship.

The regulation of gaming is an issue that has historically been addressed by the states. Regardless of whether governors are in favor of offering gaming—through whatever form—within their own states, decisions at the federal level that affect state regulatory authority should not be made unilaterally without state input. A strong, cooperative relationship between the states and federal government is vital to best serve the interests of all citizens.

Sincerely,

Governor Robert Bentley  
Chair, Economic Development and Commerce  
Committee

Governor Earl Ray Tomblin  
Vice Chair, Economic Development and  
Commerce Committee

April 23, 2014

The Honorable Bob Goodlatte  
Chairman, Committee on the Judiciary  
United States House of Representatives  
2138 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Patrick Leahy  
Chairman, Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable John Conyers, Jr.  
Ranking Member, Committee on the Judiciary  
United States House of Representatives  
B-351 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Chuck Grassley  
Ranking Member, Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chairmen Goodlatte and Leahy, and Ranking Members Conyers and Grassley,

We, the undersigned individuals and organizations, are writing to express our deep concerns about the Restoration of America's Wire Act (H.R. 4301), which would institute a *de facto* ban on internet gaming in all 50 states. The legislation is a broad overreach by the federal government over matters traditionally reserved for the states. H.R. 4301 will reverse current law in many states and drastically increase the federal government's regulatory power. As we have seen in the past, a ban will not stop online gambling. Prohibiting states from legalizing and regulating the practice only ensures that it will be pushed back into the shadows where crime can flourish with little oversight. In this black market, where virtually all sites are operated from abroad, consumers have little to no protection from predatory behavior.

Perhaps even more concerning is the fact that this bill allows the federal government to take a heavy hand in regulating the Internet, opening the door for increased Internet regulation in the future. By banning a select form of Internet commerce, the federal government is setting a troubling precedent and providing fodder to those who would like to see increased Internet regulation in the future. We fear that H.R. 4301 will begin a dangerous process of internet censorship that will simultaneously be circumvented by calculated international infringers while constraining the actions of private individuals and companies in the United States.

H.R. 4301 also creates carve-outs that exempt certain special interests from the federal government's reach. This amounts to the federal government picking winners and losers -- choosing select industries or private-sector businesses to succeed at the expense of others, which is at odds with free-market competition.

In total, H.R. 4301 is an inappropriate and unnecessary use of federal powers that infringes on the rights of individuals and states. We applaud you for standing against this government overreach and preserving the principles of federalism and free-market competition that underscore American democracy.

Sincerely,

Joe Jansen  
Alliance for Freedom



Michelle Minton  
Fellow  
Competitive Enterprise Institute



Matt Kibbe  
President  
FreedomWorks



Andrew Langer  
President  
Institute for Liberty



Eli Lehrer  
President  
R Street Institute



Steve Pociask  
President  
American Consumer Institute



The American Consumer Institute  
Center for Citizen Research

Coley Jackson  
President  
FreedomAction

Carie Lukas  
Managing Director  
Independent Women's Forum



Tom Giovanetti  
President  
Institute for Policy Innovation



David Williams  
President  
Taxpayer Protection Alliance





May 13, 2014

### **Cyber-safety Charity WiredSafety Supports Online Gaming Regulation But Opposes Unrealistic Attempts to Ban All Online Gaming**

The world's largest online safety and help group and charity, WiredSafety, founded and run by cyber-safety expert and child advocate Dr. Parry Aftab, is devoted to protecting consumers, seniors, families, parents and children online.

After more than a two decades of analyzing Internet gaming, WiredSafety has reached the conclusion that the best way to protect families and consumers from potential fraud, identity theft, money laundering, underage gambling, privacy intrusions and other online crime is through legalization and regulation, not prohibition.

Attempting to prohibit online gaming and pretending it does not exist in our interconnected world is naïve. Unfortunately, this approach can be very risky for US seniors, consumers, families and children. Americans currently spend approximately \$6 billion per year on offshore and US unregulated Internet gaming and the consumer demand is continuing to grow and expand.

The unintended but inevitable result of any attempt by Congress to ban all Internet gaming would feed the coffers of black market sites out of the reach of U.S. courts and regulators, exposing Americans to significant risks without legal recourse. Prohibition did not work in the past, and it will not work today. But, careful regulatory schemes will.

The only way to effectively police and prevent fraud, cyber scams, and gaming abuses is to regulate trustworthy companies to develop licensed online gaming avenues that manage the risks and are subject to US regulatory oversight. Such regulations should include: auditing of the fairness of the games and player practices, enhanced security tools and technologies for age verification, consumer education, parental control technologies, effective dispute resolution systems and recourse against fraud, and problem gaming technologies and help resources.

Unless we take this approach the U.S. will continue to find itself in the unfortunate position of incurring all the social costs of online gaming while having abdicated control over the gaming sites accessed by its consumers to the Internet wild west and, in some cases foreign regulatory jurisdictions.

While all gambling is, by its nature risky, and something WiredSafety does not endorse either online or offline, unregulated gaming is substantially worse. We need well-thought-out help from government.

#### **About WiredSafety**

WiredSafety ([www.wiredsafety.org](http://www.wiredsafety.org)) is a 501(c)(3) charity and is the world's oldest and largest online safety, education, and self-help organization. WiredSafety works in four major areas: help for online victims of cybercrime and harassment; assisting law enforcement worldwide on preventing and investigating cybercrimes; education; and providing information on all aspects of online safety, privacy and security. It has weighed in on online gambling/gaming issues since 1996.

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The Original Intent of the Wire Act  
and Its Implications for State-based  
Legalization of Internet Gambling

*Michelle Minton*

**ABSTRACT:** Recognizing the growing threat of organized crime, then U.S. Attorney General Robert F. Kennedy sought to get the "bankrollers and kingpins" by introducing the Federal Wire Act in 1961, which sought to target the mob's most profitable racket—bookkeeping on horseracing and sports gambling by prohibiting such gambling on the nation's communication system at the time (telephone and telegraph). More than 30 years later members of Congress sought to use the Wire Act to stop the rise of casino-style gambling on the Internet. However, the scope of the Wire Act has been disputed among lawmakers, courts, and federal agencies. In 2011 the Office of Legal Counsel in the Department of Justice announced its belief that the Act applied only to sports gambling, dispelling ambiguity and opening the door for states to legalize intrastate non-sport online gambling, such as lottery ticket sales and Internet poker. This paper examines the historical context in which Congress enacted the 1961 Wire Act and the interpretation of the Act over five decades and its implications for present-day regulatory proposals.

**Keywords:** Internet gambling, Wire Act, Department of Justice, sports gambling, federal legislation

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In 1961, then-Attorney General Robert F. Kennedy proposed a package of bills, including the 1961 Wire Act, in an attempt to get at the heart of mafia organizations: their money.

Soon after its passage, the Wire Act was superseded by other more effective tools to target organized

crime, such as the Racketeer Influenced and Corrupt Organizations Act (RICO) in 1970. It wasn't until the late 1990s that the Wire Act sprang back into prominence as a tool to prosecute online gambling offenses. However, from the beginning of the Wire Act's use in the online gambling arena there has been debate about the Act's scope, including if it can be applied

to Internet gambling, and most importantly for this paper, whether or not its prohibitions extend beyond sports gambling. The debate on these issues reached a high-point in 2011, when the Office of Legal Counsel in the Department of Justice announced its opinion that Wire Act does not, in fact, apply beyond sports betting. Viewing this DOJ opinion as a “unilateral reinterpretation” of the Wire Act, some members of Congress have proposed legislation that would rewrite the 1961 Wire Act, editing the language of the law to turn it into a prohibition against all forms of online wagering, whether sports-related or not. However, the Wire Act was originally intended and long understood as a narrow and targeted weapon to assist the states in preventing organized crime from taking bets on sports—not as a broad federal prohibition that would prevent states from legalizing online gambling within their borders.

#### Reinterpreting the Wire Act

In 2009, New York’s lottery division and the Illinois governor’s office wrote to the Department of Justice Criminal Division seeking an opinion on the legality of online lottery sales. In particular, they wished to know if using out-of-state payment processors for such online purchases would violate the Wire Act. While the Criminal Division asserted that such intrastate online lotteries would run afoul of the Wire Act, they acknowledged that such an interpretation of the 1961 law created a conflict between it and another federal gambling law: the Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA). While UIGEA prohibits payment processors from processing transactions related to unlawful Internet gambling, it specifically excludes *intrastate* online gambling from its proscriptions. Additionally, UIGEA does not consider the “intermediate routing” of electronic data, which might temporarily cross state lines, when determining the location of transactions or whether they are interstate or intrastate. For example, if an online purchase of a lottery ticket is initiated and finalized within a state where such gambling is legal, it is not in violation of UIGEA. Thus, to interpret the Wire Act as prohibiting all online gambling, even if the betting begins and ends in one state, puts the Act at odds with this exception in UIGEA. In light of this apparent conflict, the Criminal Division requested an opinion from a higher office within the DOJ, the Office of Legal Counsel (OLC).

After a thorough consideration, OLC issued a memo in 2011 declaring, that because the online lotteries proposed by Illinois and New York did not involve sports, they fell outside the scope of the Wire Act. The opinion was hailed as a “game changer,” because, while OLC only considered the lottery schemes of New York and Illinois, it dispelled any ambiguity about the Wire Act’s gambling prohibitions, clearing the way for other states to legalize and regulate other forms of non-sports intrastate gambling.

In the wake of OLC’s 2011 memo, three states, New Jersey, Nevada, and Delaware, legalized and regulated online gambling in their borders and at least ten other states are considering doing the same. To stop the progression of legalized online gambling, Sen. Lindsey Graham (R-SC) and Rep. Jason Chaffetz (R-UT) introduced the Restoration of America’s Wire Act (RAWA, H.R. 4301) which would create a *de facto* federal prohibition on Internet gambling and thwart states’ attempts to legalize and regulate the activity. By amending the language of the Wire Act (deleting the Act’s references to “sports gambling” and inserting “Internet”) RAWA would create, for the first time, a federal prohibition on all forms of Internet gambling—even if the transactions occur entirely within a state that permits the activity.

Supporters of RAWA argue that their goal is simply to stop President Obama’s DOJ from unilaterally reinterpreting laws and that they want only to “restore the Wire Act to its interpretation pre-December 23rd of 2011,” as Rep. Chaffetz said. And as Sen. Mike Lee (R-UT), a co-sponsor of the bill, contended, “[w]e’re not trying to make other alterations ... [t]he Wire Act itself does, in fact, prohibit the very things we’re prohibiting with this legislation and so what we’re doing literally is restoring the status quo.” Yet the DOJ’s 2011 opinion is closer to the original intent of the law and the interpretation that held until 2002.<sup>1</sup>

#### Camelot versus the Mob

For Robert Kennedy, the only way to tackle the Leviathan of the mafia was to cut off its profit stream. Kennedy believed that the most profitable activity for the mob was their gambling racket.<sup>2</sup> Just over two months after being sworn in as Attorney General, Kennedy announced a package of bills to fight organized crime. As *The New York Times* reported, the proposals targeted “the bankrollers and kingpins of the



rackets," who "live luxurious, apparently respectable, lives in one state but return periodically to another state to collect from the rackets they run by remote control." Among the proposals were five measures put forward by the preceding Attorney General, William P. Rogers, including "revised versions of proposals by Mr. Rogers to ban use of interstate telephone or telegraph wires for betting"—what would ultimately become the Wire Act.<sup>3</sup>

A primary argument that the prohibitions in the Wire Act were not meant to be limited to sports gambling is based on the wording of the law. The Wire Act's penalties section reads as follows:

Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers, shall be fined under this title or imprisoned not more than two years, or both.<sup>4</sup>

While the Act's first reference to "bets or wagers" is followed by "sporting event or contest," the two subsequent prohibitions on "bets or wagers" make no reference to "sports."<sup>5</sup> Therefore, as discussed later, some, such as a District Court in Utah,<sup>6</sup> contend that only the first proscription against using wire communications to transmit "information assisting in the placing of bets or wagers" is limited to sports betting, whereas the other clauses of the section apply to all bets or wagers.<sup>7</sup> However, as the Department of Justice's Office of Legal Counsel notes in its 2011 memo, to interpret the prohibition on "the transmission in interstate or foreign commerce of bets or wagers" as applying to all gambling is illogical when read in context with the Act's other sections. Much of the confusion stems from the Wire Act's lack of a definition of what constitutes a "sporting event or contest" or "bets and wagers." However, one can identify the intention of the phrases by examining the language of the other bills considered alongside the Wire Act. Many of these specifically mention other gambling activities besides sports betting. In this context, the Wire Act was likely intended to target sports-related wagering, while its companion bills dealt with other forms of gambling.

For example, the Interstate Transportation of Wagering Paraphernalia Act, part of the same package

of bills backed by Kennedy, expressly lists wagering activities as bookmaking, wagering pools with respect to a sporting event, numbers games, policy games, bolita, or "similar games."<sup>8</sup> The Wire Act, on the other hand, references only bets and wagers on sporting events or contests.

As the Department of Justice Office of Legal Counsel noted in its 2011 memo:

Congress thus expressly distinguished these lottery games from "bookmaking" or "wagering pools with respect to a sporting event," and made explicit that the Interstate Transportation of Wagering Paraphernalia Act applied to all three forms of gambling. 18 U.S.C. § 1953(a). Congress's decision to expressly regulate lottery-style games in addition to sports-related gambling in that statute, but not in the contemporaneous Wire Act, further suggests that Congress did not intend to reach non-sports wagering in the Wire Act.<sup>9</sup>

Wary of the pitfalls that derailed earlier versions of the Wire Act, Kennedy carefully drafted the bill to be limited. Because, as Kennedy stated, "[p]ress information is not vital to the gamblers, but it is important to the American public,"<sup>10</sup> his Wire Act contained an explicit exemption for "the legitimate news reporting of *sporting events*." [Emphasis added]<sup>11</sup> It makes little sense to assume that Kennedy intended to prohibit all forms of gambling, but only write in an exemption for news reporting on *sports*.

This exception contained in subsection (b) of the law (section 1084) reads:

Nothing in this section shall be construed to prevent the transmission in interstate or foreign commerce of information for use in news reporting of sporting events or contests, or for the transmission of information assisting in the placing of bets or wagers on a sporting event or contest from a State or foreign country where betting on that sporting event or contest is legal into a State or foreign country in which such betting is legal.

