

MARYLAND GAMBLING STUDY COMMISSION

Court of Appeals Building
Annapolis, Maryland

REPORT OF MARYLAND GAMBLING STUDY COMMISSION

TO

THE GOVERNOR OF MARYLAND

Subject: Numbers Game and Pinball Machines

December 7, 1967

On April 18, 1967, you appointed the undersigned to undertake a study of gambling operations in this state and report to you our conclusions and recommendations. Specifically we have been requested to:

- (1) Review the status of legalized gambling which is confined to slot machines, so-called pinball machines, bingo games and pari-mutuel betting at the State's licensed race tracks.
- (2) Inquire into the prevalence of the unlawful "numbers game" for the purpose of suggesting what may be done to effectively combat the same.
- (3) Consider the frequently advanced proposal for a State conducted lottery.
- (4) Review a proposal which had been made to permit in Calvert County dog racing with pari-mutuel betting.

On or before December 31, 1967, we will submit final separate reports dealing with slot machines, bingo, the proposed lottery and the suggested dog racing operation.

Our final report relating to the State's racing structure and accompanying pari-mutuel betting must be deferred until March 1, 1968, pending the completion of an in-depth study thereof now under way with the assistance of economists and other independent experts.

We deem it inappropriate to longer defer, however, the results of our investigation into the numbers racket and the so-called pinball machines. The former is perhaps the most vicious of all known forms of

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gambling, perpetrates the greatest fraud upon its victims and is a means of gambling most frequently indulged in by that segment of the society which can least afford it. It is apparently conducted on an ever increasing level of operations and in the most obvious defiance of the law.

Pinball machines, as operated in the vast majority of locations where they are installed, are likewise unlawful and are daily extracting thousands of dollars from persons who are not seeking amusement but playing for a cash pay-off.

It seems clear to us that prompt action should be taken by the state government to provide a more effective means of combatting the racketeers who are growing rich on the numbers game and those persons operating pinball machines in a manner they know violates the laws of the state.

We now summarize the results of our study of these two types of gambling and submit our recommendation of what we believe should be done.

The Numbers Game

This insidious method of defrauding the public is accomplished by the sale of slips or tickets bearing a specific number consisting of three digits. The purchaser can buy a slip for any price from 10 cents to presumably whatever maximum amount he is willing to gamble. The numbers on the winning slips are generally a combination derived from race track results and which winning numbers become known to the purchaser of the slip by consulting the results of the day's racing at a particular track likewise known to him.

Tickets are sold by bartenders, waitresses and other persons employed by or planted in taverns, night clubs and other public places of the most undesirable character. Likewise, solicitors are clandestinely procured among employees who are otherwise engaged in honest employment in office buildings and other locations daily housing large numbers of people. In addition to this force of commission merchants, the racketeers directing the operations employ persons termed "writers" who sell slips at random, likewise on a commission basis.

It has been estimated by informed sources that not less than one hundred million dollars a year is being extracted in Baltimore City alone from the unfortunate victims of the game. The same sources advise us that

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the chances against winning by the holder of a numbers slip is approximately 999 to 1. Furthermore, the holder of the slip has no enforceable means of collecting his winnings. He must rely hopefully upon the promise to pay by the racketeer who is being enriched by the disgraceful operation.

It is not necessary for us to marshal the evidence proving the widespread existence in Baltimore of the numbers game. Recent indictments by the grand jury in the U. S. District Court for Maryland, fully supported by evidence gathered as a result of searches of certain premises by federal Internal Revenue Agents authorized by search warrants issued on the basis of facts disclosed by such Agents, demonstrate the prevalence of the racket. Previous federal grand juries have deplored the situation, and there have been numerous convictions in the state courts of those engaged in the sale of numbers tickets. Other accredited investigating bodies have emphasized the seriousness of the situation. Nevertheless, the racket continues apparently unabated.

The simple truth is that the racket is so notoriously widespread in Baltimore that it taxes credulity to believe its existence on such a scale could exist without the racketeers involved enjoying some degree of police and political protection. High ranking police and prosecuting officials are aware of this fact and are industriously engaged in seeking a solution.

