



**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

The Honorable Steven A. Engel  
Assistant Attorney General  
Office of Legal Counsel  
United States Department of Justice  
Washington, DC 20530

January 9, 2019

Dear Assistant Attorney General Engel,

For the past two years I have worked to protect 18 U.S.C. §1084, known as the Wire Act. As my colleagues and I wrote in a December 2017 letter to the Deputy Attorney General, an unelected lawyer fundamentally changed our nations gambling policy in 2011 by allowing gambling to be possible on the internet 24/7, without the proper control or monitoring policies that pertain to in-person gambling.

It was widely reported that the Office of Legal Counsel recently walked back that opinion, and that the public would soon be made aware of that fact. The change in opinion was then put on hold by the White House, a hold that was later removed. Most recently it was reported in the news media that the report would be released before Christmas, something that did not happen. At this time the Office of Legal Counsel should be able to release an update to the public on the status of the Wire Act and the impact it will have on online and in-person gambling.

I am requesting that your office provide me an update on the current status of the Wire Act and a plan for when that information will be released publicly.

I appreciate your attention to this issue and look forward to your response.

Respectfully,

A handwritten signature in blue ink that reads "Brian K. Fitzpatrick".

Brian Fitzpatrick  
Member of Congress

**From:** Ryan Grim  
**Sent:** Sunday, February 10, 2019 3:26 PM  
**To:** nicole.navas@usdoj.gov  
**Subject:** Get in on this scandal on the ground floor

## Get in on this scandal on the ground floor

Feb 10 · Public post ·

If you're looking for a Sunday longread, [we have a story up today that dives deep into the chemical weapons attack in Douma in spring 2018.](#) It attempts to sort through the propaganda to find out what happened there, how it unfolded, and how that maps with how it was reported.

There isn't much to recommend presidential campaigns, but there's at least one nice feature: it's the time in our political cycle when fresh ideas get tested out, and if the public responds, those ideas have a chance of becoming reality. I hope that's the case for child care for all, which was floated today in the New York Times by Katha Pollitt.

If it comes, it'll probably come too late for me -- my youngest is 3, so bound for pre-K soon (which should be universal, too). For millions of families, child care is an excruciating burden. The concept of a federal job guarantee has picked up steam lately, and I'd love to see the ideas married. Training people to be part of a national corps of child care workers would have all sorts of ancillary benefits, too. [Here's Pollitt's argument](#) in the Times. All of it is pretty green, too.

**And if you want in on a scandal at the ground level,** I've got one for you: Sheldon Adelson, in the brief window between AG Jeff Sessions and AG William Barr, and in the midst of a government shutdown, got a memo issued that effectively bans online gaming, the main competitor to his casinos. I don't think we've heard the last of this story. [Here's Rachel Cohen in The Intercept on it,](#) and [watch this line of questioning](#) by Rep. Jamie Raskin to see where it's probably headed.

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**Navas, Nicole (OPA)**

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**From:** Navas, Nicole (OPA)  
**Sent:** Thursday, February 7, 2019 6:21 PM  
**To:** Hamburger, Tom  
**Subject:** RE: attribution

Responses to Qs are attributed to "Justice Department official." Statement attributed to me is: "The 2018 OLC opinion returned to the Department's traditional view concerning the scope of the Wire Act. The 23-page opinion reflects the Office of Legal Counsel's best judgment of the law, and the accusation that the opinion was shaped by any outside interest is baseless and offensive." Thank you

Nicole Navas Oxman  
Spokesperson/Public Affairs Specialist  
U.S. Department of Justice (DOJ)

---

**From:** Hamburger, Tom <tom.hamburger@washpost.com>  
**Sent:** Thursday, February 07, 2019 5:05 PM  
**To:** Navas, Nicole (OPA) <nnavas@jmd.usdoj.gov>  
**Subject:** attribution

Quick question for our bureaucratic protocol. How should I attribute the quotes you provided. Is it Justice Department official? If so, can you explain why we can't use your name.