This exemption bolsters the case for the narrow interpretation of the Wire Act. For, to interpret the law as broadly prohibiting wire transmissions related to *all gambling*, it follows that the *only* legal transmission of gambling-related information under the Wire Act are those which are related to sporting events or contests if such betting is legal in both states or territories. As attorney Mark Hichar wrote in his 2009 analysis of federal online gambling legislation:

[I]t strains credulity that the prohibitions in § 1084(a) would ban transmissions assisting in wa-

gering of any and all types, while § 1084(b) would exempt from those prohibitions wagering-related transmissions between two states where the underlying wagering is legal, only when the underlying wagering related to sporting events or contests.<sup>12</sup>

Textual analysis is not the only evidence supporting a narrow reading of the Wire Act. Discussions between Robert F. Kennedy, his assistants, and members of Congress in committee hearings on the Wire Act make it clear that the proposal was understood from the beginning, by both those who wrote and those who enacted it, as a prohibition only on sports-gambling transmissions.

### Congressional Understanding of the Wire Act

In his statement before the subcommittee of the House Committee on the Judiciary on May 17, 1961, Kennedy described the purpose of the Wire Act (H.R. 7039) as to “to assist the various States in enforcement of their laws pertaining to gambling and bookmaking. It would prohibit the use of wire communication facilities for the transmission of *certain gambling information* in interstate and foreign commerce.” [Emphasis added] A reading of his testimony could lead one to conclude that the bill was indeed aimed at *certain* kinds of gambling and not *all* forms of gambling.<sup>13</sup>

While Kennedy’s testimony on his other bills before Congress described numerous types of specific wagering activities, including lotteries, sports gambling, and numbers games, his testimony in support of the Wire Act focused explicitly and exclusively on wagering related to “horse racing” and “such amateur and professional sports events as baseball, basketball, football and boxing”—with no mention of other forms of betting.<sup>14</sup> Additionally, in his summary of the bill’s purpose, Kennedy uses the word “gambling” unmodified by sports or sporting, suggesting that he used the phrases interchangeably, but always with the intent of applying the bill’s prohibition to sports gambling alone.

Kennedy was not alone in his understanding of the bill as narrowly focused, as one can see, by examining the language used by members of Congress regarding the bill. For instance, the House Judiciary Committee’s report accompanying the Wire Act was titled, “Sporting Events—Transmission of Bets, Wagers, and Related Information.”<sup>15</sup> On the other hand, the House version of the Wire Act was described as amending “Chapter 50 of

title 18, United States Code, with respect to the transmission of bets, wagers, and related information.”

The Senate hearings on the Wire Act also illustrate that the Attorney General’s office indicated to Congress that the Wire Act was intended to apply only to sports gambling. One exchange between Senator Kefauver and Assistant Attorney General Herbert J. Miller during the Senate hearing on Kennedy’s anti-crime package is particularly enlightening, Miller admitted that the bill was “limited to sporting events or contests.”

These interactions show that lawmakers and the Department of Justice both understood this version of the Wire Act to be similar to its predecessor from the 1950s, which addressed “two main activities—organized commercial gambling on horse racing and organized commercial gambling on other sporting events, such as baseball, basketball and football.”<sup>16</sup>

Furthermore, as Kennedy was careful to point out, the Wire Act was not intended as a broad federal gambling prohibition—whether conducted by states or by individuals—but instead as a way to enforce existing state laws to target “organized crime in this country without invading the privacy of the home or outraging the sensibilities of our people in matters of personal inclinations and morals.”<sup>17</sup> Kennedy expressly noted that they were not “undertaking the almost impossible task of dealing with all the many forms of casual or social wagering which so often may be effected over communication facilities.”

### Wire Act Expansion Attempts

Even more than the statements of the Wire Act’s author, the most convincing evidence that the Act was understood by Congress as narrow in its scope—and perhaps even inapplicable to Internet activities—comes from the attempts beginning only a year after the law’s enactment to broaden its scope to encompass new technologies not covered by the original Wire Act.

In March 1962, the Senate Permanent Subcommittee on Investigations for the Committee on Government Operations, also known as the McClellan Committee, again held hearings on organized crime, this time in response to Attorney General’s Robert Kennedy’s anti-crime proposals. Again, the hearing focused exclusively on *sports gambling*. The Committee also discussed the Act’s applicability to

emerging technologies of the time, such as wide area telephone service (WATS), which “provides unlimited long distance telephone calls within certain areas at a fixed rate. But no records are made of the calls.” The Committee noted that the mob’s bookmaking activities could migrate to these new services and that the Wire Act (now Public Law 87-216) would not apply to these new technologies:

The term “wire service” in its usual sense refers to legitimate agencies such as Associated Press and United Press International which gather news and disseminate it to daily newspapers and radio and television stations via teletype machines. In the context of the subcommittee’s investigation the term took on an entirely different meaning. To gamblers and bookmakers “wire service” means a horserace wire service and refers to a confederation of operators who supply and service the Nation’s bookmakers, usually on a telephonic network, with fast race results and other information on horseraces around the country as an accessory to bookmaking operations.<sup>18</sup>

Thus, while the Wire Act prohibited those “engaged in the business of betting or wagering” from using wire communications, “[t]here is a distinct possibility that many of the wire services which were the subject of the subcommittee’s investigations do not fall within the provisions of this statute since they are not in fact ‘engaged in the business of betting or wagering.’”<sup>19</sup>

While the Committee recognized the narrow scope of the Wire Act and recommended broadening it to account for advances in technology, Congress declined to take up the issue. However, when the Act reemerged as a tool for prosecutors of online gambling offense, few questioned whether its scope included gambling on the very new technology of the Internet.<sup>20</sup>

On the other hand, with the advent of Internet technology and online gambling, members of Congress *did* appear to recognize that the Wire Act could reach only online *sports* betting as many sought to amend the Act to broaden its scope to casino-style games.

- In 1995 Sen. Jon Kyl (R-Ariz.) introduced the Crime Prevention Act, which included an amendment to the Wire Act that would broaden both the activities and technologies covered by the law. It excised the phrase “on any sporting event or contest,” and added the phrase “wire or electronic communication” expanding the Act’s reach to the Internet.<sup>21</sup>
- In 1996 Rep. Tim Johnson (D-S.D.) attempt-

ed to amend the Wire Act with his Computer Gambling Prevention Act, which also struck the words “on any sporting event or contest” and added “electronic communication.”<sup>22</sup>

- In 1997 Sen. Kyl introduced the Internet Gambling Prohibition Act, which added a definition of “bets and wagers” that included contests, sports, and games of chance. He stated the bill was necessary because it “dispels any ambiguity by making it clear that all betting, including sports betting, is illegal. Currently, non-sports betting is interpreted as legal under the Wire Act.”<sup>23</sup>
- In 1999 Sen. Kyl reintroduced his Internet Gambling Prohibition Act.<sup>24</sup>
- And in 2002, Rep. Bob Goodlatte (R-Va.) introduced the Combating Illegal Gambling Reform and Modernization Act, which, like Sen. Johnson’s bill, added a definition of “bets and wagers” to the Wire Act that broadened it to all forms of gambling activities, including games of chance.<sup>25</sup>

Due to conflicting interests within the brick-and-mortar casino industry as well as vocal opposition from Internet service providers (on whom the burden of blocking online gambling would fall) these Wire Act amendments did not pass and the Wire Act remained unchanged.<sup>26</sup> Still, tellingly, no prominent opponents of these bills contended that their amendments were unnecessary because the Wire Act already prohibited all online gambling—further underscoring the notion that members of Congress interpreted the Act as narrow in scope.

#### Department of Justice Reinterpretation of the Wire Act

While RAWA supporters claim that Obama’s DOJ unilaterally reinterpreted the Wire Act, the actual reinterpretation was made by the Department of Justice during the Clinton and Bush administrations.

Beginning in the 1990s,<sup>27</sup> some government attorneys began using the Wire Act to prosecute online gambling, including some that were not exclusively sports-related.<sup>28</sup> However, while some prosecutors used the Wire Act against non-sports gambling offenses, in all cases resulting in a conviction, sports betting was the only contested activity.<sup>29</sup>

The Clinton Administration took the position that the Wire Act prohibited certain gambling activities online. For example, in a statement of Administration Policy, the Clinton Administration noted that it opposed the Internet Gambling Prohibition Act of 2000 (H.R. 3125) because it was “designed to protect certain forms of Internet gambling that currently are illegal,” and in particular “pari-mutuel wagering on activities such as horse races, dog races, and jai alai.” Despite claims that the DOJ under Clinton took the position that all online gambling was prohibited, there is no evidence the administration considered the Wire Act applicable to non-sports gambling or that it considered intrastate online gambling illegal. It wasn’t until 2002, during the administration of George W. Bush, that DOJ officially took the position that the Wire Act was applicable to *all* online gambling—a position that was at odds with Congressional action as well as the understanding of other DOJ officials at the time.<sup>30</sup>

As discussed, the Wire Act was understood from its enactment to be a narrowly focused law that prohibited only sports gambling via telephone and telegraph. As Internet gambling grew in popularity among Americans, members of Congress scrambled to pass legislation prohibiting or regulating the activity. During a 1998 hearing on Rep. Goodlatte’s Internet Gambling Prohibition Act, Assistant Attorney General for the DOJ’s Criminal Division Kevin DiGregory testified that while existing federal legislation *could be* used to prohibit most forms of online gambling, it would require amendment to apply beyond sports betting:

The advent of Internet gambling may have diminished the overall effectiveness of the Wire Communications Act, in part, because that statute may relate only to sports betting and not to the type of real-time interactive gambling (e.g., poker) that the Internet now makes possible for the first time.<sup>31</sup>

While some State Attorneys General began utilizing the Wire Act during the 1990s to prosecute online gambling offenses<sup>32</sup>, the professional association, the National Association of Attorneys General (NAAG), questioned the Act’s applicability to non-sports gambling. A 1997 report from NAAG’s Internet Task Force recommended supporting “passage of the Internet Gambling Prohibition Act of 1997,” and resolved to support the amendments to 1084 and to “encour-

age the Department of Justice and the Federal Trade Commission to join with the Association” to “develop joint enforcement strategies to stop the spread of illegal internet gambling.” This indicates that the association might have believed that the Wire Act, as written, could not be used to prosecute online gambling offenses related to non-sports gambling—and that the DOJ might have held a similar opinion at the time.<sup>33</sup>

In 2000 testimony before the House Committee on Banking and Financial Services, DiGregory urged Congress to enact “the Department of Justice’s proposed legislative amendments to 18 U.S.C. § 1084, which would extend the prohibitions of the existing Section 1084 to cover all forms of Internet gambling in a more technologically-neutral manner.”<sup>34</sup>

Yet two years later, the Department of Justice, during the George W. Bush administration, officially took the position that the Wire Act’s prohibitions extended beyond sports gambling. The decision came as the result of a request from the Nevada Gaming Control Board and Nevada Gaming Commission which asked the DOJ for its opinion on the applicability of the Wire Act to the state’s recently enacted law legalizing intrastate online gambling, because, “the Department of Justice under the Bush Administration has yet to announce its policy on Internet gaming.”<sup>35</sup>

On August 23, 2002 Michael Chertoff, then-acting Assistant Attorney General in the DOJ’s Criminal Division, responded to Nevada Gaming Control Board Chairman Dennis K. Neilander, stating: “[T]he Department of Justice believes that federal law prohibits gambling over the Internet, including casino-style gambling.”<sup>36</sup> However, Chertoff provided no rationale for this conclusion, other than citing the Wire Act itself. Chertoff’s statement was in direct conflict with legal scholars, court rulings, and other DOJ staff who continued to question the Wire Act’s applicability to non-sports gambling. Prior to this declaration, the Department of Justice had only used the Wire Act to prosecute strictly sports-related online gambling, reflecting the judicial precedent at the time.<sup>37</sup>

### Court Determinations on the Applicability of the Wire Act

In a 2002 case, *In re MasterCard Intern. Inc.*, the Fifth Circuit affirmed the Eastern District of Louisi-

ana's holding that the Wire Act applied only to online wagers relating to sporting events or contests.<sup>38</sup> The Fifth Circuit concluded that both the plain language and legislative history of the Wire Act made its application only to sports betting abundantly clear, agreeing with the lower court's conclusion that "[e]ven a summary glance at the recent legislative history of Internet gambling legislation reinforces the Court's determination that Internet gambling on a game of chance is not prohibited conduct under 18 U.S.C. § 1084."<sup>39</sup>

The District Court of Utah departed from the Fifth Circuit's interpretation of the Wire Act, in *U.S. v. Lombardo*, concluding that two out of three of the Wire Act's prohibitions apply to all gambling and not just sports betting.<sup>40</sup> Specifically, the *Lombardo* court concluded that while the Wire Act clearly prohibits wire communications related to the transmission of actual bets only for sporting events, because the word "sporting event" does not appear in the next two clauses, prohibiting wire communications related to receiving money or credit for bets and receiving information about bets, those two prohibitions in the Wire Act apply to all gambling and aren't limited to sports betting.<sup>41</sup> The *Lombardo* court reasoned that reaching the Fifth Circuit's conclusion would require them to assume Congress meant to include the "sporting" language in the two other parts of the Act but inadvertently forgot to do so.<sup>42</sup> To date, it is the only published opinion to explicitly assert that the Wire Act's prohibitions extend beyond sports gambling.<sup>43</sup> Similarly, a Magistrate Judge for the Eastern District Court of Missouri, in *U.S. v. Kaplan*, came to the conclusion that the Wire Act was not limited to sports gambling when recommending that the charges against Gary Kaplan, the founder of BetonSports.com, not be dismissed.<sup>44</sup> Kaplan ultimately pled guilty to violating the Wire Act, but only the counts related to sports gambling conduct.<sup>45</sup>

As Mark Hichar noted<sup>46</sup>—and the OLC in its 2011 memo concurred—interpreting the Wire Act to apply to non-sports gambling creates a conflict between the Wire Act and the intrastate exception in the Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA). This potential conflict prompted the New York State Division of the Lottery and the Governor of Illinois in 2009 to request the DOJ clarify its position on the Wire Act and its interplay with UIGEA.<sup>47</sup>

UIGEA prohibits payment processors, such as credit card companies, from depositing funds related

to "unlawful Internet gambling," but it contains an exemption from the prohibition for *intrastate transactions* if certain conditions are met.<sup>48</sup> Additionally, the exception stipulates that the gambling activity must not violate certain other federal gambling laws: the Interstate Horseracing Act of 1978, Professional and Amateur Sports Protection Act, Gambling Devices Transportation Act, or Indian Gaming Regulatory Act. Hypothetically, a state-licensed gambling platform, such as intrastate online lottery ticket sales, could be considered legal under the stipulations of UIGEA due to this exception. However, the Wire Act interpretation backed by the *Lombardo* court and the DOJ circa 2002 would make *illegal* all of these intrastate gambling activities that the language of UIGEA suggests are lawful. This casts doubt on the Department of Justice's broad interpretation of the Wire Act beginning in 2002, a factor that helped convince the OLC to change its opinion on the law in 2011.

