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## The National District Attorneys' Association

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# Articles, Reports, and Notes OF THE NATIONAL DISTRICT ATTORNEYS' ASSOCIATION

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*Editor:* Duane R. Nedrud, Assistant Professor of Law, University of Kansas City, Kansas City, Missouri

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## ORGANIZED GAMBLING AND LAW ENFORCEMENT

EDWARD S. SILVER

A grand jury of Kings County (Brooklyn), New York, recently returned a presentment to the court regarding "effective means of combatting violations of laws relating to gambling and police corruption." The District Attorney of Kings County, Edward S. Silver, summarizes the presentment as follows:

1. Gambling is the life-blood of organized crime;
2. Gambling breeds corruption and contempt for law enforcement;
3. The action of the courts reflects a lack of understanding of the real nature of illegal gambling; and
4. Policemen assigned the task of suppressing gambling should be detectives, and not just "plainclothesmen of patrolmen rank"; and their assignment should be regarded as highly as any other phase of police activity.

The significance of the presentment warrants its reproduction for the consideration of all prosecutors who are confronted with the problem of organized gambling. Here, therefore, is the presentment as returned by the March, 1958, Grand Jury of Kings County on February 26, 1959:

### PRESENTMENT

"In [the April 28, 1958 interim presentment] we pointed out that some forty witnesses, including bookmakers and police officers, had testified before us, and that evidence of corruption within the Brooklyn Borough Plainclothes Squad had been presented to us. Lacking some technical legal proof, we were unable, as a matter of law, to return indictments. In our interim presentment we recommended that this evidence be turned over to

the Police Commissioner for appropriate departmental action. We concluded with the following statement:

'May we point out that the foregoing is but an interim report. Other phases of investigation into gambling and bookmaking in the County of Kings are currently being explored by this Grand Jury and we respectfully request the permission of this Court at a future date to submit a further presentment relating to this phase of our inquiry.'

"Since that date, this Grand Jury has continued its investigation into various phases of the enforcement of the laws relating to gambling in the County of Kings. We have heard many additional witnesses, including high-ranking officers of the Police Department. In addition to our own able Police Commissioner, Stephen P. Kennedy, who appeared before this Grand Jury on two occasions, we had the benefit of the experiences and expert opinions of officials from large cities in other parts of our nation. We heard testimony from police officers and detectives as to the methods of combatting crimes in other jurisdictions. We heard, too, considerable testimony on the subject of the interrelationship between crimes related to gambling on the one hand, and other criminal acts.

"As a result of this investigation we have arrived at certain findings and desire to make specific recommendations to this Honorable Court. The findings are these:

#### (1) Gambling Is the Life-Blood of Organized Crime

"Gambling is the very heartbeat of organized crime both on a local and national scale. Strangely enough, this vital finding, which should be apparent

to everyone concerned with the problem of law enforcement, is recognized in theory but virtually ignored in practice. We emphasize that this most important finding was arrived at from an exhaustive study of this subject. It is a finding which should be proclaimed throughout the breadth and length of our County and the nation. All of our other findings and recommendations flow from a proper understanding of this axiom of modern racketeering.

"The crimes encompassed by the term 'gambling' in this presentment are sinister. The public has been misled as to the true nature of gambling and its serious impact on our body politic, because it is confused with practices which are indulged in at one time or another by a large proportion of the respectable citizens of the community. Almost everyone, at one time or another has gambled, whether in a private game of cards, at a church bingo, at the pari-mutuel machines at a racetrack or in some other form. The result has been a public acceptance of gambling as if it were a part of human nature and, therefore, an unimportant offense. This attitude is, in large measure, responsible for the public apathy towards the enforcement of the laws relating to gambling. The public must begin to understand the crucial difference between criminals engaged in gambling and the indulgence of decent citizens in various types of betting.