---

**From:** Hamburger, Tom  
**Sent:** Thursday, February 07, 2019 5:01 PM  
**To:** Zapotosky, Matt <matt.zapotosky@washpost.com>  
**Subject:** FW: clarifying one point...just fyi

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**From:** Navas, Nicole (OPA) [<mailto:Nicole.Navas@usdoj.gov>]  
**Sent:** Thursday, February 07, 2019 5:00 PM  
**To:** Hamburger, Tom <tom.hamburger@washpost.com>  
**Subject:** RE: clarifying one point

**[EXTERNAL EMAIL]**

The previous statement is still accurate. On background, the memorandum was *not* sent to OLC. It was sent to the Department's Criminal Division. In the WaPo interview, the Department official was asked whether OLC had "discussions about the opinion with Adelson or 'any outside parties.'" The Department's response addressed the question posed and was correct. OLC did *not* have any discussions or communications with any non-governmental party. That is different from the question whether the Department had ever received unsolicited written documents from outside parties. As has been previously reported, after Attorney General Sessions committed to review the OLC opinion, the Criminal Division received the legal memorandum from the Coalition to Stop Internet Gambling.

I hope this clears up any confusion. thanks

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**From:** Hamburger, Tom <[tom.hamburger@washpost.com](mailto:tom.hamburger@washpost.com)>  
**Sent:** Thursday, February 07, 2019 3:15 PM  
**To:** Navas, Nicole (OPA) <[nnavas@jmd.usdoj.gov](mailto:nnavas@jmd.usdoj.gov)>  
**Subject:** clarifying one point

Nicole,

Thank you again. I need to ask about one thing: We were told by an OLC official on January 14, after the opinion was issued, that ...

"Olc opinions are not generally characterized by non governmental communications, and there were none in this case."

In fact, however, there was a memo prepared by Mr. Adelson's lobbyist that was provided to OLC. So it would seem that statement provided to The Post is in need of clarification. Am I right in my understanding of the misstatement from DOJ at the time?

Thanks again,  
T

**Navas, Nicole (OPA)**

---

**From:** Navas, Nicole (OPA)  
**Sent:** Thursday, February 7, 2019 4:21 PM  
**To:** Engel, Steven A. (OLC); Kupec, Kerri (OPA)  
**Subject:** RE: Wash Post clarifying one point

Thank you for the clarity

Nicole Navas Oxman  
Spokesperson/Public Affairs Specialist  
U.S. Department of Justice (DOJ)  
202-514-1155 (office)  
(b)(6) (cell)  
Nicole.Navas@usdoj.gov

---

**From:** Engel, Steven A. (OLC) (b)(6)  
**Sent:** Thursday, February 07, 2019 4:14 PM  
**To:** Kupec, Kerri (OPA) <kkupec@jmd.usdoj.gov>; Navas, Nicole (OPA) <nnavas@jmd.usdoj.gov>  
**Subject:** RE: Wash Post clarifying one point

(b)(5)

[REDACTED]

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**From:** Kupec, Kerri (OPA) <kkupec@jmd.usdoj.gov>  
**Sent:** Thursday, February 7, 2019 4:11 PM  
**To:** Navas, Nicole (OPA) <nnavas@jmd.usdoj.gov>; Engel, Steven A. (OLC) (b)(6)  
**Subject:** RE: Wash Post clarifying one point

Right, we didn't have any discussions. People send us unsolicited stuff all the time.

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**From:** Navas, Nicole (OPA) <nnavas@jmd.usdoj.gov>  
**Sent:** Thursday, February 7, 2019 4:09 PM  
**To:** Kupec, Kerri (OPA) <kkupec@jmd.usdoj.gov>; Engel, Steven A. (OLC) (b)(6)  
**Subject:** RE: Wash Post clarifying one point

I think he is saying that DOJ provided WP this statement on Jan. 14: "OLC opinions are not generally



characterized by non governmental communications, and there were none in this case," which I believe is still accurate. As I already told him in responses that: OLC had received material from lobbyists and lawyers representing Sands casino and related interests." The previous *Washington Post* article reported that a DOJ official "said the Office of Legal Counsel did not have discussions about the opinion with Sheldon Adelson or 'any outside parties.'" DOJ officials confirmed that OLC did not have any communications with any outside party while working on its opinion. It is not uncommon for the Department of Justice otherwise to receive submissions from outside parties on topics of interest. For instance, before requesting the 2011 OLC opinion on the Wire Act, the Criminal Division had received a white paper from lawyers for the Illinois Lottery and Department of Revenue.