#### DOJ's 2011 Restoration of the Wire Act

Despite claims that "a single person in the bowels of the Department of Justice"<sup>49</sup> decided to unilaterally reinterpret the Wire Act in 2011, the 13-page memorandum from the Office of Legal Counsel (OLC) for the Department of Justice shows that a thorough consideration of legislative history and case law brought the Criminal Division to the conclusion that "interstate transmissions of wire communications that do not relate to a 'sporting event or contest,' 18 U.S.C. § 1084(a), fall outside of the reach of the Wire Act," thus restoring the law its original understanding.

In addition to a discussion of the history and case law, the OLC addressed arguments that the language of the Wire Act precludes a narrow reading of its scope. For example, OLC considered:

the possibility that, in the Wire Act's reference to "any sporting event or contest," 18 U.S.C. § 1084(a), the word "sporting" modifies only "event" and not "contest," such that the provision would bar the wire transmission of "wagers on any sporting event or [any] contest." This interpretation would give independent meaning to "event" and "contest," but it would also create redundancy of its own. If Congress had intended to cover *any* contest, it is unclear why it would have needed to mention sporting events separately.<sup>50</sup>

Additionally, OLC considered arguments that "sporting event and contest" applies only to the first prescription in the Act which it directly modifies. OLC

believed the phrase “sporting event and contest” was not included after each proscription as a form of short-hand; an interpretation that is bolstered by the fact that the phrase “in interstate and foreign commerce” is similarly omitted from the subsequent proscriptions even though Congress presumably intended all the prohibitions in the Wire Act, including those in the second clause, to be limited to interstate or foreign (as opposed to intrastate) wire communications. As OLC put it: “[t]his omission suggests that Congress used shortened phrases in the second clause to refer back to terms spelled out more completely in the first clause.”<sup>51</sup>

Also considered was the DOJ Criminal Division’s assessment, which was detailed in its July 12, 2010 memo asking OLC for clarification. According to the memo, the Criminal Division advised OLC that it “has uniformly taken the position that the Wire Act is not limited to sports wagering and can be applied to other forms of interstate gambling,” and that “the Department has consistently argued under the Wire Act that, even if the wire communication originates and terminates in the same state, the law’s interstate commerce requirement is nevertheless satisfied if the wire crossed state lines at any point in the process.” This interpretation, however, only dates back to 2002. Furthermore, the Criminal Division highlighted the fact that since 2002 it had doubts about this interpretation which appeared to conflict with UIGEA.<sup>52</sup> While the OLC’s decision specifically dealt with the question of whether intrastate online sales of lottery tickets would violate the Wire Act, its decision that the, “Wire Act does not reach interstate transmissions of wire communications that do not relate to a “sporting event or contest,” it effectively restored the original interpretation of the Act.<sup>53</sup>

## Endnotes

1. Press Conference, “Graham, Chaffetz introduce Legislation to Restore America’s Wire Act”, March 26, 2014 available at: <https://www.youtube.com/watch?v=xdt2q40DE1w#t=23>, last accessed August 6, 2014
2. Kennedy told Congress in 1961: “Organized crime is nourished by a number of activities, but the primary source of its growth is illicit gambling. From huge gambling profits flow the funds to bankroll the other illegal activities ... including the bribery of local officials.” “Congress Enacts Five Anti-Crime Bills,” CQ Almanac 1961 <http://library.cqpress.com/cqalmanac/document.php?id=cqa61-1373549>.
3. “Robert Kennedy Urges New Laws to Fight Rackets.”
4. 18 U.S. Code § 1084 - Transmission of wagering information; penalties section a., <http://www.law.cornell.edu/uscode/text/18/1084>.
5. Section (a) 18 USC 1084
6. In *United States v. Lombardo* 2007 WL 4404641 (D. Utah 2007), District Judge Ted Stewart interpreted the Wire Act as having three proscriptions on the use of a wire communication facility for (1) “The transmission...of bets or wagers or information assisting in the placing of bet or wager on any sporting event or contest”; (2) “for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers”; or (3) “for information assisting in the placing of bet or wagers.” Because only the first proscription is modified by “sporting event or contest” the judge held that the Wire Act is “not confined entirely to wire communications related to sports betting or wagering.”
7. *Ibid.*
8. (S. 1657 or 18 U.S.C. § 1953)
9. *Ibid.*
10. Testimony before the House Judiciary Committee S. Rep. No. 588, 87th Cong., 1st Sess. 3, (1961).
11. “Prohibiting transmission of bets by wire communications,” Senate Report on S. 1656, July 24, 1961
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21. Crime Prevention Act of 1995, S. 1495, Title XV, 104th Congress (1996) 1st Session
22. Computer Gambling Prevention Act of 1996, H.R. 3526 104th Congress (1996) 2nd Session
23. Jon Kyl introductory remarks on The Internet Gambling Prohibition Act of 1997 See S. 474, 105th Cong., 1st Sess. <http://www.gpo.gov/fdsys/pkg/CREC-1997-03-19/html/CREC-1997-03-19-pt1-PgS2553.htm> last accessed on July 8, 2014
24. Internet Gambling Prohibition Act of 1999 (S. 692), 106th Congress, Second Session, <https://www.govtrack.us/congress/bills/106/s692>.
25. Combating Legal Gambling Reform and Modernization Act (H.R. 3215), 107th Congress, Second Session, <https://www.govtrack.us/congress/bills/107/hr3215>.
26. Edward C. Baig "Outlawing online betting? Don't bet on it," *BusinessWeek*, December 15, 1997 <http://www.businessweek.com/1997/50/b3557079.htm> last accessed on August 26, 2014
27. While the vast majority of cases involving the Wire Act were limited to sports, there are some cases where it was used to prosecute gambling offenses that were not sports related, *United States v. Chase*, 372 F.2d 453, 457 (4th Cir. 1967); *United States v. Manetti*, 323 F. Supp. 683, 687 (D. Del. 1971).
28. See: Tex. Priv. Ltr. Rul. DM-344 (May 2, 1995) in which Texas Attorney General Dan Morales was asked about the legality of online poker and other types of betting if the parties were all in Texas. He noted that such transmissions, even if entirely in Texas, may "under proper circumstances" violate the Wire Act. He contends that the activity might constitute "interstate commerce" as required by 18 U.S.C. § 1084, basing the position on previous case law, *United States v. Yaquinta*, 204 F. Supp. 276 (N.D. W. Va. 1962) for the proposition that, "where part of telephone facilities used for call between points in state were located in another state, transmission was in interstate commerce for purposes of section 1084."
29. Anthony Cabot Internet Gambling Report II, Trace Publications, Las Vegas Nevada (1998) p 115
30. Letter from The United States Department of Justice, Criminal Division to Mr. Dennis K. Neilander, Chairman, Nevada Gaming Control Board August 23, 2002
31. Kevin DiGregory, Deputy Assistant Attorney General, Criminal Division U.S. Department of Justice, Testimony before the House of Representatives Subcommittee on Crime Committee on the Judiciary, June 24, 1998, [http://commdocs.house.gov/committees/judiciary/hju57230.000/hju57230\\_0f.htm](http://commdocs.house.gov/committees/judiciary/hju57230.000/hju57230_0f.htm).
32. See e.g. *People of New York v. World Interactive Gaming Corp.* 185 Misc. 2d 852, 714 N.Y.S.2d 844 (N.Y. County Sup. Ct. 1999)
33. Harley J. Goldstein, "On-line Gambling: Down to the Wire?" *Marquette Sports Law Journal*, Vol. 8 No. 1 (1997), <http://scholarship.law.marquette.edu/sportslaw/vol8/iss1/3>.
34. Kevin DiGregory, Deputy Assistant Attorney General, Criminal Division, Statement before the Committee on Banking and Financial Services, United States House of Representatives, June 20, 2000. <http://democrats.financial-services.house.gov/banking/62000dig.shtml>.
35. Letter from Dennis K. Neilander, Chairman of the Nevada State Gaming Control Board and Peter C. Bernhard, Chairman, Nevada Gaming Commission to Chris Huff Esq., United States Department of Justice, March 7, 2002
36. Letter from The United States Department of Justice, Criminal Division to Mr. Dennis K. Neilander, Chairman, Nevada Gaming Control Board August 23, 2002

37. In 1999 the Department of Justice submitted an amicus brief in *Coeur D'Alene Tribe v. AT&T*, in which the tribe sued the communications company for discontinuing service due to the tribe's telephone lottery. The DOJ said it believed the Wire Act applied because section (d) 1084 provides that, "no damages, penalty or forfeiture, civil or criminal, shall be found against any common carrier" for discontinuing service if they were instructed to do so by authorities who suspected the service was being used for gambling in violation of state or federal laws. Because the telephone lottery reached other states, the DOJ concluded that it was in violation of the Indian Gaming Regulatory Act and therefore the carrier, in compliance with section (d) of the Wire Act, acted lawfully. Thus, under the Wire Act, the lottery at issue was considered illegal because it violated state laws as well as IGRA, not due to violations of the Wire Act.
38. 313 F.3d 257, 262-63 (5th Cir. 2002).
39. 132 F. Supp. 2d 468, 480 (E.D. La. 2001), *aff'd*, 313 F.3d 257 (5th Cir. 2002).
40. *United States v. Lombardo*, 639 F.Supp.2d 1271, 1278-82 (D. Utah 2007).
41. *Ibid*.
42. *Ibid* at 1281.
43. I. Nelson Rose and Rebecca Bolin, "Game on For Internet Gambling: With Federal Approval, States Line Up to Place Their Bets," *Connecticut Law Review*, Vol. 45 No. 2, December 2012, <http://connecticutlawreview.org/files/2013/01/RoseBolin.GameOnforInternetGambling.45Conn.L.Rev..653.pdf>
44. *United States v. Kaplan*, (E.D. Mo. Mar. 20, 2008) (No. 4:06CR337CEJ (MLM)). The judge also quotes an Eighth Circuit court opinion: *United States v. Bala*, 489 F.3d 334, 342 (8th Cir. 2007) in which the court did not decide whether or not the Wire Act applied to non-sports betting, but indicated that it would rule that the Act applies to all gambling were that the issue before the court.
45. *United States v. Kaplan*, No. 4:06CR337CEJ(MLM) (E.D. Mo., May 7, 2007)
46. Hichar.
47. DOJ Memorandum 2011.
48. 31 U.S. Code § 5362 – Definitions <http://www.law.cornell.edu/uscode/text/31/5362>.
49. Casino Connection AC, Online Throw Down in DC, April 2, 2014, <http://casinoconnectionac.com/issue/vol-1.1-no-4-april-2014/article/online-throw-down-in-d-c> Last accessed: August 19, 2014
50. Memorandum Opinion for the Assistant Attorney General, Criminal Division, U.S. Department of Justice, "Whether proposals by Illinois and New York to use the internet and out-of-state transaction processors to sell lottery tickets to in-state adults violate the Wire Act" September 20, 2011 (see footnote 11)
51. *Ibid* at p 7.
52. OLC Memorandum, at 2 (quoting Memorandum for David Barron, Acting Assistant Attorney General, Office of Legal Counsel, DOJ, from Lanny A. Breuer, Assistant Attorney General, Criminal Division, DOJ (July 12, 2010)
53. *Ibid*.

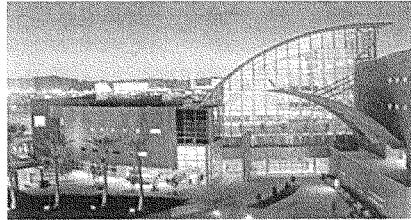


**About the Author**

Michelle Minton is the Competitive Enterprise Institute's fellow specializing in consumer policy, including regulation of food, alcohol, and Internet gambling.

She has authored and coauthored numerous studies on topics like sin taxes, alcohol privatization, and the online gambling. Her analyses have been published and cited by nationally respected news outlets like the *Wall Street Journal* and *USA Today* as well as industry blogs and publications. She also regularly appears on radio and television programs to defend peoples' right to "sin".

In her free time Ms. Minton she enjoys playing poker and studying the art and history of making beer.



### About the Center for Gaming Research

Founded in 1987, the Center for Gaming Research hosts scholars investigating a variety of subject areas. Located within Special Collections at UNLV's state-of-the-art Lied Library, its main resource is the Gaming Collection.

Many unique primary resources can be found only within the Collection. We preserve and make accessible company documents, state publications, and other important resources.

The Center's Gaming Fellow program, active since 2007, brings scholars from around the world to Las Vegas to perform research in Special Collections. Fellows use the Center's resources to further their study of gaming and become ambassadors for the Center and UNLV.

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In 2010, the Center for Gaming Research launched an Occasional Paper Series that publishes brief studies of gambling and casinos with a policy and public-interest orientation.

These papers are generally between three and six-thousand words, written with the intent of informing the public discussion of gambling and casinos. Topics include gaming history, casino management, and studies in sociology, economics, and political science related to gambling.

Authors include faculty affiliated with the Center for Gaming Research, particularly Eadington Fellows. As part of their residency, fellows complete a paper for the series.

In June 2013, the UNLV Gaming Press published *Frontiers in Chance: Gaming Research Across the Disciplines*, a collection of many of the papers in the series. For more information about this book, please see <http://gamingpress.unlv.edu/>.

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## Internet Gambling Ban: A Winner For Sheldon Adelson, A Losing Bet For The Rest Of Us

November 16, 2014

By: Ron Paul

Most Americans, regardless of ideology, oppose “crony capitalism” or “cronyism.” Cronyism is where politicians write laws aimed at helping their favored business beneficiaries. Despite public opposition to cronyism, politicians still seek to use the legislative process to help special interests.

For example, Congress may soon vote on legislation outlawing Internet gambling. It is an open secret, at least inside the Beltway, that this legislation is being considered as a favor to billionaire casino owner, Sheldon Adelson. Mr. Adelson, who is perhaps best known for using his enormous wealth to advance a pro-war foreign policy, is now using his political influence to turn his online competitors into criminals.

Supporters of an Internet gambling ban publicly deny they are motivated by a desire to curry favor with a wealthy donor. Instead, they give a number of high-minded reasons for wanting to ban this activity. Some claim that legalizing online gambling will enrich criminals and even terrorists! But criminalizing online casinos will not eliminate the demand for online casinos. Instead, passage of this legislation will likely guarantee that the online gambling market is controlled by criminals. Thus, it is those who support outlawing online gambling who may be aiding criminals and terrorists.

A federal online gambling ban would overturn laws in three states that allow online gambling. It would also end the ongoing debate over legalizing online gambling in many other states. Yet some have claimed that Congress must pass this law in order to protect states rights! Their argument is that citizens of states that ban Internet gambling may easily get around those laws by accessing online casinos operating in states where online gambling is legalized.