"From the evidence presented to us, we state categorically that gambling crimes are linked on innumerable occasions with the most obnoxious criminal enterprises known to man. The public may think of the bookmaker in the corner candy store as an innocent betting commissioner operating a legitimate business. We have heard the evidence. We know otherwise. Actually, if you scratch the professional operator of gambling ventures you find the narcotics peddler, the loan shark, the dice game operator, the white slaver, the murderer. Brooklyn has been the scene of a number of unsolved gangland homicides over the past few years. Almost every one of those killings is involved with gambling ventures in one form or another. In one case where seven leading narcotics dealers were convicted in Kings County last year, six were actively engaged in gambling activities, including bookmaking and policy, which they used as the source of funds for their deadly trade in narcotics. We have heard considerable evidence which indicates that many of these

gambling figures have gone into labor rackets and coin operated machine rackets as well. The very case which was the initial subject of our investigation, involving two men who centered their book-making activities at a tavern known as Hugh Casey's Bar & Grill at 600 Flatbush Avenue, in the County of Kings, is an excellent example of the interrelationship of gambling and other criminal ventures. Closely allied with the bookmakers and operating out of the same tavern was a group of loan sharks who financed the bookmakers. These loan sharks also operated dice games. Literally thousands of sets of crooked dice were confiscated in raids upon their homes. Guns were found in or about the dwellings of these loan sharks. Legally intercepted telephone conversations at the same tavern during the same period showed references to a holdup of a payroll truck in the County of Kings and to a burglary of many thousands of dollars worth of transistor radios from a Long Island City factory. Evidence showed that those same bookmakers, through the loan sharks, were dealing with the notorious Robillatto, also known as 'Johnny Roberts', who was the victim of a recent gangland homicide on Utica Avenue and Kings Highway.

"In other homicides, as yet unsolved, the authorities have some evidence from informers and underworld leaks that those homicides, too, were intimately related to organized gambling. Valerino, whose body was picked out of the Narrows, was put to death, according to reliable information, because he held up a dice game without the permission of the 'syndicate' boss. The recent gangland convention at Apalachin near the City of Binghamton in the State of New York points out the importance of gambling to the underworld since the overwhelming majority of the conferees at Apalachin have histories of violations of gambling laws and involvement with gambling operations.

"The basic proposition that gambling is the heart of organized crime is true on a national scale as well, as brought out by the exposes of the Senate Rackets Committee during the period from May 10, 1950, to May 1, 1951.

"We have heard considerable testimony from persons with information covering the national scene as well as the local scene. We are convinced that the tie-up between organized crime and gambling ventures is still the most significant fact in the national crime picture; that crimes related

to gambling and vice are still the seed bed of organized crime.

"We consider it our duty, therefore, to call to the attention of this Honorable Court the need for a greater public awareness of the deadly seriousness of crimes relating to gambling and vice. If this presentment were to bring home not only to the people of this County but to the country at large, the true nature of the enemy of society known as 'organized crime' and the fact that it draws its heart-blood from gambling, we shall have performed a real public service. We shall have struck a mighty blow at the very heart of the underworld.

## (2) Gambling Crimes Breed Corruption and Contempt for Law Enforcement

"It is understandable from the first finding discussed above why official corruption is present most often in connection with the enforcement of the laws relating to gambling and vice than in any other area. This is true because of the vast profits derived from these enterprises and because of the continuing nature of the crime.

"Repeatedly, going back over many decades, exposes of police corruption, not only in this County but in cities throughout the United States show that the overwhelming majority of cases of police corruption arise in squads charged with the enforcement of laws relating to gambling and vice. In this County, an illustrious Grand Jury empanelled in December, 1949, worked for four years on this very subject. That Grand Jury exposed the 'malignant influence of professional bookmakers in contaminating vice squad police officers.' It brought about some constructive reforms, including the establishment of the Rackets Bureau of the Kings County District Attorney's Office on a permanent basis. In this regard we point out that testimony before us from high police sources shows that the Rackets Bureau of the Kings County District Attorney's Office is the single, most effective weapon in existence in this County for combatting police corruption.

"Unfortunately, corruption of this type still exists, as we have learned from the evidence adduced before us. This corruption produces disrespect for law and order and disrespect for those charged with law enforcement.

"This disrespect for law and order poisons the minds of many of our young people. It produces a contempt on their part for the law and those

charged with enforcing it. It leads them to deride decency and good conduct and thus promotes juvenile delinquency.