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Spokesperson/Public Affairs Specialist  
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202-514-1155 (office)  
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[Nicole.Navas@usdoj.gov](mailto:Nicole.Navas@usdoj.gov)

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**From:** Kupec, Kerri (OPA) <[kkupec@jmd.usdoj.gov](mailto:kkupec@jmd.usdoj.gov)>  
**Sent:** Thursday, February 07, 2019 3:58 PM  
**To:** Navas, Nicole (OPA) <[nnavas@jmd.usdoj.gov](mailto:nnavas@jmd.usdoj.gov)>; Engel, Steven A. (OLC) (b)(6)  
**Subject:** RE: Wash Post clarifying one point

To which statement is he referring?

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**From:** Navas, Nicole (OPA) <[nnavas@jmd.usdoj.gov](mailto:nnavas@jmd.usdoj.gov)>  
**Sent:** Thursday, February 7, 2019 3:23 PM  
**To:** Engel, Steven A. (OLC) (b)(6); Kupec, Kerri (OPA) <[kkupec@jmd.usdoj.gov](mailto:kkupec@jmd.usdoj.gov)>  
**Subject:** FW: Wash Post clarifying one point

Please see below follow-up. ??

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**From:** Hamburger, Tom <[tom.hamburger@washpost.com](mailto:tom.hamburger@washpost.com)>  
**Sent:** Thursday, February 07, 2019 3:15 PM  
**To:** Navas, Nicole (OPA) <[nnavas@jmd.usdoj.gov](mailto:nnavas@jmd.usdoj.gov)>  
**Subject:** clarifying one point

Nicole,

Thank you again. I need to ask about one thing: We were told by an OLC official on January 14, after the opinion was issued, that ...

"Olc opinions are not generally characterized by non governmental communications, and there were none in this case."

In fact, however, there was a memo prepared by Mr. Adelson's lobbyist that was provided to OLC. So it would seem that statement provided to The Post is in need of clarification. Am I right in my understanding

of the misstatement from DOJ at the time?

Thanks again,

T



**From:** Navas, Nicole (OPA)  
**Sent:** Thursday, February 7, 2019 1:08 PM  
**To:** Hamburger, Tom  
**Subject:** RE: Questions from the Washington Post

Hi Tom,

Please see below responses to your questions attributed to a "Justice Department official." You can use the following statement attributed to me: "The 2018 OLC opinion returned to the Department's traditional view concerning the scope of the Wire Act. The 23-page opinion reflects the Office of Legal Counsel's best judgment of the law, and the accusation that the opinion was shaped by any outside interest is baseless and offensive." Thank you

**1/We have been told that the Office of Legal Counsel received a memo from Charles Cooper's law firm before the Wire Act opinion was issued. We have also been told that the final OLC opinion aligns closely with the arguments in that memo. Is that the case? How heavily did the office rely on material from Mr. Cooper when drafting the OLC Wire Act opinion?**

On April 24, 2017, an attorney for the Coalition to Stop Internet Gambling provided a memorandum from the Cooper & Kirk law firm to the Justice Department's Criminal Division. The Criminal Division subsequently provided that memorandum to the Office of Legal Counsel. The Office of Legal Counsel issued its legal opinion more than 18 months later, on November 2, 2018. OLC's twenty-three page opinion reflects the independent legal judgment of the Office and cites the legal authorities that it relied upon in reaching its conclusions.

**2/Why did DOJ officials originally deny that the OLC had received material from lobbyists and lawyers representing Sands casino and related interests?**

That is incorrect. DOJ officials did not deny that "OLC had received material from lobbyists and lawyers representing Sands casino and related interests." The previous *Washington Post* article reported that a DOJ official "said the Office of Legal Counsel did not have discussions about the opinion with Sheldon Adelson or 'any outside parties.'" DOJ officials confirmed that OLC did not have any communications with any outside party while working on its opinion. It is not uncommon for the Department of Justice otherwise to receive submissions from outside parties on topics of interest. For instance, before requesting the 2011 OLC opinion on the Wire Act, the Criminal Division had received a white paper from lawyers for the Illinois Lottery and Department of Revenue.