Even if the argument had merit that allowing states to legalize online gambling undermines laws in other states, it would not justify federal legislation on the issue. Nowhere in the Constitution is the federal government given any authority to regulate activities such as online gambling. Arguing that “states rights” justifies creating new federal crimes turns the Tenth Amendment, which was intended to limit federal power, on its head.

Many supporters of an Internet gambling ban sincerely believe that gambling is an immoral and destructive activity that should be outlawed. However, the proposed legislation is not at all about the morality of gambling. It is about whether Americans who do gamble should have the choice to do so online, or be forced to visit brick-and-mortar casinos.

Even if there was some moral distinction between gambling online or in a physical casino, prohibiting behavior that does not involve force or fraud has no place in a free society. It is no more appropriate for gambling opponents to use force to stop people from playing poker online than it would be for me to use force to stop people from reading pro-war, neocon writers.

Giving government new powers over the Internet to prevent online gambling will inevitably threaten all of our liberties. Government bureaucrats will use this new authority to expand their surveillance of the Internet activities of Americans who have no interest in gambling, just as they used the new powers granted by the PATRIOT Act to justify mass surveillance.

The proposed ban on Internet gambling is a blatantly unconstitutional infringement on our liberties that will likely expand the surveillance state. Worst of all, it is all being done for the benefit of one powerful billionaire. Anyone who thinks banning online gambling will not diminish our freedoms while enriching criminals is making a losing bet.



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FRATERNAL ORDER OF POLICE®

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WASHINGTON, DC 20002  
PHONE 202-547-8189 • FAX 815-202-547-8190

CHUCK CANTERBURY  
NATIONAL PRESIDENT

JAMES O. PASCO, JR.  
EXECUTIVE DIRECTOR

2 December 2014

The Honorable Harry M. Reid  
Majority Leader  
United States Senate  
Washington, D.C. 20510

The Honorable John A. Boehner  
Speaker of the House  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Mitch McConnell  
Minority Leader  
United States Senate  
Washington, D.C. 20510

The Honorable Nancy P. Pelosi  
Minority Leader  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Senator Reid, Mr. Speaker, Senator McConnell and Representative Pelosi,

I am writing once again on behalf of the members of the Fraternal Order of Police to urge Congress to heed the law enforcement community with respect to proposals to prohibit online gaming.

Congress cannot ban its way out of this problem as this would simply drive online gaming further and further underground and put more and more people at risk. Internet gaming forced into the shadows would exacerbate current difficulties and create new dangers. Not only does the black market for Internet gaming include no consumer protections, it also operates entirely offshore with unlicensed operators, drastically increasing the threat of identity theft, fraud or other criminal acts. There is also evidence that these gaming sites launder money for organized crime and help to finance terrorist networks. We know that these overseas gaming sites process billions of dollars every year, creating a breeding ground for transnational criminal organizations.

States like Delaware, New Jersey, and Nevada have taken the lead in creating regulated systems. Residents that choose to play have access to a well-regulated, well-monitored system and will not be drawn into putting their money or identities at risk on offshore, unlicensed black market sites. Congress should not to undermine these efforts. Since the enactment of the Unlawful Internet Gambling Enforcement Act, the FOP has consistently sought the tools to enforce the laws governing Internet activity to combat money laundering and other criminal activity. A blanket Federal ban would make these efforts all but impossible. The FOP wants to protect our citizens and the best way to do this is to drive black market online gaming into the light and scrutiny of a regulated system that is safe, fun and fair.

I hope that the Congress will carefully consider the input provided by the FOP and the law enforcement community on this issue. A Federal prohibition is irresponsible and will severely hinder our efforts to combat unlawful activity on the Internet. I hope that the FOP and the law

—BUILDING ON A PROUD TRADITION—

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enforcement community can work with Congress on this issue. If I can be of any additional assistance on this or any other issue, please do not hesitate to contact me or Executive Director Jim Pasco in my Washington office.

Sincerely,

  
Chuck Canterbury  
National President

Congress of the United States  
Washington, DC 20515

December 8, 2014

The Honorable John Boehner  
Speaker of the House of Representatives  
H-232, United States Capitol  
Washington, DC 20515

Dear Mr. Speaker:

We write to voice our strong opposition to H.R. 4301, the "Restoration of America's Wire Act," and urge you to refrain from supporting or scheduling a vote on this legislation in any fashion. We particularly hope you will oppose any effort to move this bill during the current "Lame Duck" session without any debate or open legislative process.


The clear intent of the legislation is to overturn the decisions of nearly a dozen states that have legalized and regulated online gaming and lotteries. At least three states – New Jersey, Delaware and Nevada – have legalized and regulated online gaming for residents of their states. While other states are considering similar moves, Georgia, Kentucky, Illinois, Michigan, Minnesota, New Hampshire, New York, North Carolina, North Dakota and Virginia have approved some version of online gaming, online poker or online lottery products.

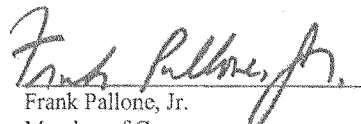
Throughout the history of the United States, the issue of gaming has been governed at the state level allowing states like New Jersey to choose gaming while others like Utah and Hawaii have not. The "Restoration of America's Wire Act" will greatly expand the federal role in determining the gaming decisions of the states. We believe this bill dangerously undermines the federal-state relationship enshrined in the Tenth Amendment and opens the door for further federal encroachment on state gaming laws in the future.

While we may each have different opinions about allowing gaming in our home states, we are united in agreement that states should retain the power to make the decisions best suited for their residents.

We hope you understand the dangers associated with the legislation and urge your opposition to moving it forward. Thank you for your consideration.

Sincerely,

  
Frank LoBiondo  
Member of Congress


  
Frank Pallone, Jr.  
Member of Congress



Peter T. King  
Member of Congress



Leonard Lance  
Member of Congress



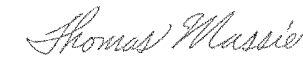
Tom McClintock  
Member of Congress



Donald Norcross  
Member of Congress



Bill Pascrell  
Member of Congress



Thomas Massie  
Member of Congress



Joe Barton  
Member of Congress



Renee Ellmers  
Member of Congress



Dana Rohrabacher  
Member of Congress

**Congress of the United States**  
Washington, DC 20515

December 9, 2014

The Honorable Barbara Mikulski  
Chairwoman  
Senate Committee on Appropriations  
S-128, The Capitol  
Washington, D.C. 20510

The Honorable Richard C. Shelby  
Ranking Member  
Senate Committee on Appropriations  
S-128, The Capitol  
Washington, D.C. 20510

The Honorable Harold Rogers  
Chairman  
House Committee on Appropriations  
H-305, The Capitol  
Washington, D.C. 20515

The Honorable Nita M. Lowey  
Ranking Member  
House Committee on Appropriations  
1016 Longworth House Office Building  
Washington, D.C. 20515

Dear Chairwoman Mikulski, Ranking Member Shelby, Chairman Rogers, and Ranking Member Lowey:

As you craft legislation to fund the federal government over the next fiscal year, we urge you to refrain from including any extraneous provisions that would harm or outlaw online gaming businesses operating legally in the United States. Online gaming is a prosperous global industry that has grown increasingly popular in countries throughout the world. Here in the U.S., four states have adopted laws to legalize and regulate some forms of Internet gambling, and similar measures are currently pending before several state legislatures.


Congress should not try to subvert the will of these states by passing a blanket online gaming ban. Closing down state-legal online gaming services would only drive consumers to wager with offshore operators – who can behave unscrupulously with virtually no oversight by any government – and deprive our economy of billions of dollars in revenue. It would be particularly objectionable to attempt to pass such a controversial measure by attaching it behind closed doors to a mandatory government funding bill that will likely come to the floor without opportunity for amendment.

Instead, Congress should focus on creating a regulatory and licensing framework that eliminates the contradictions in our present federal gambling laws. Americans currently wager more than \$100 billion annually, but because of onerous and haphazard federal limitations on what types of Internet gaming are legal, most of this wagering occurs with foreign-based gaming services. Congress should prioritize creating workable online gaming policies that protect consumers and support honest American gaming businesses. If we use the waning days of the 113<sup>th</sup> Congress to impose a blanket ban on the entire industry and drive more Americans to wager with offshore operators, we will be failing the constituents we were elected to serve by sending jobs overseas.



Thank you for your consideration in this matter. We look forward to working with you to reform our nation's online gambling laws in ways that will grow our economy, protect consumers, and respect the role of Congress in promoting innovation.

Sincerely,



Jared Polis  
Member of Congress



Steve Cohen  
Member of Congress



OFFICE OF THE SENATE PRESIDENT  
STATE OF ILLINOIS

JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706  
217-782-2728

December 15, 2014

Dear Representative Rush:

As you know, legislation entitled The Restoration of America's Wire Act was filed by Representative Jason Chaffetz in the 113<sup>th</sup> Congress. I expect this proposed Act to be filed in the next Congress as well. For the reasons stated below, I strongly urge you to oppose this legislation.

The Restoration of America's Wire Act would prohibit the transmission by wire communication of (1) any bet or wager, including Internet gaming, or (2) information assisting in the placement of any bet or wager. This legislation would be harmful to Illinois for two reasons. First, it would foreclose Internet gaming and much needed revenue that the State of Illinois would derive from Internet gaming. Second, it would call into question the legality of the sale of Illinois State Lottery tickets over the Internet, which is permitted by a law I personally sponsored in 2012.

I believe these decisions should not be precluded by Congressional action; rather, policy makers in individual states should be able to fashion legislation authorizing and taxing Internet gaming if the state so chooses.

Thank you for your consideration of my views on this important issue.

Sincerely,

A handwritten signature in cursive script that reads "John J. Cullerton".

John J. Cullerton  
Senate President



OFFICE OF THE SENATE PRESIDENT  
STATE OF ILLINOIS

JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706  
217-782-2728

December 15, 2014

Dear Representative Kelly:

As you know, legislation entitled The Restoration of America's Wire Act was filed by Representative Jason Chaffetz in the 113<sup>th</sup> Congress. I expect this proposed Act to be filed in the next Congress as well. For the reasons stated below, I strongly urge you to oppose this legislation.

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Sincerely,

John J. Cullerton  
Senate President



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STATE OF ILLINOIS

JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706  
217-782-2728

December 15, 2014

Dear Representative Lipinski:

As you know, legislation entitled The Restoration of America's Wire Act was filed by Representative Jason Chaffetz in the 113<sup>th</sup> Congress. I expect this proposed Act to be filed in the next Congress as well. For the reasons stated below, I strongly urge you to oppose this legislation.

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Sincerely,

John J. Cullerton  
Senate President



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STATE OF ILLINOIS

JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706  
217-782-2728

December 15, 2014

Dear Representative Gutierrez:

As you know, legislation entitled The Restoration of America's Wire Act was filed by Representative Jason Chaffetz in the 113<sup>th</sup> Congress. I expect this proposed Act to be filed in the next Congress as well. For the reasons stated below, I strongly urge you to oppose this legislation.

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Thank you for your consideration of my views on this important issue.

Sincerely,

John J. Cullerton  
Senate President



OFFICE OF THE SENATE PRESIDENT  
STATE OF ILLINOIS

JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706  
217-782-2728

December 15, 2014

Dear Representative Quigley:

As you know, legislation entitled The Restoration of America's Wire Act was filed by Representative Jason Chaffetz in the 113<sup>th</sup> Congress. I expect this proposed Act to be filed in the next Congress as well. For the reasons stated below, I strongly urge you to oppose this legislation.

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Thank you for your consideration of my views on this important issue.

Sincerely,

A handwritten signature in cursive script that reads "John J. Cullerton".

John J. Cullerton  
Senate President



OFFICE OF THE SENATE PRESIDENT  
STATE OF ILLINOIS

JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706  
217-782-2728

December 15, 2014

Dear Representative Roskam:

As you know, legislation entitled The Restoration of America's Wire Act was filed by Representative Jason Chaffetz in the 113<sup>th</sup> Congress. I expect this proposed Act to be filed in the next Congress as well. For the reasons stated below, I strongly urge you to oppose this legislation.

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Thank you for your consideration of my views on this important issue.

Sincerely,

John J. Cullerton  
Senate President



OFFICE OF THE SENATE PRESIDENT  
STATE OF ILLINOIS

JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706  
217-782-2728

December 15, 2014

Dear Representative Davis:

As you know, legislation entitled The Restoration of America's Wire Act was filed by Representative Jason Chaffetz in the 113<sup>th</sup> Congress. I expect this proposed Act to be filed in the next Congress as well. For the reasons stated below, I strongly urge you to oppose this legislation.

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I believe these decisions should not be precluded by Congressional action; rather, policy makers in individual states should be able to fashion legislation authorizing and taxing Internet gaming if the state so chooses.

Thank you for your consideration of my views on this important issue.

Sincerely,

A handwritten signature in cursive script that reads "John J. Cullerton".

John J. Cullerton  
Senate President





OFFICE OF THE SENATE PRESIDENT  
STATE OF ILLINOIS

JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706  
217-782-2728

December 15, 2014

Dear Representative Duckworth:

As you know, legislation entitled The Restoration of America's Wire Act was filed by Representative Jason Chaffetz in the 113<sup>th</sup> Congress. I expect this proposed Act to be filed in the next Congress as well. For the reasons stated below, I strongly urge you to oppose this legislation.

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Senate President



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STATE OF ILLINOIS

JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706  
217-782-2728

December 15, 2014

Dear Representative Schakowsky:

As you know, legislation entitled The Restoration of America's Wire Act was filed by Representative Jason Chaffetz in the 113<sup>th</sup> Congress. I expect this proposed Act to be filed in the next Congress as well. For the reasons stated below, I strongly urge you to oppose this legislation.

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SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706  
217-782-2728

December 15, 2014

Dear Representative Foster:

As you know, legislation entitled The Restoration of America's Wire Act was filed by Representative Jason Chaffetz in the 113<sup>th</sup> Congress. I expect this proposed Act to be filed in the next Congress as well. For the reasons stated below, I strongly urge you to oppose this legislation.

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John J. Cullerton  
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STATE OF ILLINOIS

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SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706  
217-782-2728

December 15, 2014

Dear Representative Davis:

As you know, legislation entitled The Restoration of America's Wire Act was filed by Representative Jason Chaffetz in the 113<sup>th</sup> Congress. I expect this proposed Act to be filed in the next Congress as well. For the reasons stated below, I strongly urge you to oppose this legislation.

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Thank you for your consideration of my views on this important issue.

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John J. Cullerton  
Senate President



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STATE OF ILLINOIS

JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706  
217-782-2728

December 15, 2014

Dear Representative Hultgren:

As you know, legislation entitled The Restoration of America's Wire Act was filed by Representative Jason Chaffetz in the 113<sup>th</sup> Congress. I expect this proposed Act to be filed in the next Congress as well. For the reasons stated below, I strongly urge you to oppose this legislation.