## (3) The Action of Our Courts Reflects the Lack of Understanding of the Real Nature of Gambling Crimes

"We find that the apathy of the public towards crimes related to gambling and vice is reflected by the courts. In the final presentment of the Hold-over December, 1949 Grand Jury of this County, the point was emphasized that:

'... wholesale gambling has thrived in large part, because such courts have not done their duty. They have, on the contrary, conferred upon the bookmakers a sense of impunity—of immunity from the sanctions of the law—that will take a very great amount of undoing. We have had before us the criminal records of numbers of bookmakers who have been convicted time and time again—some of them up to forty times—without ever being required to serve a day in jail.'

"Unfortunately, there has not been a change in the attitude of the courts. Repeatedly we have seen cases of bookmakers with numerous prior convictions both for gambling and for crimes of violence, who have escaped jail sentences. During the calendar year of 1957, in Kings County, of 157 convicted bookmakers, only one received a jail sentence. In 1956, of 145 bookmaking convictions, not one went to jail. This is true not only in this county but in other counties as well, where a jail sentence is an unusual occurrence. This condition is part of the disease of 'apathy' which exists in many other jurisdictions, where the enforcement authorities have complained to us of the cavalier attitude of the courts toward bookmakers.

"It is plain to see that the courts dealing with this crime do not comprehend the seriousness of the crimes involved and their implications with regard to the public welfare. The bookmakers and policy bankers consider these court proceedings which result so often in fines as merely part of the cost of doing business—as a sort of 'license' fee.

"Bookmakers and policy operators are soft livers. Nothing, but nothing like a jail sentence could teach them that violating our laws is serious. As the police often put it 'these bums don't like jail'.

(4) **Policemen Assigned to Uproot Gambling Should Be Detectives [and not just plainclothesmen of patrolmen rank]; and Their Job Should Be Regarded as Equally Important with Any Phase of Police Work**

"At this point it should be stated that this probe has received considerable cooperation from the Police Department of the City of New York. Police Commissioner Stephen P. Kennedy and high-ranking members of his staff have testified at length before us, have made their records available to us and have endeavored to be cooperative at all times. It is a problem which concerns them deeply. We are sure that the Commissioner and his staff are sincerely dedicated to doing the finest enforcement job possible, and it is our wish, not to act as carping critics but, rather to aid the Police authorities in their difficult task.

"In order to have a proper understanding of our recommendations, it is important to understand just how the Police Department goes about the serious work of combatting gambling. The Police Department structure is based upon the Office of the Commissioner, which is at the very head of the organization. The Commissioner has various Deputy Commissioners, as well as a Chief Inspector. There are also Chiefs of the various Borough uniformed police forces. Each Borough is also divided again into divisions, and each division in turn consists of several precincts. The precinct is the basic unit of the Police Department and operates in a comparatively small area. The headquarters of the precinct is located in the local police station under the command of a Captain.

"In addition to the organization as set forth above, there are other branches of the Police Department as well, including the Detective Bureau, which is separate from the uniformed force. There are also specialized agencies which deal with special problems, such as homicide, narcotics, burglary, pier thefts, traffic, etc.

"The work of combatting gambling crimes is handled by a squad of patrolmen taken from the uniformed police force and put into plainclothes—the term 'plainclothes squad'.

"In Brooklyn, the plainclothes squad is organized on a Borough basis. It operates from the Bergen Street police station, to which point all plainclothesmen report for duty. It is known as the Brooklyn Borough Plainclothes Squad, also called the Morals Squad, and was organized on a

Borough-wide basis pursuant to the recommendation of the December 1949 Grand Jury. Although these plainclothesmen report to the Borough headquarters, they actually work in 'districts'. These 'districts' are unique to the Brooklyn Morals Squad operation. Each district covers several precincts and is commanded by a Deputy Inspector. It should be noted that the Brooklyn Morals Squad plainclothesmen do not work on a precinct basis, nor are they responsible to the precinct command in any manner. The same is true with regard to plainclothesmen in all Boroughs. In all the Boroughs except Brooklyn, the plainclothesmen operate from the divisions. Since a division is substantially the same in size as the 'district', the work of plainclothesmen both in Brooklyn and all Boroughs covers substantially areas of the same size. As a check on the work of the plainclothesmen, each Borough Commander, except in Brooklyn, has his own squad operating independently of the Division Morals Squad. In addition, there are various squads operating out of the Police Commissioner's Office as well. These Commissioner's Squads in turn operate independently of all other squads and can and do investigate gambling crimes occurring anywhere in the City.