**3/Since former Attorney General Sessions was recused from this topic who instructed or recommended that a review of the 2011 decision take place? Was it the acting head of the Criminal Division? Did he make that recommendation on his own? Did the Deputy Attorney General play a role?**

Attorney General Sessions pledged at his confirmation hearing in January 2017 that the Department would revisit the 2011 Wire Act opinion. The Criminal Division, the addressee of the 2011 opinion, formally requested that OLC reconsider the opinion on May 26, 2017. Attorney General Sessions recused himself from the matter on June 20, 2017. Thereafter, OLC reported to Deputy Attorney General Rosenstein as Acting Attorney General on this matter.



**4/A former acting director of OLC, Dawn Johnsen, has told us she was puzzled by the release of such an opinion during a shutdown. She managed OLC during the federal government shutdown in the mid-1990s and said "it is unclear to me how this kind of work could meet the very stringent standards for review" during a shutdown. Could you respond to her concern and explain why OLC decided to release this during a period when all but essential personnel were essentially furloughed?**

OLC signed the opinion on November 2, 2018, prior to the government shutdown. The Department publicly released the opinion on January 13, 2018, consistent with Department policies for government shutdowns, which authorize limited public releases related to the enforcement of the criminal laws.

**5/Another former OLC official said that he didn't find the opinion persuasive. Specifically, Martin Lederman, now a professor of law at Georgetown University, told The Post: "I haven't seen any evidence that Assistant Attorney General Engel acted improperly, or that he didn't sincerely believe what he wrote in the opinion; even so, I don't find it as persuasive as the 2011 opinion—only the former makes functional sense of the statute—and, more importantly, the new opinion doesn't offer any compelling reason for revisiting, let alone overruling, the 2011 opinion." Would you please respond to Lederman's concerns, which reflect views we heard from others including members of Congress?**

The opinion reflects Assistant Attorney General Engel's best judgment of the law. Prior to 2011, the Department of Justice had taken the position that the Wire Act's prohibitions were not limited to sports gambling, and as the OLC opinion explains, the Department had successfully prosecuted defendants whose wire communications involved non-sports gambling. The 2011 opinion reversed the Department's established position and prevented such prosecutions from going forward. Although OLC does not lightly depart from its own precedents, the 2018 opinion concluded that reconsideration was justified here because the 2011 opinion devoted insufficient attention to the statutory text; because the 2011 opinion had itself reversed the established Department position; and because reconsideration would make it more likely that the Executive Branch's view of the law will be tested in the courts.

**6/Several state officials have expressed dismay over the decision. Attorneys General offices from Pennsylvania and New Jersey have said they believe OLC paid close attention to the interests of a billionaire donor while ignoring the concern of state governments that depend on the 2011 interpretation to raise monies for vital state services affecting hundreds of thousands of people. Can you respond to this concern please?**

That is incorrect. OLC's role is to provide authoritative legal interpretations within the Executive Branch. The Wire Act opinion reflects OLC's best judgment of the statute enacted by Congress, without regard to any outside interests. If the statute is to be modified to address the States' concerns, those amendments should come from Congress.

**7/Did anyone on the OLC staff, including Mr. Engel, have conversations with Chuck Cooper about this topic before the opinion was written? If so would you please provide details about those interactions. In retrospect, was it appropriate to receive a memorandum from a party with strong interests in the Opinion?**

Assistant Attorney General Engel did not have any conversations with Chuck Cooper on the Wire Act before the opinion was written. We are not aware of any other such conversations between Mr. Cooper and anyone else on the OLC staff. It is neither uncommon nor inappropriate for the Department of Justice to receive submissions from outside parties on topics of interest. For instance, before requesting the 2011 OLC opinion on the Wire Act, the Criminal Division had received a white paper from lawyers for the State of New York.



What is important is that an OLC opinion, when it is issued, reflects the principled and independent judgment of the Office.

Nicole Navas Oxman  
Spokesperson/Public Affairs Specialist  
U.S. Department of Justice (DOJ)  
202-514-1155 (office)  
(b)(6) (cell)  
Nicole.Navas@usdoj.gov

-----Original Message-----

From: Hamburger, Tom <tom.hamburger@washpost.com>  
Sent: Thursday, February 07, 2019 12:01 AM  
To: Navas, Nicole (OPA) <nnavas@jmd.usdoj.gov>  
Subject: questions from the Washington Post

Hi Nicole

Here are six questions we want to ask you all before we publish. We would like on record responses but welcome any additional guidance or advice you care to provide.