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Sincerely,

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John J. Cullerton  
Senate President



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JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706  
217-782-2728

December 15, 2014

Dear Representative Shimkus:

As you know, legislation entitled The Restoration of America's Wire Act was filed by Representative Jason Chaffetz in the 113<sup>th</sup> Congress. I expect this proposed Act to be filed in the next Congress as well. For the reasons stated below, I strongly urge you to oppose this legislation.

The Restoration of America's Wire Act would prohibit the transmission by wire communication of (1) any bet or wager, including Internet gaming, or (2) information assisting in the placement of any bet or wager. This legislation would be harmful to Illinois for two reasons. First, it would foreclose Internet gaming and much needed revenue that the State of Illinois would derive from Internet gaming. Second, it would call into question the legality of the sale of Illinois State Lottery tickets over the Internet, which is permitted by a law I personally sponsored in 2012.

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Thank you for your consideration of my views on this important issue.

Sincerely,

John J. Cullerton  
Senate President



OFFICE OF THE SENATE PRESIDENT  
STATE OF ILLINOIS

JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706  
217-782-2728

December 15, 2014

Dear Representative Kizinger:

As you know, legislation entitled The Restoration of America's Wire Act was filed by Representative Jason Chaffetz in the 113<sup>th</sup> Congress. I expect this proposed Act to be filed in the next Congress as well. For the reasons stated below, I strongly urge you to oppose this legislation.

The Restoration of America's Wire Act would prohibit the transmission by wire communication of (1) any bet or wager, including Internet gaming, or (2) information assisting in the placement of any bet or wager. This legislation would be harmful to Illinois for two reasons. First, it would foreclose Internet gaming and much needed revenue that the State of Illinois would derive from Internet gaming. Second, it would call into question the legality of the sale of Illinois State Lottery tickets over the Internet, which is permitted by a law I personally sponsored in 2012.

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John J. Cullerton  
Senate President



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JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706  
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December 15, 2014

Dear Representative Bustos:

As you know, legislation entitled The Restoration of America's Wire Act was filed by Representative Jason Chaffetz in the 113<sup>th</sup> Congress. I expect this proposed Act to be filed in the next Congress as well. For the reasons stated below, I strongly urge you to oppose this legislation.

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John J. Cullerton  
Senate President





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JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706  
217-782-2728

December 15, 2014

Dear Representative Schock:

As you know, legislation entitled The Restoration of America's Wire Act was filed by Representative Jason Chaffetz in the 113<sup>th</sup> Congress. I expect this proposed Act to be filed in the next Congress as well. For the reasons stated below, I strongly urge you to oppose this legislation.

The Restoration of America's Wire Act would prohibit the transmission by wire communication of (1) any bet or wager, including Internet gaming, or (2) information assisting in the placement of any bet or wager. This legislation would be harmful to Illinois for two reasons. First, it would foreclose Internet gaming and much needed revenue that the State of Illinois would derive from Internet gaming. Second, it would call into question the legality of the sale of Illinois State Lottery tickets over the Internet, which is permitted by a law I personally sponsored in 2012.

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John J. Cullerton  
Senate President

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE RESOLUTION

No. 140 Session of  
2015

INTRODUCED BY PAYNE, KOTIK, D. COSTA, DeLUCA, DUNBAR, HELM,  
KILLION, READSHAW, SAINATO, STURLA AND YOUNGBLOOD,  
MARCH 3, 2015

REFERRED TO COMMITTEE ON GAMING OVERSIGHT, MARCH 3, 2015

## A RESOLUTION

- 1 Urging the Congress of the United States to defeat H.R. 707 and
- 2 any other legislation which would prohibit states from
- 3 authorizing and conducting Internet gaming.
- 4 WHEREAS, The Restoration of America's Wire Act, introduced as
- 5 H.R. 707 in the 114th Congress, would prohibit the transmission
- 6 by wire communication of any bet or wager or of information
- 7 assisting in the placement of any bet or wager, including
- 8 Internet gaming; and
- 9 WHEREAS, A Federal prohibition against Internet gaming would
- 10 directly and negatively impact Pennsylvania by foreclosing the
- 11 future potential of Internet gaming to generate tax revenue, to
- 12 create economic and employment opportunities, including high-
- 13 tech software jobs, and to foster valuable business ventures for
- 14 Pennsylvania casinos; and
- 15 WHEREAS, If enacted, H.R. 707 would prohibit the Commonwealth
- 16 from authorizing and conducting Internet gaming and from
- 17 capturing new tax revenue for Pennsylvania; and
- 18 WHEREAS, This prohibition would preclude the Commonwealth's

1 ability to create a legitimate online gaming industry within its  
2 borders, drive illegal operators out of business and protect  
3 consumers; and

4 WHEREAS, Passage of this measure as Federal law would be  
5 inimical to the interests of this Commonwealth, which has been  
6 at the forefront of a well-regulated casino gaming industry for  
7 nearly a decade and which recognizes the benefits of Internet  
8 gaming and its future potential; and

9 WHEREAS, Over the course of our nation's history, state  
10 governments, not the Federal Government, have determined what  
11 forms of gambling should be legal or illegal within their  
12 borders and, if legal, how gambling should be regulated or  
13 controlled; therefore be it

14 RESOLVED, That the House of Representatives of the  
15 Commonwealth of Pennsylvania urge the Congress of the United  
16 States to defeat the Restoration of America's Wire Act,  
17 introduced as H.R. 707 in the 114th Congress, which prohibits  
18 the transmission by wire communication of any bet or wager or of  
19 information assisting in the placement of any bet or wager,  
20 including Internet gaming; and be it further

21 RESOLVED, That the House of Representatives of the  
22 Commonwealth of Pennsylvania implore the Pennsylvania  
23 Congressional Delegation to unequivocally oppose H.R. 707, which  
24 would unduly ban Internet gaming and violate the rights and  
25 protections guaranteed to the states under the 10th Amendment of  
26 the Constitution of the United States; and be it further

27 RESOLVED, That copies of this resolution be transmitted to  
28 each member of Congress from Pennsylvania.



## Republicans take up casino donor's fight against Internet gambling

MARCH 3, 2015  
BY TIMOTHY P. CARNEY

Billionaire Republican mega-donor Sheldon Adelson sat in the House Chamber Tuesday Morning as Israeli Prime Minister Benjamin Netanyahu addressed a joint session of Congress.

At that moment, though, Adelson was, on paper, a host of a viewing party two blocks away at the Capitol Hill Club, a GOP haunt. The viewing party doubled as the fundraising kickoff to the presidential campaign of Sen. Lindsey Graham, R-S.C.

While Graham and Adelson are certainly of one mind on all things Israel, this week highlighted another issue (far less grave than a potential war with Iran) where Adelson is well served by Graham's policy preferences: banning Internet gambling.

Graham's home state, heavily evangelical, is very opposed to gambling. This makes his opposition to Internet gambling sensible, but it also makes his partnership with Adelson odd.

Adelson is the chairman and CEO of the Las Vegas Sands Corporation, a titan in the casino industry. He's the 12th richest man in America, worth \$32 billion, according to Forbes. He's also a major Republican donor and fundraising, having spent \$100 million of his own money to help Republicans in the 2012 elections.

In 2012, Adelson's favored Republican was former House Speaker Newt Gingrich. This time around, he's giving early help to Graham, who has no chance of winning. Given Graham's foreign policy, it's no surprise Adelson would back him, but why does a casino mogul want to limit online gambling?

Adelson says, "My moral standard compels me to speak out on this issue." Adding, "I don't see any compelling reason for the government to allow people to gamble on the Internet." That's an interesting view of individual liberty coming from a Republican: Everything should be illegal unless there's a compelling reason to make it legal.

But here's a good rule to follow in Washington: Whenever someone is proposing a government intervention, look past the "moral standards" he's trumpeting, and follow the money.

Online gambling creates competition for casinos, and could take their customers away. While other major casinos, such as Harrah's, have tried to adopt their own online gambling businesses, Sands has dug in.

And Adelson can't simply point to his personal moral views, because the push to ban online gambling is a corporate thing, not merely a personal thing. Sands' lobbyists Darryl Nirenberg of Patton Boggs wrote the first draft of the bill, the Hill reported last year. And lobbying disclosures show that the company's hired lobbyists — including former Democratic Sen. Blanche Lincoln — are still lobbying for the bill.

This money trail winds back to Graham. Adelson hosted at least one fundraiser for Graham's Senate re-election in 2014, when Graham introduced the Restoration of America's Wire Act (RAWA). The bill, which withered last Congress, would take Internet gambling away from the states and ban it.

This week Adelson served on the host committee of the Capitol Hill Club fundraiser for Graham's "Security Through Strength" political committee.

The invitation explained that the committee existed to help Graham "'test the waters' for a potential 2016 run for president. The committee will fund the infrastructure and operations allowing Graham to travel the country, listen to Americans, and gauge support for a potential presidential candidacy."

Graham will reintroduce RAWA soon, his office tells me. On the House side, Rep. Jason Chaffetz, a Utah Republican who sits on the Judiciary Committee, already has introduced RAWA. Judiciary's Crime subcommittee is holding a hearing on it Thursday morning.

As of Tuesday evening, the Committee hadn't published the witness list, but a source familiar with the hearing gave me the lineup, and it's hardly balanced.

One witness, University of Illinois Professor John Kindt, argues that legalized online gambling will be a money-laundering haven for terrorists and organized crime.

A second witness at Thursday's hearing, law professor and former federal prosecutor Michael Fagan, sounds the same notes. "Commercial Internet gambling creates huge pools of capital, which effectively serve as wholly unregulated banks," Fagan said, while testifying before Congress back in 2010, "inviting and facilitating money laundering and terrorist financing."

Les Bernal, a prominent anti-gambling activist, is another witness. He's president of a nonprofit group called Stop Predatory Gambling.

A fourth witness, Parry Aftab, is the most moderate, calling for "a strict regulatory system" of online gambling on the federal level.

That's it. Michelle Minton at the free-market Competitive Enterprise Institute (where I served a journalism fellowship 10 years ago) tells me that her organization — along with allies such as Americans for Tax Reform and Students for Liberty — petitioned committee members and staff to have a strong pro-liberty, pro-states' rights voice testify at the hearing. They were rebuffed in that request, and even rebuffed in their effort to reserve another committee room in which to hold a sort of counter-hearing.

Republicans supporting the legislation will talk of morals and consumer protection, but as with any proposed regulation, it's a good bet that industry money is behind the push for big government.

*Timothy P. Carney, The Washington Examiner's senior political columnist, can be contacted at [tcarney@washingtonexaminer.com](mailto:tcarney@washingtonexaminer.com). His column appears Sunday and Wednesday on [washingtonexaminer.com](http://washingtonexaminer.com).*



## Stacking the Deck in Fight Over Online Gambling Ban

March 4, 2015  
By: Erik Telford

After the FCC's radical decision to regulate the Internet as a public utility through the misuse of a 1934 law, the last thing we need right now is even more government control over the Internet. Yet, that is exactly what Rep. Jason Chaffetz (R-Utah) is attempting to do by [proposing legislation](#) that would federally prohibit online gambling.

New Jersey, Delaware, and Nevada have all recently legalized online gaming, and an increasing number of other states are moving in the same direction. The legislation being pushed by Chaffetz is a naked attempt to advance the crony interests of GOP mega donor, and casino magnate, Sheldon Adelson. While this provokes questions about the motives of Congressman Chaffetz, and the other Republican supporters of this bill, it also undermines the principles of federalism and states' rights that they claim to believe in.

Perhaps most shockingly, proponents of the bill won't give opponents of the legislation a seat at the table, because when it comes to this legislation, the deck is stacked in the House's favor.

The House Judiciary Subcommittee on Crime, Terrorism, Homeland Security, and Investigations on which Chaffetz sits planned to hold a hearing Thursday to discuss the pros and cons of banning online gambling outright (it was postponed due to weather). Critics say Committee members boxed out conservative opposition from the hearing, in favor of hosting an exercise in political theater designed to raise the bill's profile and push it forward, allowing only proponents of the legislation to testify.

For example, experts from free market groups such as the Competitive Enterprise Institute, a free-market think tank, had hoped to testify on the negative aspects of an online gambling ban but were blocked from doing so. Free-market opponents of Chaffetz's bill also say they were denied access to a room at which they could brief House staff on problems with the bill. Instead, one free-market expert who opposes the legislation said she planned to submit written testimony to the committee and hold a conference call for House staff.

Unfortunately, too many Republicans in Congress are willing to abandon our free-market system, turning to cronyism instead, to ensure that Adelson's interests are protected and that he maintains a competitive edge.

Right now of the three states that allow online gambling, two of them – New Jersey and Nevada – already have lucrative, established gaming industries. Is it any wonder, then, that supporters like billionaire casino mogul Sheldon Adelson are "willing to spend whatever it takes" to kill prospective online competition? In fact, he has already hired a team of lobbyists and PR gurus to convince Congress to do just that.

Just as with prohibition, the attempt to stamp out gambling through legislation is a fool's errand. The black-market gambling feared by proponents of an online ban already exists in shady operations run from overseas well outside of state jurisdiction, with the profits from these enterprises ending up in the hands of unsavory and potentially dangerous recipients.

As a coalition of free-market groups has pointed out, it would be far better to allow states to open up the playing field to online ventures, and thereby ensure greater consumer protection. They also note that sending the issue to the states would keep the federal government from starting down the potentially slippery slope of heavy handed regulation of the Internet, and opening Pandora's Box in terms of increased government involvement in the future.

At the very same time that Congressman Chaffetz and Republicans are criticizing President Obama for advancing crony interests by regulating the Internet at the FCC, they are doing the exact same thing in Congress.

Unlike a game of poker, when it comes to legislating gambling, there's a way for everyone to walk away a winner. Congressional Republicans need to stand up against cronyism, support free market policies, and protect federalism.

*Erik Telford is Acting President of the Franklin Center for Government & Public Integrity. Follow him on Twitter: @BlameTelford*



ARTHUR L. GLEASON, JR.  
President & CEO

1011 West Main Street  
Louisville, KY 40202  
PHONE: 502-560-1551  
FAX: 502-560-1532  
arch.gleason@kylottery.com

March 12, 2015

*Via email to Jennifer Kuskowski@mcconnell.senate.gov*

The Honorable Mitch McConnell  
Majority Leader, United States Senate  
317 Russell Senate Office Building  
Washington, D.C. 20510

Dear Majority Leader McConnell:

As President & CEO of the Kentucky Lottery Corporation (KLC), I am writing to ask you to oppose the adoption of the proposed Restoration of America's Wire Act (RAWA). As Congress contemplates addressing Internet wagering again, I hope you will preserve our state's right to offer lottery ticket sales over the Internet and protect the existing sales channels used by the KLC. If enacted, RAWA poses a significant threat to both future and existing lottery sales in Kentucky.

