

Testimony of Mark Brnovich

Director Arizona Department of Gaming

Chairman Dorgan, Vice-Chairman Barrasso, and members of the Committee, thank you for providing me the opportunity to discuss the regulation of gaming in Indian Country. I was appointed the Director of the Arizona Department of Gaming in April, 2009, and I'm fortunate to inherit an agency where my predecessors had placed on emphasis on working together with our tribal partners to ensure the integrity of gaming in Arizona. Prior to my appointment, I served as an Assistant United States Attorney for the District of Arizona, where I prosecuted casino related crimes. Accordingly, I believe I can share a unique perspective on the current regulatory environment.

Although we had to overcome some initial hurdles, the tribal governments and the state of Arizona began entering gaming compacts in the early 1990's. At that time, neither the state nor the respective tribal governments had much experience in regulating gaming. The voter initiative process in 2002 enacted our current regulatory structure and the state began entering gaming compacts with each respective tribe in 2003. While each compact holds a term of 10 years, there is an automatic 10 year renewal provided substantial compliance.

In Arizona, the gaming compacts define provisions regarding the scope, nature, and size of tribal gaming. For example, there are restrictions on the types of games, wagering limitations, allocation of devices, and the location of facilities. They also create responsibilities for tribal and state regulators, including the licensing and certification of employees and vendors, as well as the inspection of class III gaming devices.

Currently, there are 14,511 class III gaming devices in Arizona's 22 tribal gaming facilities. There are 219 poker tables, 274 blackjack tables and 6 facilities providing live keno games. This amounts to a \$2 billion a year industry in Arizona.

To ensure the integrity and viability of such enterprises, it is essential that gaming operations are well regulated. Based upon my experience, I would submit that any system needs to incorporate the following:

First, a recognition by each respective tribe and the state that gaming is a unique industry and it is in the best interest of all parties that it is well controlled. Gaming is a cash intensive industry where there is not an exchange of a good or service between a vendor and purchaser, but instead cash is the commodity. Historically the nature of the business has attracted criminal elements, including organized crime, crimes of opportunity, and other corrupting influences.

For example, in my experience as an AUSA, I have prosecuted casino related cases involving employee thefts ranging from \$5,000 to over half a million dollars. I was also co-counsel in the successful prosecution of 4 individuals who attempted to rob an armored van that was refilling ATM machines at a tribal casino. While no amount of controls can stop every crime, I believe a recognition that such events can occur in a gaming environment is an important step in ensuring successful investigations and prosecutions that will serve as a deterrent to further criminal activity.

Second, it is vital for tribal and state regulators to develop a working relationship that fosters a spirit of cooperation. This requires regular interaction with the tribal gaming offices and the gaming enterprise. For example, tribal gaming agents have a constant presence at the gaming operation and state agents visit on a regular basis, sometimes daily for urban facilities. Even if there are no major incidences or issues to discuss, this frequent interaction allows both tribal and state gaming agents to foster a better working relationship. In other words, the state and tribe shouldn't be having discussions or exchanging information only when necessary, but should do so without any need. I also believe that it is very important for Department of Gaming employees to be cognizant of their compact requirements and duties and to be respectful of the tribal gaming environment. For example, every department employee notifies the tribal gaming office when they enter a facility and our machine technicians try to minimize the disruption to gaming operations by conducting inspections during slow times of the day.

Additionally, it is important to share information and best practices. Information sharing is especially important because cheats frequently move from one facility to another. By attempting to gather and disseminate intelligence information throughout the state, it confirms that we all have an interest in ensuring the integrity of gaming. Another method by which information can be shared is via an Indian Gaming Working Group. Created by the Department of Justice to address tribal gaming issues, our working group meets on a quarterly basis and includes members of the FBI, IRS, NIGC, and the Department of Interior. Additionally, we work closely with the Arizona Tribal Gaming Regulators Association and co-sponsor a training academy for new agents.

Third, the necessary resources must be committed to ensuring the integrity of gaming. This includes a "checks and balances" approach that has served us well. For example, the tribal operation is independently audited on an annual basis to ensure Class III net win is correctly reported. The state has access to this information as well as the ability to communicate with the auditors. Furthermore, the Department's audit unit is comprised of 10 employees, including 2 CPAs. They conduct both financial and compliance audits on a regular basis. We also have a machine compliance unit that inspects every machine before it enters play at the facility as well as conducting random machine inspections.

I believe that this approach—recognition, communication and cooperation, and committing the necessary resources, will ensure the integrity of tribal gaming and ensure the continued public support for such operations. Thank you for your time and consideration.