If you can get back to me by Thursday at 2 p.m., I would be grateful.

1/ We have been told that the Office of Legal Counsel received a memo from Charles Cooper's law firm before the Wire Act opinion was issued. We have also been told that the final OLC opinion aligns closely with the arguments in that memo. Is that the case? How heavily did the office rely on material from Mr. Cooper when drafting the OLC Wire Act opinion?

2/ Why did DOJ officials originally deny that the OLC had received material from lobbyists and lawyers representing Sands casino and related interests?

3/ Since former Attorney General Sessions was recused from this topic who instructed or recommended that a review of the 2011 decision take place? Was it the acting head of the Criminal Division? Did he make that recommendation on his own? Did the Deputy Attorney General play a role?

4/A former acting director of OLC, Dawn Johnsen, has told us she was puzzled by the release of such an opinion during a shutdown. She managed OLC during the federal government shutdown in the mid-1990s and said "it is unclear to me how this kind of work could meet the very stringent standards for review" during a shutdown. Could you respond to her concern and explain why OLC decided to release this during a period when all but essential personnel were essentially furloughed?

5/Another former OLC official said that he didn't find the opinion persuasive. Specifically, Martin Lederman, now a professor of law at Georgetown University, told The Post: "I haven't seen any evidence that Assistant Attorney General Engel acted improperly, or that he didn't sincerely believe what he wrote in the opinion; even so, I don't find it as persuasive as the 2011 opinion--only the former makes functional sense of the statute--and, more importantly, the new opinion doesn't offer any compelling reason for revisiting, let alone overruling, the 2011 opinion." Would you please respond to Lederman's concerns, which reflect views we heard from others including members of Congress?

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6/ Did anyone on the OLC staff, including Mr. Engel, have conversations with Chuck Cooper about this topic before the opinion was written? If so would you please provide details about those interactions. In retrospect, was it appropriate to receive a memorandum from a party with strong interests in the Opinion.

Thanks, Nicole, for your help with this. Please let me know if I can provide more information.

Sincerely,  
Tom

Tom Hamburger  
National Desk  
The Washington Post  
1301 K Street, NW  
Washington, DC 20071  
202 334 4926 (desk)

(b)(6) (mobile)

email: tom.hamburger@washpost.com



Byron Tau

---

**From:** Byron Tau  
**Sent:** Wednesday, January 16, 2019 12:33 PM  
**To:** Hornbuckle, Wyn (OPA)  
**Subject:** Re: Follow-up

Thanks for checking, Wyn.

If I get a second source that says OLC received such a memo or I obtain it in other ways, would the DOJ have any comment on the existence of such a memo?

On Wed, Jan 16, 2019 at 12:06 PM Hornbuckle, Wyn (OPA) <[Wyn.Hornbuckle@usdoj.gov](mailto:Wyn.Hornbuckle@usdoj.gov)> wrote:

Hi Byron,

I'm afraid this will have to wait until the shutdown ends. FOIA is not excepted work during the shutdown unless it is directly related to criminal litigation, so I just don't have an answer for you presently.

**From:** Byron Tau <[byron.tau@wsj.com](mailto:byron.tau@wsj.com)>  
**Sent:** Tuesday, January 15, 2019 3:29 PM  
**To:** Hornbuckle, Wyn (OPA) <[whornbuckle@jmd.usdoj.gov](mailto:whornbuckle@jmd.usdoj.gov)>  
**Subject:** Follow-up

This is the fellow I'm referring to:  
<http://www.cooperkirk.com/lawyers/charles-j-cooper/>

Heard he sent a legal memo on the Wire Act while representing Sheldon Adelson's Coalition to Stop Internet Gambling. Heard the memo has been FOIAed by some part and been cleared for release under FOIA. The component that received the FOIA is OLC.

Thanks for checking,

--

byron tau

reporter, wall street journal

cell/signal app: (b)(6)

deck: 202-867-1274

desk: 202-862-1374

public key for encrypted email: <http://bit.ly/2oqPvau>

protonmail: [byron.tau@protonmail.com](mailto:byron.tau@protonmail.com)

--

byron tau

reporter, wall street journal

cell/signal app: (b)(6)

desk: 202-862-1374

public key for encrypted email: <http://bit.ly/2oqPvau>

protonmail: [byron.tau@protonmail.com](mailto:byron.tau@protonmail.com)

**Colas, Brian (Cotton)**

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**From:** Colas, Brian (Cotton)  
**Sent:** Thursday, October 19, 2017 1:02 PM  
**To:** Ramer, Sam (OLA)  
**Subject:** Memo re. WIRE Act  
**Attachments:** Cooper and Kirk Wire Act memorandum.pdf

Sam,

Nice to meet you this AM.