The KLC was established under the statutes of the Commonwealth in 1988 and granted the exclusive authority to sell lottery tickets and products to the Commonwealth's citizens. Historically, the regulation of gaming has been left to state governments, and for good reason. States can best determine the sensibilities of their citizens, and thus should be allowed to decide for their citizens what, if any, gaming should be allowed within their own borders. Today, state lotteries generate approximately \$20 billion annually for good causes in the United States. Last fiscal year, the KLC returned \$225 million to Kentucky's general fund to provide for college scholarships and grant programs and allow Kentucky's best and brightest young citizens to further their education in Kentucky.

In addition to my role with the KLC, I had the honor and privilege to serve as President of the World Lottery Association (WLA) from February 2006 to November 2010, as President of the North American Association of State & Provincial Lotteries (NASPL) from October 2001 to October 2002, and as President of the Multi-State Lottery Association (MUSL), the operator of Powerball, from July 1996 to June 1998.

RAWA would bar KLC Internet lottery sales to players in Kentucky. In 2015, the KLC plans to initiate the intrastate sale of lottery tickets via the Internet through the use of computers, smart phones and other mobile devices. Sales are projected to be \$8.5 million in the first full year of operation, and approximately \$100 million over the first four years, which amounts to approximately \$27 million in net revenues to the Commonwealth during that four year period. Clearly, the right to offer this sales channel to the citizens of the Commonwealth should not be eliminated by RAWA.

Moreover, intrastate lottery sales via the Internet will be conducted with integrity and security. State lotteries, including the KLC, have effective technical solutions to ensure that players are of legal age to play and are located within the state's borders, and to prevent criminal activities such as money laundering. The success and viability of the lottery industry relies, first and foremost, on the security and integrity of its systems and its operators. A diagram of an iLottery transaction illustrating the technology that provides multiple layers of security is enclosed.





RAWA could eliminate current sales channels. The sponsors of RAWA claim erroneously that it will restore the online gaming status quo as it existed prior to a 2011 U.S. Department of Justice opinion confirming that the Wire Act of 1961 applies only to sports betting and thus does not prohibit states from legalizing non-sports online wagering. To the contrary, this legislation unfairly eliminates rights states had prior to that opinion. The proposed legislation is particularly concerning as it relates to the KLC. If enacted into law, this legislation could unfairly eliminate current sales channels for our state's lottery – including our ability to sell traditional lottery games to players via vending machines and other self-service lottery terminals. Currently, the KLC has approximately 750 instant ticket vending machines and self-service terminals in operation throughout the state.

If adopted, RAWA must contain an exemption for state lotteries. Over the last four years, there have been consistent efforts in Congress to ban Internet wagering outright – including the sale of lottery tickets. It is unfair to limit sales options for state lotteries and their players. Internet sales by state lotteries should be exempted in RAWA, similar to the treatment given Internet betting on games run to benefit charitable organizations, Internet betting on horse races, and the online play of pay-for-play fantasy sports tournaments. State lotteries are managed by state governments, and state operations are fully transparent and highly regulated.

The KLC is not alone in its support of states' rights on this issue. The North American Association of State & Provincial Lotteries (NASPL) was founded in 1971 and is the national trade association whose membership includes all 44 state-sanctioned lottery organization in the United States and the Washington, DC Lottery. NASPL's member jurisdictions have long held and supported the individual states' authority and right to regulate gaming within their borders granted by the tenth amendment of the Constitution of the United States of America. In fact, NASPL has several times formally expressed its support of this position.

Thank you for your time and consideration of this matter. Please feel free to contact me should you need additional information. Mary Harville, KLC General Counsel, and I will be traveling to Washington, D.C. with other U.S. lottery executives to meet with members of our senatorial and congressional delegations. Accordingly, we will be contacting a member of your staff to seek the opportunity to meet with you and/or designated members of your senior staff, as we did in December 2012 regarding the Reid/Kyl Bill.

Sincerely,



Enclosure

cc: Personalized letters to Senator Rand Paul and Kentucky Congressional Members  
Governor Steven L. Beshear



DEMOCRATIC GOVERNORS ASSOCIATION  
1401 K STREET NW, SUITE 200 | WASHINGTON, DC 20005  
T 202.772.5600 | F 202.772.5602 |  
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DemocraticGovernors.org

March 17, 2015

Gov. Steve Bullock  
Montana  
Chair

Gov. Dan Malloy  
Connecticut  
Chair-Elect

Gov. Maggie Hassan  
New Hampshire  
Vice Chair

The Honorable Mitch McConnell  
Majority Leader  
U.S. Senate  
Washington, DC 20510

The Honorable John Boehner  
Speaker of the House  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Harry Reid  
Minority Leader  
U.S. Senate  
Washington, DC 20510

The Honorable Nancy Pelosi  
Minority Leader  
U.S. House of Representatives  
Washington, DC 20515

EXECUTIVE COMMITTEE

Gov. Alejandro Garcia-Padilla  
Puerto Rico

Gov. Jay Inslee  
Washington  
Finance Chair

Gov. Jack Markell  
Delaware

Gov. Peter Shumlin  
Vermont

Elisabeth Pearson  
Executive Director

Peter O'Keefe  
Treasurer

Dear Senators McConnell and Reid, Speaker Boehner and Leader Pelosi,

On behalf of the Democratic Governors Association, we are writing to express our opposition to the "Restoration of America's Wire Act 2015," as introduced by Representative Jason Chaffetz (R-UT).

We believe strongly that the issue of Internet gaming, as has historically been the case with other forms of gaming, is best left to the states to decide and regulate. This approach is consistent with the congressional intent related to online gaming as stated in the "Unlawful Internet Gambling Enforcement Act of 2006," decades after the Wire Act was enacted.

State legislators, working in tandem with governors and executive branch agencies, are best positioned to decide if and how online gaming works in their communities. Furthermore, a well-regulated online gaming industry could provide a significant revenue source for state governments while allowing our law enforcement agencies to better deter and prosecute dangerous criminal activity – including fraud, money laundering and terrorist financing.

As you consider the issue of Internet gaming, we hope you give strong consideration to the importance of preserving these state rights and the opportunity that embracing a state-by-state regulatory approach could provide.

Sincerely,

Governor Steve Bullock  
Chair, DGA  
State of Montana

Governor Maggie Wood Hassan  
Vice Chair, DGA  
State of New Hampshire

## ROLL CALL

THE SOURCE FOR NEWS ON CAPITOL HILL SINCE 1955

### The Wire Act -- Don't Fix What Isn't Broken

March 18, 2015

By John Pappas

The House Judiciary Subcommittee on Crime, Terrorism, Homeland Security and Investigations will hold a hearing soon on legislation introduced by Rep. [Jason Chaffetz](#), R-Utah, the Restoration of America's Wire Act. You may wonder why the sudden interest in "restoring" the Wire Act of 1961. Oddly, the answer has to do with online gaming and a perceived executive overreach.

Chaffetz blames the Obama administration for opening the doors to states licensing Internet gaming. While the use of executive branch powers can be debated, there is no debate the Department of Justice correctly interpreted the Wire Act.

First, a little background. The Wire Act was enacted in 1961 to stop the mob from illegally "booking" sports bets nationwide via a wire. Thirty years later, in the 1990s, when offshore Internet gaming operators began taking bets from Americans, the DOJ took the position such activity violated the Wire Act, whether it involved sports betting or casino-style bets or wagers.

Since then, the DOJ's decision has been called into question by the federal courts such as in 2002 when the highest court to examine the question, the 5th Circuit Court of Appeals (In Re: MasterCard International Inc.), held that the Wire Act only applied to sports betting.

Lawmakers have also considered alternative solutions for addressing offshore gambling. In fact, the House has passed many different variations of Internet gambling prohibitions, but every one that received serious consideration respected states' rights by exempting state-licensed intrastate bets from its prohibition or enforcement mechanism.

Between 1996 and 2006, Congress considered a series of bills to update the Wire Act, all of them authored by then-Sen. [Jon Kyl](#), R-Ariz., and current chairman of the Judiciary Committee Rep. [Robert W. Goodlatte](#), R-Va. Each of these would have applied the Wire Act to non-sports betting, but specifically exempted from the Wire Act intrastate bets accepted by a state-licensed entity.

In the end, Congress was unable to update the Wire Act; but in 2006, President George W. Bush signed into law the Unlawful Internet Gambling Enforcement Act. Though it did not amend the Wire Act, it contained a definition of "unlawful internet gambling" and it exempted from that definition state-licensed intrastate wagers.

Finally, in 2011, the DOJ found their expansive interpretation of the Wire Act was incorrect and rewrote their policy to meet the actual language of the legislation.

Despite all the evidence to the contrary, Chaffetz is convinced it was Congress' intent when the act was passed, more than 50 years ago, to prohibit all forms of gambling over the Internet. RAWA would not "restore" the Wire Act, it would actually create a brand new federal law that would usurp states' rights to regulate and police online gaming within their own borders.

Perversely, prohibition would roll back successful consumer protection driven policies states have already established to authorize Internet poker and other forms of online wagering, leaving consumers completely unprotected and doing nothing to stop illegal offshore Internet gambling from continuing to attract U.S. customers.

Advocates of RAWA claim that their bill will ban online gaming, yet it does nothing of the sort. RAWA contains two major exemptions for Internet horse racing and fantasy sports — both of which are widespread and available throughout the United States today. It also does nothing to address the current offshore and unregulated market that exists today in all 50 states. The only thing RAWA bans is states from authorizing and safeguarding online gaming for its citizens.

This is particularly dangerous because it prevents state regulators from setting strict licensing standards that require operators to use sophisticated age verification technologies to keep minors off the websites as well as technologies to identify and block problem gamblers. RAWA would also keep trusted and well known U.S. and internationally regulated companies from providing American consumers with a fair game and hamstringing U.S. law enforcement from rooting out and prosecuting unregulated operators.

And federal lawmakers don't have to wonder, "Can Internet gaming be regulated?" It is not a theory; it is reality. Not only can we now reference the current U.S. regulated Internet gaming market, we also have the benefit of learning from Europe, where Internet gaming has been successfully regulated for more than ten years.

If Chaffetz is concerned about executive overreach, he should first consider how his own legislation would empower a federal overreach into states' rights as established by the U.S. Constitution. Members of the subcommittee must recognize RAWA is not a "fix", but rather an attempt to rewrite history at all Americans' expense.

*John Pappas is the executive director of the Poker Players Alliance.*

# ROLL CALL

THE SOURCE FOR NEWS ON CAPITOL HILL SINCE 1955

## Regulatory Oversight of Online Gaming in the States Is Working

May 21, 2015

By Anna Sainsbury, Letter to the Editor

I was struck by the assumption in Lyle Beckwith's commentary ("[States' Rights and Internet Gambling](#)," Roll Call, May 7, 2015) that there is no regulatory oversight on geolocation for online gambling in the U.S. today, and no way to secure geolocation compliance against well-known spoofing, tampering and fraud tools. In fact, the opposite is true and already many states have stepped up to successfully embrace new technology to address these problems.

I agree, however, with some of Beckwith's points. First, it is easy to fake your location online and many people are doing it. (Netflix for example has been said to have 50 million users who fake their location to access their content.) In addition, the jurisdictions and states that choose to legalize and regulate online gaming or lottery need to take such risks into account.

However, what was missing from Beckwith's piece was the fact that regulators in the three jurisdictions that license real-money online gaming at the moment — Nevada, New Jersey and Delaware — took these risks into account in the drawing up of their requirements for technical compliance from their online gaming operators.

As a licensed geolocation provider in these three states, I can assure you that, in fact, these regulators literally ran thousands and thousands of tests outside of their own states' boundaries, attempting to use all the spoofing techniques alluded to by Beckwith (and many more) in order to ensure the location results we provide are the correct ones and that their neighbors' sovereignty over gaming was respected. Indeed, the regulators sent letters to their colleagues in neighboring states setting out the measures to ensure proper geo-location and inviting them to audit for themselves the sufficiency of the safeguards.

Moreover, three leading independent gaming test laboratories (GLI, BMM and NMI) all were retained to conduct their own tests of our solution to ensure compliance and safety.

So, to come back to Beckwith's core question: "If the bar is set high enough, can geo-location technology methods identify when someone is within the borders of a state or outside of the borders of that state?" The answer is an unequivocal "yes." Indeed, we do exactly that about 5 million times a month to pinpoint, on average a potential customer's location to within 50 yards.

This is no easy task, and companies like GeoComply exist specifically because such a challenge once was beyond the capabilities of the conventional geolocation companies. Today, though, states are able to police out of state gaming once their games are on the Internet. Safeguards and regulatory oversight are in place and indeed the UIGEA law enacted in 2005 would make non-compliance a criminal violation with a maximum penalty of five years in a federal prison.

I welcome you to visit our state of the art monitoring facilities in New Jersey or Nevada where we can show you what we do; real-time, across phones, tablets and PC's to ensure the jurisdictional rights of all the states are protected and compliance to the federal law for online gaming is upheld.

Geolocation is one problem you can take off your sleepless night list!

*Anna Sainsbury is chief executive officer of GeoComply.*



J. Gary Pretlow  
Assemblyman 87<sup>th</sup> District

PLEASE REPLY TO:  
845 Legislative Office Building  
Albany, New York 12248

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Assembly Steering Committee

June 16<sup>th</sup>, 2015

Dear Members of the New York Congressional Delegation,

We are writing to express our strong opposition to H.R. 707, the so-called "Restoration of America's Wire Act" (RAWA), and we ask that you work toward defeating this bill and the attempt to take away a power reserved for each of the states- the power to define its gambling laws.

RAWA's attempt at a federal prohibition of online gambling would directly and negatively impact New York by foreclosing the future potential of the New York Lottery to use the Internet for sales. It will also preclude the legislature from new tax revenue and to create economic and employment opportunities. It would prevent New York from pursuing the regulatory approach to Internet poker which has been under review by the legislature and which several states have successfully implemented.

The regulatory approach establishes a legitimate online poker industry within a state's borders, helps drive illegal operators out of the market, and minimize adult consumers' and minors' exposure to the risks associated with unregulated Internet gambling. A prohibitionist approach perpetuates the black market and exposes children and others to gambling behind a curtain with no regulation or rules to protect consumers and the vulnerable.

H.R. 707 also merits opposition for reasons that have nothing to do with gambling per se. The legislation is inimical to the broader interests of New York, which recognizes the benefits of the Internet for all industries and businesses in the state. It usurps New York's ability to determine for itself what forms are gambling are authorized within the state, a right which New York and every other state has historically exercised, and violates the rights and protections guaranteed to the states under the Tenth Amendment of the Constitution of the United States.