The substance of our proposal, hereinafter set forth and offered as a means of greatly aiding those officials, has their endorsement.

It is appropriate to here express our grateful appreciation of the invaluable assistance extended us by the United States District Attorney, the State's Attorney of Baltimore City, the Superintendent of the Maryland State Police and the Police Commissioner of Baltimore City. Each has made a valuable contribution to our knowledge of the relevant facts and thereby aided us materially in reaching our conclusions.

Pinball Machines

Slot machines, as distinguished from pinball machines, are presently legal only in the four Southern Maryland counties--Anne Arundel, Charles, Calvert, and St. Mary's. They are destined, however, under existing state law, to phase out as of July 1, 1968. The operation of these machines lawfully affords the player the possibility of receiving a return in money.

Pinball machines, which are solely amusement devices and where the player can obtain no cash reward or pay-off, are likewise permissible under existing Maryland law.

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Our investigation, however, has clearly demonstrated that the vast majority of pinball machines in use in Maryland are either so constructed or being so operated as to permit the player to receive a pay-off. They are, in fact, being operated in a manner similar to slot machines which are unlawful in Baltimore City and nineteen counties of the state.

Testimony before Congressional Committees has established that there are more gambling machine devices licensed with the federal government in Maryland than any other state in the entire United States.¹

The Federal Government first undertook to support local law enforcement agencies in curbing coin gambling machines by means of a federal stamp tax imposed in 1941 on so-called "slot machines." This measure contained language designed to reach both direct and indirect pay-offs: "which, by operation of the element of chance, may deliver, or entitle the person playing or operating the machine to receive cash, premiums, merchandise or tokens." It was enforced sporadically against pinball machines but doubt existed as to whether a pinball machine was a so-called "slot machine" until resolved in 1957 by the United States Supreme Court in *U. S. v. Korpan*, 344 U. S. 271. Since 1957 the Internal Revenue Service has imposed the tax (now at the rate of \$250 per machine) aggressively upon gambling pinball devices.

In 1967, according to the Internal Revenue Service, federal stamps (really licenses) had been secured for 6149 machines operated in Maryland. Since the records of the State Comptroller indicate that there are 3790 slot machines² in Southern Maryland, it follows that 2359 (6149 less 3790) pinball machines bear a federal stamp tax. ~~There are hence only 669 (3790 less 2359) pinball machines which are either being lawfully operated as strictly amusement devices or evading the federal statute.~~

It is most unlikely that a proprietor of a tavern or other such public establishment would pay \$250 annually for a federal license for each machine in his establishment unless the same was to be operated as

¹See Report of Maryland Slot Machine Study Committee dated January 12, 1962. Since that date the number has increased.

²All paying the \$250 federal stamp tax in addition to approximately \$1,530,672 annually to the four counties involved.

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a gambling device. It is preposterous to argue that a person playing pinball machines continuously for a protracted period of time³ is playing solely for amusement. It is quite a bit more plausible to believe that he is seeking a pay-off in money. In any event, we need not rely upon either statistics or debate to make manifest the fact that in Baltimore City and every County in Maryland where pinball machines are installed, the law is being flagrantly violated.

With the splendid co-operation and under the supervision of the Superintendent of the Maryland State Police Department, a field surveillance was made at our request of many pinball locations in Baltimore and all of the counties. This was accomplished by the actual playing of the machines by state troopers, absent their uniforms. The men selected were affiliated with the Intelligence Unit of the Department with prior experience in the conduct of such investigations.

As the result of a "crack down" in 1964, they arrested 30 persons in Frederick County for pay-offs on pinball machines in 17 of the 21 establishments surveilled. In the same year they checked 50 establishments in Harford County and in every single instance pay-offs were taking place.

The results of the current investigation disclose not only that the unlawful practice still prevails in the two said counties but that actually 88 per cent of the total number of establishments checked in Baltimore and all of the counties were paying cash to countless players in violation of the Maryland law. All of the accumulated evidence is being referred to the appropriate prosecuting official with jurisdiction.

In summary, our investigation made during recent months clearly establishes that throughout the state the barriers against unlawful gambling are being blatantly broken down.