Attached is the Cooper Kirk memo discussing the WIRE Act.

Best,

Brian

Brian Colas  
Deputy Chief of Staff  
Office of Senator Tom Cotton

**Flores, Sarah Isgur (OPA)**

---

**From:** Flores, Sarah Isgur (OPA)  
**Sent:** Tuesday, June 27, 2017 7:17 PM  
**To:** Ben Brody  
**Subject:** RE: That Cooper/Sessions/online gambling piece

I know nothing about the wire act stuff on the merits. Just landed from Canada. As for Cooper, I wouldn't know who his clients are but yes, the recusal covers that.

xxx

Sarah Isgur Flores  
Director of Public Affairs

(b)(6)

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**From:** Ben Brody (BLOOMBERG/ WASHINGTON) [mailto:btenerellabr@bloomberg.net]  
**Sent:** Tuesday, June 27, 2017 4:02 PM  
**To:** Flores, Sarah Isgur (OPA) <siflores@jmd.usdoj.gov>  
**Subject:** That Cooper/Sessions/online gambling piece

Heyhey... Just wanted to update you on this issue. Cooper said the anti-internet gambling coalition in fact is \*not\* a current client, nor was it when AG hired him. But he said his understanding is Sessions would recuse just the same. That fit with DOJ's position? Cooper said the same of Insego and DuPont.

My editor also wanted me to ask if you had any timeline for the revisiting of the OLC Wire Act/online gambling opinion? AG just told Sen. Graham he would revisit but not when. Editor also asked about any sense of whether it would grandfather in states that legalized from '11 to now.

Sorry for the laundry list. Hoping to work for EOD but we'll see...

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**From:** BEN BRODY (BLOOMBERG/ WASHINGTON) At: 06/21/17 18:11:44  
**To:** [Sarah.Isgur.Flores@usdoj.gov](mailto:Sarah.Isgur.Flores@usdoj.gov)  
**Subject:** RE: Blast from your past

Perf. Another wrinkle to a story I originally thought was like four grafs haha

---

Sent from Bloomberg Professional for iPhone

----- Original Message -----

**From:** Sarah Isgur Flores <[Sarah.Isgur.Flores@usdoj.gov](mailto:Sarah.Isgur.Flores@usdoj.gov)>  
**To:** BEN BRODY  
**At:** 21-Jun-2017 18:07:00

Yeah my understanding is that may be the only action hes taken but that they are still a client—but def check w chuck



\*\*\*

Sarah Isgur Flores  
Director of Public Affairs

(b)(6)

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**From:** Ben Brody (BLOOMBERG/ WASHINGTON)  
[\[mailto:btenerellabr@bloomberg.net\]](mailto:btenerellabr@bloomberg.net)  
**Sent:** Wednesday, June 21, 2017 6:05 PM  
**To:** Flores, Sarah Isgur (OPA) <[siflores@jmd.usdoj.gov](mailto:siflores@jmd.usdoj.gov)>  
**Subject:** RE: Blast from your past

Chuck told me it was a onetime meeting with OLC, although the exact timeline of that meeting versus his engagement by AG is unclear to me. (We spoke before this came out.) When/if Chuck gets back to me, I'll see what I can nail down :) Maybe it's a "represents on paper" vs "is active" thing haha. I don't think I'm writing before tomorrow anyway

---

Sent from Bloomberg Professional for iPhone

----- Original Message -----

**From:** Sarah Isgur Flores <[Sarah.Isgur.Flores@usdoj.gov](mailto:Sarah.Isgur.Flores@usdoj.gov)>  
**To:** BEN BRODY  
**At:** 21-Jun-2017 17:17:37

Hey there! I believe Chuck still represents those interests (am I wrong?)--so it would be covered in the recusal.