Again, we ask you for your unequivocal opposition to H.R. 707, the "Restoration of America's Wire Act."

Respectfully,

Hon. J. Gary Pretlow  
Assemblyman 89<sup>th</sup> A.D.



Hon. Margaret Markey  
Assemblywoman 30<sup>th</sup> A.D.



Hon. Andrew Garbarino  
Assemblyman 7<sup>th</sup> A.D.



Hon. Michaelle Solages  
Assemblywoman 22<sup>nd</sup> A.D.



Hon. Phillip Goldfeder  
Assemblyman 23<sup>rd</sup> A.D.



## A Bad Bet for Republicans

*Supporting a ban on Internet gambling will cause the 2016 GOPers to go bust with young people.*

September 10, 2015

By Ron Paul

Young people's dissatisfaction with President Barack Obama's failure to deliver the peace and prosperity he promised in 2008 could allow Republicans to capture the youth vote in 2016. But in order to capitalize on that opportunity, Republicans must embrace the philosophy of liberty that drew so many young people to my 2008 and 2012 presidential campaigns.

These younger voters expect Republicans to consistently defend individual liberty and limited government. Millennial voters also expect the GOP to oppose crony capitalism, even – and especially – when the cronies are GOP donors. Sadly, two presidential candidates, Sens. Lindsey Graham of South Carolina and Marco Rubio of Florida, are supporting legislation that combines an unconstitutional assault on individual liberty with cronyism.

The bill in question is the so-called "Restoration of America's Wire Act," more accurately named the iGaming ban. This legislation makes it a federal crime to gamble online. It nullifies laws in three states allowing online gambling and it pre-empts ongoing debates in several states considering legalizing internet gambling.

Proponents of the iGaming ban claim a nationwide ban on internet gambling is necessary to protect against widespread online gambling by citizens in states where gambling is outlawed. This argument ignores the existence of technology allowing online casinos to ensure their customers are legally allowed to gamble online.

A national ban would not be justified even if state laws allowing online gambling led to widespread violations of other state laws prohibiting Internet gambling. The 10th Amendment is supposed to restrain federal power, not justify creating new federal crimes.

Passage of the ban will give the federal government a new excuse to spy on all of our online activities. Whenever I speak to young people, they enthusiastically cheer my attacks on warrantless wiretapping and mass surveillance. Does anyone believe these younger voters will support a candidate or a party that supports letting government agencies spy on their online activities to ensure they are not playing poker?

Libertarian-minded millennials agree with conservative attacks on liberal nanny state programs like gun control, Obamacare and Michelle Obama's school lunch program. However, they are alienated by the hypocrisy shown by too many conservatives who claim to favor individual liberty, yet support legislation like the iGaming ban because they disapprove of gambling. A "conservative" nanny state is just as unconstitutional, and as dangerous to liberty, as a liberal one.



Those with moral objections to gambling have the right to try to persuade their fellow citizens to not gamble. What they do not have the right to do is use government force to stop people from engaging in activities, like gambling, that do not involve force or fraud.

It is an open secret that the iGaming ban is being pushed by one billionaire casino mogul, who (not coincidentally) is also one of the country's top political donors. This donor has chosen to not operate an online casino, and, rather than fairly compete with his online competitors, he is attempting to use his influence to outlaw internet gambling.

Prior to waging his personal struggle against online gambling, this donor had earned the gratitude of neoconservatives in and out of Congress for using his money to promote a hawkish foreign policy. This may explain why some of the iGaming ban's biggest supporters, including Graham and Rubio, are also some of the biggest hawks in Congress.

It is hard to imagine a better way to alienate millennial voters than by supporting another unconstitutional infringement on their freedom in order to aid one billionaire neocon. Any politician who bets on the iGaming ban is bound to come up with lemons.

*Ron Paul, a former Republican congressman and presidential candidate, is the chairman of Campaign for Liberty.*



MARK BIRNOVICH  
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ARIZONA

December 4, 2015

**U.S. Representative Elijah Cummings**  
**Ranking Member of the House Oversight and Government Reform Committee**  
**2230 Rayburn HOB**  
**Washington, DC 20515**

Dear Representative Cummings:

I am writing to register my opposition to S. 1668 (*Restoration of America's Wire Act*). I believe that the best place to determine gambling policy -- prohibition, regulation or something in between -- is at the state level -- where historically such decisions have been made.

With the current proliferation of gambling over the Internet, including the rise of Daily Fantasy Sports games (DFS), states must consider both the legality and possible regulation of such activities. Recently, some states have moved to petition the federal government to step in with national laws to address these issues, which I believe is a mistake. As someone who has spent a great deal of my career regulating gambling as the Director of the Arizona Department of Gaming and prosecuting gambling crimes as an Assistant United States Attorney, I would like to offer the following information for your consideration.

Both the structure of the Constitution and the Tenth Amendment reserve to the states the exercise of their traditional police powers. *See, e.g., Roth v. U.S.*, 354 U.S. 476, 493 (U.S. 1957). Gambling is an area traditionally regulated pursuant to the police power, and has long been recognized as such by the courts. Beginning with *Champion v. Ames*, 188 U.S. 321, 357 (1903), the Supreme Court has acknowledged that "a state may, for the purpose of guarding the morals of its own people," regulate or even forbid gambling "within its limits." The role of Congress, consistent with principles of federalism, is confined to the regulation of interstate

wagering. *Id.* ("Congress . . . may prohibit the carrying of lottery tickets from one state to another."). The insight from *Champion* has not eroded with passing decades. See, e.g., *United States v. Wall*, 92 F.3d 1444, 1451 n. 16 (6<sup>th</sup> Cir. 1996).

Likewise, states have owned and asserted their police power over gambling. See, e.g., *Bird v. State*, 908 P.2d 12, 20 (Ariz. Ct. App. 1995) ("The government has the constitutional power to regulate or prohibit gambling in general."); *Army Navy Bingo, Garrison No. 2196 v. Plowden*, 314 S.E.2d 339, 340 (S.C. 1984) ("[T]he State's power to suppress gambling is practically unrestrained."); *State v. Thompson*, 60 S.W. 1077, 1078 (Mo. 1901) ("[T]he State may, in the exercise of its police powers, prohibit [gambling] altogether.").

To be sure, there are problems with S. 1668 that extend beyond the principle of federalism. For example, the bill might not effectively address DFS, as it contains a sports exception; the bill could hamper the ability of states to offer lottery and other games on the Internet – which many are now safely providing, to generate revenues for public needs like education, property tax reform and advanced consumer protections; and the bill does nothing to help individual states address such challenges as Internet sweepstakes, which have evolved through state sweepstakes laws.

The principle of federalism should be a major factor in any assessment of federal legislation. Not every problem warrants a federal solution. Internet gambling is a matter for the states.

Respectfully,

A handwritten signature in black ink, appearing to read "Mark Brnovich", with a long horizontal flourish extending to the right.

Mark Brnovich  
Attorney General

# THE HILL

## Apply 10th Amendment to online gambling

December 7, 2015  
By Dan Schneider

The 10th Amendment to the U.S. Constitution was ratified 224 years ago — almost to the day — to ensure that the rights of the people would be protected from a government in Washington, D.C., eager to impose its will on them. Unless a power is specifically delegated to the federal government under the Constitution, it is “reserved to the States respectively, or to the people.”

The Framers called for this protection — and the American people ratified it as part of the Bill of Rights — because they did not want a national government hundreds of miles from their homes dictating how they lived their daily lives. Except to preserve our constitutionally guaranteed rights, that kind of authority must reside with the people and is shared only with their state legislatures.

Of course, liberals bent on forcing their collective will on the public do not like the 10th Amendment. That is why every conservative congressman must stand firmly with the 10th Amendment and resist the temptation to impose their own policy preferences when they fall outside the powers delegated to the federal government.

Rep. Jason Chaffetz (R-Utah), chairman of the House Oversight and Government Reform Committee, is a good conservative with a Boehner-era American Conservative Union (ACU) rating of 88 percent. That is a very respectable score that roughly correlates with his alignment to the 10th Amendment. Chaffetz and many of Utah’s political leaders strongly support transferring certain federal lands back to the states. Clearly, Chaffetz understands that state and local governments are better equipped and motivated to enhance environmental health and economic productivity than nameless, faceless bureaucrats in Washington can ever hope to achieve. The ACU also applauds Chaffetz’s efforts to restore the rights of the states to establish their own taxing systems. This issue is often horribly mischaracterized by certain opponents, so the congressman’s support of states’ rights in this instance shows courage, and we respect him for it.

However, conservative principles are not something that members of Congress can pick and choose to adopt when it’s convenient. To do so would create a slippery slope that would erode the basic foundations of our federal-state system. Just as we encourage every member of Congress to strengthen their conservative ratings, we hope that all members make this point clear in the upcoming hearing in the Oversight Committee that Chaffetz has called to consider the issue of internet gambling later this week.

The ACU understands that gambling harms some people. Scientific American magazine recently cited surveys showing that about one-half of 1 percent of Americans are addicted to gambling. While we do not want to diminish the tragedy of addiction, we don’t see how federal intervention could be superior to a state response to this problem, or why the heavy hand of the federal government should be allowed to trump the 10th Amendment when the percentage of impacted Americans is so miniscule. States have already proven that they have the ability to prohibit gambling or approve and regulate it.

It is also important to note that no bill in Congress would or could ban online gambling, in part because it is impossible to prevent foreign operators in places like the Caribbean, China, and Russia from bringing their gambling business into U.S. markets. Moreover, Chaffetz's bill would allow some domestic Internet gambling and prevent others, essentially picking the winners and losers. FanDuel and DraftKings are just two examples. And, for years, Americans have been legally allowed to bet on horse racing over the Internet.

As strong supporters of the 10th Amendment, the ACU will never forget that when we grow the power of the federal government to limit people's freedoms, we also empower it to mandate other aspects of our lives (e.g., the Little Sisters of the Poor under the ObamaCare mandates). Therefore, we would need to see significant, broad-based harm before even entertaining the idea of federal usurpation of states' rights. We do not see that kind of harm here, nor do we see any tangible benefit from adopting such a scheme.

Similarly, as explained in an interview with William F. Buckley Jr. in 1967, then-California Gov. Ronald Reagan explained there is, in fact, "a very practical advantage" for allowing the states to govern themselves on thorny issues. Reagan noted that the advantage is this: If conditions are so terrible in one state, the federal system of 50 states gives citizens the right to vote with their feet. As long as the rules and the regulations and the taxes are not uniform, there's a kind of built-in control on how bad a state government can get, because if it passes a certain point, the people just pack up and move to another state where things are better. We should look very carefully on throwing away this control. Let's say that all the rules become uniform; then, if you object to the policies of government, where do you go?

Reagan got it right. Honoring the rights of states not only generates the kind of laboratories of learning envisioned by the Framers, it also prevents one state from forcing its will on another. It would be a sad day, indeed, if Nevada were permitted to dictate to the people of Utah what kinds of gambling would be permitted in Salt Lake City.

Moreover, it's not Congress's job to pick winners and losers. Using the federal government to target certain competitors may be very good for the profits of some favored businesses, but it is by no means an appropriate way to set policy. Although we understand the substantial downside to irresponsible gambling, it is not a proper use of the federal government to preserve the profits and success of a single company's business plan.

Conservatives recognize and understand that each state should set its own policies under the rights guaranteed by 10th Amendment to the U.S. Constitution. Conservatives trust the states to know what is right. Furthermore, conservatives trust our fellow Americans to understand that all people should be treated equally under the law with favoritism toward none. We urge all members of the House Oversight Committee to stand for the principles in our Constitution.

*Schneider is the executive director of the American Conservative Union.*



Lia Nower, Director  
 School of Social Work  
 556 George Street  
 New Brunswick, NJ 08723  
 p. 848-699-4939  
 email: lnower@rutgers.edu

December 8, 2015

Dear Rep. Watson Coleman,

I direct the Center for Gambling Studies at Rutgers University. The center is a non-partisan research, policy, and training center for gambling-related issues. We have been asked by the Division of Gaming Enforcement to evaluate online gambling behavior in the State of New Jersey and to provide yearly reports to Gov. Christie regarding the impact of internet gambling on problem gambling behavior. We are also finishing the first of two waves of a statewide prevalence study that examines internet gambling, fantasy sports play and land-based gambling behaviors in a representative sample of New Jersey residents.

I appreciate the opportunity to provide this informational letter regarding the potential implications of interactive (internet, smartphone, tablet) gambling on law enforcement.

In the U.S., interactive gaming opportunities are a relatively new phenomenon, following trends in Canada, Australia and the U.K. Though accurate estimates are difficult to calculate, reports indicate Americans wager billions annually on unregulated, off-shore sites. Research in other countries offers insight into the general profile of interactive gamblers: males who are employed with higher household incomes who tend to participate in both interactive and land-based games. Key research findings also suggest that interactive medium primarily appeals to individuals who are already involved in gambling activities in other venues and may have established high-risk patterns of play. The anonymity, speed, and convenience of online gambling, however, may exacerbate pre-existing gambling problems and result in higher rates of involvement and greater losses in gamblers at the highest levels of involvement.

I understand you are interested in the potential for internet gambling to increase the incidence of money laundering and other criminal behavior. That is a serious concern for unregulated, off-shore gambling sites that allow the use of bitcoin and other non-traceable currency. It is also a likely outcome on social gaming sites such as Second Life and World of Warcraft, where money is converted to online goods then back to cash again. It is a known risk with the use of cash in casino environments.

Unlike these examples, properly regulated internet gambling should pose less of a threat to law enforcement if deposits are monitored and limited to traceable accounts and credit. For example, in the tightly-regulated New Jersey environment, players are required to enter demographic data and undergo ID verification to establish an account. Transactions are funded through patron deposits pursuant to NJAC 12:69D-1.24, credit or debit card, deposit of cash, gaming chips or slot tokens at cashiering location approved by the Division, reloadable prepaid card belong to the patron, comps, and/or winnings. Player Wi-Fi address is also verified through geocoding as initiating within New Jersey. Accordingly, transactions on regulated sites fall within the scope of the Money Laundering Abatement and Financial Anti-Terrorism Act and are subject to due diligence practices, record-keeping and reporting requirements. In that way, there is little difference between the potential for money laundering through a regulated online gambling site or a land-based casino or race track. In my opinion, both internet and casino venues should prohibit cash deposits or the use of cash cards unconnected to a bank account to enhance security measures.

Availability, accessibility, and acceptability of gambling opportunities are consistently correlated with higher rates of gambling problems and attendant social consequences. To me, the critical concern regarding future legalization of interactive gaming is whether we as a national are prepared to require states to enact adequate safeguards for the individuals, partners, children and others who are unintentionally disadvantaged by the consequences of gambling disorder.