It should be clearly borne in mind that it is most difficult for either state or local police authorities to uncover such violations. To be informative, it is time consuming and costly to play the machines and obviously it cannot be done by uniformed police officers. The machines, all electronic installations with varying attachments, cannot be confiscated without a search warrant or other court order. The machines are susceptible of frequent manipulation to change their observable characteristics prior to an examination to ascertain whether the machine in question complies with regulations defining gambling devices.

³Our evidence establishes this to be the case.

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It is idle to outlaw the slot machines on the one hand but to permit their counterpart--pinball machines--to continue in operation on the other hand.

Conclusion

There exists no state agency either adequately empowered or staffed to continuously and adequately investigate prohibited gambling activities and to aid the prosecuting officials in waging a successful war on such illicit gambling. Implementation of existing state agencies and a revision of existing state laws⁴ are required to meet the situation.

Our Commission has no statutory standing or authority. We possess none of the essential powers required to conduct an all-out attack upon the racketeers infesting this state. All we can achieve in seeking barriers against the constantly expanding unlawful gambling is to study the problem, consult those authorities who are daily exposed to it, arrange for limited actual surveillance of suspected sources, study the efforts that have been made to solve similar problems in other sections of the country and seek the counsel of those with expertise in fighting crime of this nature. All of this we have attempted to do.

What is urgently needed, in our judgment, is a state agency or authority to which is delegated such requisite powers as the right to summons witnesses, examine them under oath with resulting stenographic transcripts of their testimony, subpoena records, obtain search warrants and to possess such other statutory powers essential to a task force of this character.

Such a state agency would, of necessity, require an adequate staff although diligent efforts we have made to ascertain the extent of such requirements do not indicate the necessity for a large staff--probably not more than fifteen persons.

Participants in the numbers racket, distributors and operators of unlawful coin gambling devices, bookmakers, and all others believed to be directing or conducting unlawful gambling should be vigorously investigated. Where violations are unearthed, the evidence should be furnished to the appropriate prosecuting officials.

The existence of possible mutually protective and compensatory understandings which may exist between police or political personalities with the gambling fraternity should be constantly ferreted out and exposed for appropriate criminal action.

⁴The sections of Art. 27 of the Code relating to "Gaming" require revision. New sections thereof to permit a more effective regulation of pinball machines and to prosecute those operating the numbers game are required. Jail sentences should be mandatory in all convictions of the latter.

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There can be no valid denial of the widespread existence in Maryland of organized criminal gambling. The question is what to do about it? We believe the State of Maryland is under the obligation to protect its citizens, as far as possible, from the impact of what has all the symptoms of malignant gambling operations.

We respectfully submit that a state agency of the character we propose could render an invaluable service in assisting the police and prosecuting officials in their efforts to cope with this most serious problem. They agree with us.

It may be contended that the functions of an agency such as we suggest could properly be performed by intelligence units presently or hereafter established within the existing law enforcement agencies. We do not concur. Introspective investigations seeking to find offenders or organizational infirmities within a given state department charged with the pursuit of gambling racketeers are less likely to be as revealing than where conducted by an independent state agency. The objectives and conclusions of the former are far more likely to be defensive or self-serving than those of the latter.

The Attorney General is the legal advisor to the Police Commissioner of Baltimore City and the Maryland State Police Department, among the many other state agencies he represents. It would be extremely difficult for him to conduct an independent investigation which might be required involving any of the state bodies to whom the Attorney General is the legal advisor. Furthermore, he does not possess the essential statutory powers to permit a full and conclusive investigation.

One of the prime requisites of an authority such as we propose should be its complete detachment from any other existing state agency. It should be accountable only to the Governor and the General Assembly.

The adoption of our proposal would require legislative action, and we would be glad to confer, subject to your approval, with members of the Legislative Council or any other committee or representatives of the Legislature with respect thereto who care to pursue the matter.

Respectfully submitted,

Charles S. Garsand
Robert Brown

Clarence W. Miles, Chairman
Edgar J. [unclear]
Thomas L. Karsten

CWM:FV