\*\*\*

Sarah Isgur Flores  
Director of Public Affairs  
(b)(6)

-----Original Message-----

**From:** Ben Brody (BLOOMBERG/ WASHINGTON)  
[\[mailto:btenerellabr@bloomberg.net\]](mailto:btenerellabr@bloomberg.net)  
**Sent:** Wednesday, June 21, 2017 4:20 PM  
**To:** Flores, Sarah Isgur (OPA) <[siflores@jmd.usdoj.gov](mailto:siflores@jmd.usdoj.gov)>  
**Subject:** Blast from your past

Hey Sarah! -- Long time no chat. I'm working on a story about online gambling, which'll touch on the AG saying in his confirmation he was "shocked" when DoJ changed its interpretation of the Wire Act but that he wouldn't change it back without examining the law. It also mentions Chuck Cooper having lobbied briefly for the issue.

Looks like you told Politico the AG will recuse from current and future Cooper matters, but past (e.g., Wire Act) wasn't mentioned. Correct?

All well? Hope so. I'm sure you know I always follow with interest (partially bc it's so interesting!) -- Ben

---

Ben Brody  
Bloomberg News, Lobbying Team  
[btenerellabr@bloomberg.net](mailto:btenerellabr@bloomberg.net)  
Direct: (202) 807-2018  
Cell: (b)(6)  
Twitter: @BenBrodyDC  
\*I work Sunday to Thursday\*

**Hanrahan, Peggi (OAG)**

---

**From:** Hanrahan, Peggi (OAG)  
**Sent:** Wednesday, March 8, 2017 5:52 PM  
**To:** Hunt, Jody  
**Subject:** FW: letter to AG Sessions on internet gambling opinion  
**Attachments:** 2017 SPG letter to AG Sessions.docx.pdf

I have no idea what to do with this if anything so sharing with you. This is my friend that works at Samford!

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**From:** Brown, Kim [mailto:kbrown7@samford.edu]  
**Sent:** Wednesday, March 8, 2017 2:01 PM  
**To:** peggi.hanrahan@usdoj.gov  
**Subject:** letter to AG Sessions on internet gambling opinion

Peggi, I was asked to transmit this letter to your office on behalf of Joe Godfrey, Alabama Citizens Action Program (ALCAP). Mission accomplished! Thank you, have a great day.

Kim Brown



March 1, 2017

U.S. Attorney General Jeff Sessions  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Dear Attorney General Sessions:

I am writing to you on behalf of Stop Predatory Gambling, a national, transpartisan, government reform network of more than one million individuals and groups. Our mission is to improve the lives of the American people, freeing us of the dishonesty, exploitation, addiction and lower standard of living that commercialized gambling spreads.

We are strongly urging you to act swiftly to restore the Wire Act's protections by withdrawing a 2011 DOJ Office of Legal Counsel memorandum. The memorandum gutted the Wire Act, re interpreting it to open the door for casinos and lotteries to put slot machines and similar extreme forms of gambling on mobile devices and laptops in every bedroom, office, schoolhouse, and smart phone in a state.

The Office of Legal Counsel's opinion reversed fifty years of settled precedent and practice. The opinion claimed the Wire Act's prohibitions only applied to sports gambling and not to the many other forms of online gambling. The error of the OLC opinion is conclusively established by the carefully researched, well reasoned law review article "Understanding the Wire Act: Why the Department of Justice Missed the Mark When It Overturned Fifty Years of Interpretation of the Act."<sup>1</sup>

The dubious reasoning of the OLC opinion was not issued until the afternoon of Friday, December 23, 2011, the eve of Christmas weekend, an obvious attempt to bury news of a major policy change resulting not from a vote of the people nor of Congress, but from closed door dealing and bureaucratic fiat.

One reason why the prior administration may have wanted to bury their misreading of the Wire Act is because national and state level polling consistently highlight how the American people oppose the legalization of internet gambling.<sup>2</sup> Families have a right to keep slot machines and other extreme forms of gambling out of their homes and off of their kids' mobile devices.

A second reason why is because the significant harm to citizens caused by internet gambling is real and extensive. Internet gambling is financially destructive, highly addictive, leads to higher rates of underage gambling, increases financial fraud and invites money laundering and terrorist financing opportunities, to name just a few of its harms.