The greatest potential for adverse consequences with interactive gaming lies with the lack of informed consent and adequate harm reduction safeguards. The speed, convenience and anonymity of play, combined with the accessibility make it likely that people will spend more money more quickly than anticipated. New Jersey requires all patrons to provide customers with the means to limit the time or money spent gaming, to request a cooling off period, and to self-exclude from sites.

However, the information on these safeguards is often difficult to find and understand. I have suggested that the sign-up process for all regulated sites should include a standard, responsible gambling unit that explains to patrons each of the features and their uses, requires players to either set limits or accept defaults, provides information on odds of each game, and alerts them to an emblem on the front of each page that, when clicked, will immediately take them to the limit-setting page. Additional safeguards would include periodic breaks in play to review win/loss and play time statements and redirection to the limit-setting page at start-up, and the provision of monthly financial statements which, at this point, are only by request.

From a research perspective, interactive gaming is likely no more "addictive" than other forms of gambling. However, there is a dangerous, additive effect of the continued proliferation of gambling opportunities without requiring or facilitating the development of an effective, harm reduction network of services. At this time, there is no federal agency within NIH that is dedicated to addressing gambling-related problems or the development of primary, secondary or tertiary prevention. There is, likewise, no requirement that gaming licenses or state gambling tax revenue include a percentage, specifically earmarked for the development of empirically based treatments and services. States are left to make those decisions on an ad hoc basis and, typically, what little money there is goes to treatment, which may or may not be based on best practices. Policy reform addressing these concerns, in my opinion, would best address potential social costs of legalized gambling.

Our center would be honored to serve as a resource for the Committee, and I appreciate the opportunity to submit this letter.

Very truly yours,



Lia Nower, J.D., Ph.D.  
Professor and Director



*State of New Jersey*

Chris Christie  
*Governor*

Office of the Attorney General  
Department of Law and Public Safety  
Division of Gaming Enforcement  
P.O. Box 047  
Trenton, NJ 08625-0047

John J. Hoffman  
*Acting Attorney General*

Kim Guadagno  
*Lt. Governor*

David Rebuck  
*Director*

December 8, 2015

██████████  
Counsel  
Committee on Oversight and Government Reform - Democratic Staff  
U.S. House of Representatives  
Washington, D.C. 20515

RE: New Jersey Internet Gaming Regulation

Dear Mr. Quinn,

November 25, 2015, was the second anniversary of the launch of regulated online gaming in New Jersey. The New Jersey Division of Gaming Enforcement ("Division"), a law enforcement agency which falls under the authority of the State Attorney General, regulates the most comprehensive Internet gaming programs in the United States. There are six Internet Gaming permit holder casinos working with eight licensed Internet gaming platform providers to host a total of 17 approved Internet gaming URLs which provide both casino games and poker.

Regulating the burgeoning Internet gaming industry in this state has required the creation of a strong regulatory structure that is responsible for the investigation of the licensing suitability of Internet gaming companies and commercial entities that supply goods and services to them, as well as a technical review of all the games and related systems that are offered to the public. In addition, the Division extensively monitors daily operations and has enacted numerous regulations to enhance the integrity of gaming operations and to address responsible gaming and consumer protection issues. Although over the past two years there has been a learning curve for both the Division



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and the industry, overall from a regulatory perspective, there have been no major incidents or systematic issues that would call into question the integrity of online gaming operations. From both a legal and consumer protection standpoint, regulated Internet gaming has proven to be reliable and transparent.

One crucial area the Division focused on was to ensure that sufficient guidelines were applied for the "Know Your Customer" ("KYC") process. This process ensures that patron identities are known and that the players are old enough to gamble in New Jersey. Players must provide sufficient and verifiable information and documentation in order to successfully set up an Internet gaming account. To date, this system has been working very well with no evidence that underage individuals have been able to establish their own accounts. There have been a handful of cases of adults not protecting their account information and thereby providing an opportunity for minors play on the adults account. These few instances have been handled on a case by case basis with law enforcement.

New Jersey authorized Internet gaming platforms, like brick-and-mortar casinos, must also have detailed anti-money laundering ("AML") programs as required by the Bank Secrecy Act. As noted above, patrons are required to provide identification and all transactions are tracked. It is not possible to be anonymous or have untraceable transactions in an online casino environment. Furthermore, unusual and suspicious transactions are reported to the Financial Crimes Enforcement Network (FinCEN).

The Division also has a Fraud Alert system that alerts law enforcement to possible criminal activity. As with all types of businesses that process financial transactions, occasionally there are fraudulent activities such as improper credit card chargebacks. Statistics from financial services company Vantiv, have shown, however, that the charge back rate for authorized Internet gaming in New Jersey is significantly lower than other types of e-commerce, which illustrates that there are sufficient controls in place to mitigate chargeback risk.

Another key area has been setting up strong protocols for ensuring that play on our authorized Internet gaming websites only occurs within the borders of New Jersey. The Division has created a comprehensive multi-factor geolocation standard that utilizes not only criteria such as IP address, but also analyzes other factors such as Mobile Carrier Network Location, Wi-Fi Location, GPS location, as well as determining if computer and mobile devices have software that can hide a device's location. The Division also monitors and tracks any location where access is denied. As technological advancements occur, additional primary methods will be considered for approval by the Division. Any proposed new method would be thoroughly tested and evaluated by the Division's Technical Services Lab. Instances of anyone successfully getting past New Jersey's geolocation protocols have been negligible.

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December 8, 2015

Another important component for Internet gaming regulation is comprehensive responsible gaming requirements. All Internet gaming platform providers are required by regulation to implement various responsible gaming features. Similar to brick-and-mortar casinos, patrons are able to exclude themselves from Internet gaming. Technology is used to verify exclusion status during registration and prior to each log in. Required notifications as to 1-800-GAMBLER are presented during registration, log in and log out, as well as from the player protection page. Mandated features remind patrons of how much time they have played during one session which prevents losing track of time and serves as a "reality" check. Patrons are limited to one account per website gaming brand and have the ability to establish several types of responsible gaming limits or suspend play at any time. Patrons are prohibited from relaxing limits until after the existing limit expires. Internet gaming platforms must also maintain all records of patron activity for at least 10 years.

In addition to all the required responsible gaming features outlined above, New Jersey statute N.J.S.A 5:12-95.18 requires a study to be published on an annual basis to review the impact of Internet gaming in New Jersey. The Division has entered into a memorandum of agreement with Rutgers University and the New Jersey Department of Human Services to produce four annual reports. The first of these reports came out in early 2015 and is available on the Division website.

The Division in cooperation with other New Jersey law enforcement agencies continues to be engaged in investigating numerous illegal Internet gaming sites. These illegal sites lack the KYC, AML and responsible gaming protections required of regulated sites. We believe illegal Internet gaming activities are occurring in most, if not, all states. The Division's focus has been on reducing the activities of unregulated, illegal Internet operators engaged in accepting wagers from New Jersey patrons. We recognize the challenge presented by illegal online operators. However, we have had some success to date and will continue to press forward with our enforcement efforts.

In summary, New Jersey's comprehensive regulatory scheme over all aspects of online wagering has demonstrated that it can be made as safe and secure as land based casino operations. New Jersey welcomes the opportunity to share our experience with all interested parties.

Sincerely,

A handwritten signature in black ink, appearing to read "David Rebuck", with a stylized flourish at the end.

David Rebuck  
Director

**Responses of the Federal Bureau of Investigation  
to Questions for the Record  
Arising from the December 9, 2015 Hearing Before the  
House Oversight and Government Reform Committee Regarding  
“A Casino in Every Smartphone: Law Enforcement Implications”**

**Questions for the record from Chairman Jason Chaffetz (UT-03):**

1. In response to a question posed to Attorney General Loretta Lynch during her confirmation hearings about the use of online gambling sites by terrorist organizations, Ms. Lynch stated:

*I think certainly that what we've seen with respect to those who provide the material support and financing to terrorist organizations, they will use any means to finance those organizations."*

Do you agree with the Attorney General that online casinos can be exploited by terrorist organizations?

**Response:**

The FBI agrees with Attorney General Loretta Lynch's assessment that there is the possibility gambling sites could be exploited by terrorist organizations. FBI case information indicates that terrorists use a variety of methods for raising, storing, and subsequently moving funds to finance their operations. While the FBI has no substantive case information or reporting to suggest this activity is occurring, the possibility does exist.

2. During the Committee's December 9, 2015 hearing, you testified that the FBI has "one investigation that we did conduct where the individual used, among other things . . . gambling for money laundering purposes and so forth." Can you provide the Committee with more details on that investigation?

**Response:**

The matter referred to is pending litigation, and we respectfully decline to comment at this time.

3. Are you aware PokerStars was recently approved by the State of New Jersey as a provider to one of its Internet gambling licensees?

**Response:**

Yes.

4. Have the founders of PokerStars entered a plea or presented themselves in response to the indictment brought by the Justice Department?

**Response:**

Of the three individuals who were charged by the Department, one has returned to the United States and pled guilty, while the other two remain outside the country and have not been apprehended.

5. Are you aware whether there is a federal agency with the resources and personnel necessary to police a patchwork of state Internet gambling regulatory regimes, protect states that do not permit Internet gambling, and prevent the use of Internet casinos and lotteries for money laundering and other criminal activities?

**Response:**

No, we are not aware of the existence of this federal agency.

6. If online gambling proliferates around the country, (i) what law enforcement agency will police those sites, and (ii) who will pay for it?

**Response:**

The FBI does not have authority to regulate legal websites. The issue must be resolved by states where online gambling is legal.

7. Might online gambling make it easier to launder money or finance terrorism internationally? For instance, could two criminals play a game of poker, with Player A losing to Player B intentionally? Player B, if he is in another country with less stringent controls, could then claim those fraudulent winnings as legitimate income? Would the funds in this example be laundered?

**Response:**

While the above described scenarios are possible, the FBI National Security Branch's assessment is that an online gambling site would be an overly elaborate means of moving or laundering funds when compared to the variety of simple, cheap, fast and operationally effective money movement methods. FBI cases and reporting indicate extremists use a range of money movement options to fund activities. The potential for criminals to launder, or attempt to launder the proceeds of their criminal activity exists within all financial transactions, legitimate or otherwise. The example proffered in the question is not outside the realm of possibility.

8. Does the Department's Office of Legal Counsel's (OLC's) 2011 memorandum bind the Executive Branch? Does it contain the force of law outside the Executive Branch?

**Response:**

The FBI understands that the 2011 OLC opinion applies to the FBI, but defers other questions about the opinion to the Department of Justice.

9. If the OLC memorandum does not contain the force of law outside the Executive Branch, please answer the following questions:

- a. Could the memorandum be repudiated by the next Administration or any future Attorney General?
- b. Are the online gambling establishments in the states who have moved forward on the basis of the OLC's memorandum placing themselves in potential legal jeopardy?
- c. Could bettors who lose money through online gambling sites refuse to pay claiming the debt is unenforceable because the underlying transaction violated the law?

**Response:**

The FBI is not in a position to respond to this question.

**RESPONSES OF MARK LIPPARELLI TO  
CHAIRMAN JASON CHAFFETZ (February 10, 2016)**

**CHAIRMAN CHAFFETZ**

1. Nevada created a law to allow “interactive” gaming within the boundary of the state in early 2000s. The law extends to all forms of gaming. The enabling regulations governing such activity were not created until December, 2011. Further, the first set of established rules allowed only for peer to peer competitive poker. No other rules/products (beyond peer to peer poker) have been requested by the industry. On a technical basis, the products have been a material success. As a result of Nevada’s rather limited population base, most experts would acknowledge that peer to peer poker has not been a financial success.

2. I am not in a position to opine on the question presented.

3. It is my opinion that a good deal of law relating to gaming in the United States is dated and many innovations present continuing challenges for policy makers and enforcement agencies. It would seem the OLC was limited in its ability to anything other than interpret the standing law against the activities taking place in the market. Prior to the OLC’s opinion, the written statements from the Justice Department were short in length and did not offer the underlying basis of its interpretation. In my opinion, this limited guidance likely created doubt among state agencies.

4. I am aware, generally, that Pokerstars (through its current ownership structure) was approved for licensure in the State of New Jersey. While I have material experience in the area of licensing and suitability, I am not in a position to offer an opinion on the State of New Jersey’s licensing action.

On a more fundamental basis, a question does arise as to what criteria could or should be established by various licensing bodies with respect to any parties or companies that may have participated in various online gaming activities historically within the US boundaries. In fact, these discussions have been a major part of state legislative committee hearings. Given the historical trends in gaming regulation and licensing, a material argument can be advanced that companies or individuals that failed to follow federal and state law should, at a minimum, be meaningfully scrutinized. It stands to reason that those parties who followed the law ought to be rewarded for their adherence. It would seem contrary to this view that those who broke the rules should not then be the beneficiaries of their former illegal acts. For example, in most jurisdictions, a company or individual found to have been conducting illegal gaming activities would more than likely not be found suitable for a licensing casino operation.

**CHAIRMAN WILL HURD**

1. While I am not specifically aware of state prosecution of an internet gaming operator in the State of Nevada, I am highly confident our state law makes it clear that offering a gambling game online within the state without a license is a crime.

Enforcement of illegal online gaming is multifaceted. A good portion of these products are offered by companies or individuals who manage these activities in offshore locations. Secondly, it is not often patrons who utilize such gaming sites are forthcoming about any problems they may have with such operators (as it requires the underlying embarrassing admission by the patron). Lastly, such "crimes" requires prioritization by law enforcement and prosecutors who view, in my opinion, these activities as hard to enforce and complex in nature.

**REPRESENTATIVE ROD BLUM**

1. The State of Nevada adopted detailed regulations and technical standards that must be approved independent testing laboratories prior to a site being granted approval to operate within the state.

2. The state specifically mandated that prospective sites provide technical mechanisms to show that access to sites are done directly. While no system is fool proof, the bar was set high. Access through VPNs and proxy sites are prevented and users must make affirmative steps terminate such services when attempting logon. If the systems cannot determine location with certainty, access is denied. Direct enrollment attempts from locations outside the boundaries are conducted by the agency staff as well as risk management teams within the licensees. It is important to note that licensees are subject to continued regulatory burdens to secure their operations and, if unsuccessful, are subject to disciplinary actions and fines.

3. Technical innovation has been a regulatory challenge for decades. I am confident that regulators will manage or adjust standards that will thwart any such attacks as they are revealed. A standard of perfection would result the denial of the use of most technology. The regulatory standard, instead, is that the innovation can be largely managed and that the risk of compromise is relatively low or reasonably discovered. Tools designed to defeat or secure geolocation will be an evolving area of technology not only for gaming but also for other industries such as banking, health care, and security.