"It should be emphasized that the plainclothesmen are patrolmen in rank. They receive no added increments when they become plainclothesmen, although some few of them do get a small increase in pay after some length of service. In other words, the change of assignment to plainclothes is not a promotion in any sense of the word for a patrolman. Detectives, on the other hand, likewise come from the rank of patrolmen, but receive additional pay and it is deemed a definite advance in rank within the department and is much sought after.

"We find that, despite efforts by the Police Commissioner to instill proper respect for the plainclothes squad who deal with the enforcement of gambling laws, the plainclothesmen are considered pariahs by other members of the Police Department. We have testimony that chiefs of detective groups do not want men in their squads who have ever served in the plainclothes squad; that until recently it was rare for a plainclothesman to ever attain the rank of detective; and that even now only a small percentage of plainclothesmen ever become detectives. We are convinced from the evidence presented to us that the work of plainclothesmen, which involves surveillance, 'tail-

ing', the use of informers and intelligence evaluation, is detective work by its very nature. We find that the present system of assigning patrolmen to plainclothes duty without elevation to the rank of detective is, to some extent, responsible for the low regard with which the plainclothes squad is held by their brother policemen. The plainclothesmen need incentive; they need to be recognized as detectives because they are doing the work of detectives. They must come to be regarded as men who are doing a vital job—as important to law enforcement as any other phase of crime fighting.

"This status of the plainclothesmen is reflected even in the training program of the Police Academy. The Academy is doing a splendid job in every area of its training program. It has improved even more under the present Police Commissioner. Yet, in the Police Academy the gambling crimes are depicted as minor in nature and not befitting the time and effort of a detective. We feel that the gambling crimes should be put in their proper light in the courses in the Police Academy. The true relationship between gambling and organized crime should be made clear to the men who will be responsible for keeping our City safe.

#### **(5) The Morals Squad as Now Constituted Should Be Abolished**

"We have pointed out that the work of investigating gambling crimes is detective work by its very nature. Yet, it is also true that tremendous help can be given to the detective squads in rooting out gambling crimes by the uniformed force. There is no individual in the Police Department who should be and is better acquainted with gambling and vice conditions than the patrolman actually assigned to walk a beat. In some cases the patrolman may have only one block to cover, particularly in congested areas where there is a high incidence of crime. The testimony adduced before us indicates that the patrolman on the beat knows who the bookmakers are on his beat; who the policy men are; who are the pimps and junkies. Yet it is a rarity for a patrolman on the beat to make a gambling arrest. In our entire County of 3,000,000 people during all of 1957, only 13 arrests for bookmaking and 20 for policy were made by the uniformed force.

"It is an interesting circumstance that, for example, in the City of Philadelphia, where patrolmen through their precinct commanders are

specifically told to make arrests and where this matter is constantly followed up, the overwhelming majority of gambling arrests are made by patrolmen. More arrests for policy violations are made by uniformed Philadelphia patrolmen in one week than the uniformed force in New York City makes in an entire year.

"We find that the reorganization of the plainclothes squad in Kings County as a centralized unit operating out of Borough Headquarters has not resulted in any substantial change as distinguished from the work of the other Boroughs where the plainclothes squads are organized on a division set-up. Although the plainclothesmen report to Borough Headquarters each morning, their work is actually performed within the confines of a district approximately equal in size to the division. Aside from the fact that they report centrally we find no substantial difference between the operation of the plainclothes squad in Kings County and the other Counties. The Borough set-up, instituted as a result of a recommendation of the December, 1949 Grand Jury heretofore referred to, has regrettably not proved itself to be more effective in stamping out gambling. Gambling and related crimes still flourish within this County and for that matter throughout the City. Despite the fact that the Brooklyn Borough Plainclothes Squad is ably commanded by a veteran police officer trying to do an effective job, corruption has reared its ugly head.