Third, these serious harms are compounded by government's inability, as a practical matter, to provide resources even remotely approaching those needed to enforce laws, administer regulations, and preclude collusion in online non sports gambling. Millions of state border crossing electronic bets per day simply cannot be policed effectively without a massive, expensive, unprecedented, and unrealistic expansion of federal authority. None of the states have the resources to properly investigate gambling related financial transactions outside their borders, and it is these kinds of transactions that organized crime, fraudsters, money launderers, and terrorist financiers will employ in using online gambling as components of their interstate and international schemes.

President Trump has pledged on "Day One" to cancel every unconstitutional executive action, memorandum and order issued by President Obama. The 2011 Office of Legal Counsel memorandum dismantling the Wire Act should belong near the top of that list.

The situation is urgent because some states like California, Florida, New York, Pennsylvania are being lobbied heavily by commercialized gambling interests to allow online casinos. If that happens, it will become more challenging to reverse the severe impacts of internet gambling.

Please act swiftly to withdraw the OLC memorandum on the Wire Act and reinstate the DOJ's longtime proper interpretation of the Act. If the mobile phones, laptops, and tablets of American children are to be turned into online casinos 24 hours a day, seven days a week, that should be for Congress to decide.

Thank you for your attention to this serious issue.

Sincerely,

A handwritten signature in blue ink that reads "Joe Bernal".

National Director  
Stop Predatory Gambling

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<sup>1</sup> Nirenberg, Darryl, David Fialkov, and Ryan McClafferty. "Understanding the Wire Act: Why the Department of Justice Missed the Mark When It Overturned Fifty Years of Interpretation of the Act." *Gaming Law Review and Economics* 20.3 (2016): 254-266

<sup>2</sup> Farleigh Dickinson's National Polling Center "PublicMind," May 8, 2014 <http://publicmind.fdu.edu/2014/vices/>

**Cutrona, Danielle (OAG)**

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**From:** Cutrona, Danielle (OAG)  
**Sent:** Monday, February 27, 2017 3:53 PM  
**To:** Rybicki, David (OAG)  
**Subject:** RE: Meeting request

Let's discuss.

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**From:** Rybicki, David (OAG)  
**Sent:** Monday, February 27, 2017 3:50 PM  
**To:** Cutrona, Danielle (OAG) <[dcutrona@jmd.usdoj.gov](mailto:dcutrona@jmd.usdoj.gov)>  
**Subject:** FW: Meeting request

(b)(5)

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**From:** Brian Callanan [<mailto:bcallanan@cooperkirk.com>]  
**Sent:** Monday, February 27, 2017 3:44 PM  
**To:** Tucker, Rachael (OAG) <[Rachael.Tucker@usdoj.gov](mailto:Rachael.Tucker@usdoj.gov)>; Rybicki, David (OAG) <[David.Rybicki@usdoj.gov](mailto:David.Rybicki@usdoj.gov)>  
**Subject:** Meeting request

David,

I hope this note finds you well and settling into your move to DOJ. Cooper & Kirk represents a non-profit organization interested in the subject of internet gambling. We would like to request a meeting with you to discuss DOJ's current interpretation of the Wire Act, 18 U.S.C. § 1084. Our managing partner David Thompson and I would attend on behalf of C&K, along with our colleague Darryl Nirenberg of Steptoe & Johnson. Would you be able to carve out time for a short meeting?

Many thanks for your consideration.

Best,  
Brian

Brian Callanan  
COOPER & KIRK, PLLC  
1523 New Hampshire Avenue, NW  
Washington, DC 20036  
(b)(6) | (b)(6)

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**From:** Tucker, Rachael (OAG) [<mailto:Rachael.Tucker@usdoj.gov>]  
**Sent:** Monday, February 27, 2017 12:14 PM  
**To:** Rybicki, David (OAG) <[David.Rybicki@usdoj.gov](mailto:David.Rybicki@usdoj.gov)>  
**Cc:** Brian Callanan <[bcallanan@cooperkirk.com](mailto:bcallanan@cooperkirk.com)>  
**Subject:** intro

Hey David,

I believe you might have met Brian Callanan before, cc'd here. Brian is at Cooper & Kirk and previously led the best lawyers in the Senate as Staff Director of PSI ;). I wanted to connect you on a matter related to the interpretation of a federal criminal statute. I let him know this was in your wheelhouse.

Rachael

Rachael Tucker  
Counselor to the Attorney General  
U.S. Department of Justice  
202.616.7740