

**Cyrus Pitre  
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Pennsylvania Gaming Control Board**

**Senate Community, Economic & Recreational Development Committee  
Public Hearing  
8E East Wing, Main Capitol  
October 22, 2007, 10:30 a.m.**

Good morning. I'm Cyrus Pitre, and I serve as Chief Enforcement Counsel to the Bureau of Investigation and Enforcement.

Prior to joining the Pennsylvania Gaming Control Board, I served as Deputy Attorney General with the New Jersey Division of Gaming Enforcement in the Regulatory Prosecutions Bureau and prior to that as Assistant Attorney General with the Louisiana Division of Gaming, where I oversaw the Licensing and Regulatory Compliance Unit. I have roughly ten years experience as a gaming regulatory prosecutor in three different states.

By way of background, the Office of Enforcement Counsel is a separate office within the Gaming Control Board which serves as legal counsel to BIE. It is also responsible for initiating proceedings for violations of the Act in which it may seek civil fines and penalties or make recommendations to deny, suspend, or revoke a gaming license.

In accordance with the Act and the Pennsylvania Supreme Court's Lyness decision, BIE and the Office of Enforcement Counsel operate independently of the Board. BIE and the Office of Enforcement Counsel serve as the

investigative, enforcement, and prosecutorial arm of the agency, while the Board of Commissioners serves as the adjudicatory body in all matters. This is consistent with the general design in other jurisdictions.

Before going into the Board's enforcement powers, I would like to share with you my first-hand experience of how sealed, unusable or investigative information is handled in other gaming jurisdictions. First, it's important to understand that Pennsylvania is not alone in dealing with this issue. In fact, all gaming jurisdictions including New Jersey and Louisiana, have been confronted with the issue of how to access this information and, if obtained, whether it can be introduced as part of the licensing suitability process.

Keep in mind that, in most instances, this information is either part of an ongoing criminal investigation or involves closed cases of state and federal law enforcement agencies. These are often uncharged and un-prosecuted cases in which individuals have yet to be afforded their constitutional and due process rights. So, from the outset, there is the fundamental question of whether someone can or should be denied a gaming license based on information that the individual himself has yet to be presented with, nor has the person been tried and found guilty by a jury of his peers.

The FBI's position is that it can only share investigative information with "criminal justice agencies for criminal justice purposes." Even then, the FBI rarely shares information on open investigations unless it is related to a task force case with another law enforcement agency. This policy affects not only Pennsylvania, but all gaming jurisdictions.

In New Jersey and Louisiana, this type of investigative information, if obtained, is not allowed to be shared with the licensing entities -- the Casino Control Commission in the case of New Jersey and the Gaming Control Board in Louisiana. In New Jersey, where the Division of Gaming Enforcement falls under the Attorney General, there is a wall of separation between the criminal justice side of the agency and the gaming regulatory side. It was also this way in Louisiana during my tenure as legal counsel to the Louisiana State Police Gaming Division. As a result, investigative information is not shared that would jeopardize an open criminal investigation. It just doesn't happen and for good reason.

If an individual is granted a license and is found to have transgressed the law or regulations prior to, during, or after the licensing process, then enforcement takes place.

As Chairman Colins mentioned in her opening, commercial gaming is a privileged industry that is authorized and regulated by the Commonwealth. Applicants for a gaming license must undergo extensive background investigations to ensure they meet the fitness criteria of honesty, good character and integrity. Those individuals who meet the requirements of the Act and are found suitable at the time of licensure are granted the privilege of participating in Pennsylvania's gaming industry.

However, the issuance of a gaming license is just the first step in the regulatory process. Casino owners, operators, employees, vendors and manufacturers have an ongoing obligation to maintain their suitability to possess that gaming license. This includes regulatory compliance with the

Act, the Board's regulations and the internal operating procedures of the licensee that are approved by the Board.

Through the aforementioned comprehensive body of regulatory requirements, the Board has in place the necessary procedures to ensure that a licensee complies with all expectations placed upon him or her by the Gaming Act. The Board has broad powers to revoke, suspend, or condition a gaming license, as well as, to deny the renewal of a gaming license should any licensee run afoul of these regulatory requirements in accordance with the individual's due process rights.

The most recent example of enforcement action taken against licensees occurred during the October 2<sup>nd</sup> and October 17<sup>th</sup> Board meetings. The Board, acting on several complaints brought by the Office of Enforcement Counsel, revoked the licenses of four gaming and non-gaming employees. License revocations are the most severe penalty undertaken by the Board against the holder of any type of gaming license.

The Board, which is charged by statute with protecting the public through the regulation and policing of all activities involving gaming, acted to revoke these licenses after the Bureau of Investigations and Enforcement fully investigated the cases, served the individuals with notice and afforded them the opportunity to respond, in accordance with due process requirements.

However revocation is not the only regulatory action. Since the inception of gaming in Pennsylvania the Bureau of Investigation and Enforcement through the Office of Enforcement Counsel have caused 419 license

withdrawals and 231 license denials to be processed. The Office of Enforcement Counsel has prosecuted 139 denial hearings, 3 emergency suspensions, and 1 casino enforcement action. The Office of Enforcement Counsel has conducted 2 casino compliance conferences and issued 16 Notice of Violation Warning Letters.

These regulatory actions are similar to those utilized in Louisiana and New Jersey and are instances that are indicative of the gradual shift in the Board's function from licensing to enforcement as additional slot machine facilities begin operation.

I previously mentioned emergency suspension of a license, this is a further safeguard to protect the integrity of gaming, the Board's regulations empower the Executive Director to temporarily suspend any gaming license when certain events require immediate action, and when traditional notice and hearing procedures may not be speedy enough to ensure the public's protection. In these cases, the Executive Director may temporarily suspend a license until hearings can be held. This authority is consistent with other gaming jurisdictions and Executive Director Anne Neeb has utilized this authority on several occasions to suspend the licenses of employees who no longer met the fitness criteria I mentioned earlier – honesty, good character and integrity.

In any instance, a licensee who has exhausted the administrative process may pursue an appeal through the state courts as is customary.