"We believe that gambling crimes can best be combatted by organizing the fight against the gambling syndicates on a precinct basis. We recognize that there is no system under the sun that can entirely wipe out these offenses. However, it is our considered opinion that it will be easier to control the conditions in a precinct with responsibility pinned entirely on the precinct command, than to keep the present division or borough organization. To make the matter somewhat clearer, it is our belief that the detectives who are assigned to gambling work should work within a precinct area. These detectives should be assigned from the regular detective squads. Gambling should be a regular assignment for detectives. The period of time for which they should be assigned to such work and whether or not they should handle other crimes at the same time, is a matter best left to the discretion of the Police Commissioner.

"The important thing, however, is that the

commanding officer of the precinct must be made responsible for enforcement of gambling laws. This form of decentralization accompanied by thorough check-ups by central squads, seems to have worked effectively in other jurisdictions. These central squads, now in existence, are very valuable aids and should be maintained.

"It is our considered opinion that the Morals Squad as now constituted has not worked out. It is recommended that the Morals Squad should be abolished. It is our hope that the Police Commissioner will follow our suggestions as set forth above.

#### Recommendations

##### (1)

"All agencies concerned with law enforcement must engage in a concerted campaign to emphasize the real nature and importance of gambling crimes. Public apathy must be combatted.

"In the training of police officers and all those charged with enforcing the gambling laws, the interrelationship of gambling and organized crimes must be emphasized to a far greater extent than it is at present. The press, radio and television can render a great public service in this respect.

##### (2)

"The work done by the Police Department in tracking down and arresting violators of the gambling laws must be backed up in the courts. In the case of those who are found guilty—such offenders who are repeaters should go to jail. We are referring, of course, to operators of gambling rackets; to those who sell chances on numbers, and to those who are bookmakers or who work for the bookmakers. In such cases we recommend mandatory jail sentences of a minimum of 60 days for second offenders, and a minimum sentence of six months in the case of third offenders. In the case of fourth or subsequent offenders, it is our opinion that the crime should be deemed a felony, punishable by a minimum of one year and up to three years imprisonment.

"Our law presently provides that a defendant may be convicted of violations of our policy statute by virtue of possession of policy slips. The very possession is deemed presumptive evidence of commission of the crime. This is not true in the case of bookmaking where a conviction may not be predicated upon the mere possession of betting slips. In other jurisdictions, mere possession of

betting slips has been made presumptive evidence of violation of bookmaking laws. We recommend that such a statute be proposed and enacted in this State so that convictions for bookmaking may be based upon unexplained possession of betting slips.

##### (3)

"The plainclothes squad, in Brooklyn and throughout New York City, should be abolished. The work of investigating and enforcing gambling laws and laws related to public morals should be handled by a detective squad.

"The detectives assigned to gambling should operate on a precinct level and be responsible to the precinct commander. In addition, the present central division squads, Borough squads and Commissioner squads should be maintained to keep constant surveillance on the work within the precinct.

##### (4)

"In addition to the responsibility of the detectives for investigations and apprehension of violators of the gambling laws, the policeman on the beat should be made to understand his responsibility for enforcement of these laws. Every patrolman on the beat should be instructed to make arrests whenever he sees violations of the gambling laws. This instruction should not be given in a routine manner but should be emphasized and re-emphasized continuously. Police regulations presently require such arrests but the regulations are blinked at in most cases.

"We further recommend that Sections 552 and 552a of the Code of Criminal Procedure be amended so as to provide for finger printing and photographing in the case of arrests for gambling crimes. At present, no matter how notorious a bookmaker or policy operator may be, he cannot be fingerprinted or photographed upon arrest. Thus the court before whom he is arraigned does not know the criminal record of the arrested party when bail is fixed. This situation can be easily remedied by appropriate amendments to Sections 552 and 552a of the Code of Criminal Procedure.

"We feel sure that the District Attorney of this County will see to it that the recommendations contained in this presentment with regard to legislation are brought to the attention of the State Legislature and that the Legislature is urged to enact such laws.