



Navigating the Criminal Side of Modern Sports Gambling

BY KENNETH E. NOTTER III AND JENNIFER M. SCHUBERT

Last year, Americans bet more than \$150 billion on sports. That doesn't even count the potential billions more in sports "trades" made on prediction markets.

With so much money at stake, any informational edge can mean the difference between a massive payday and a crippling loss. That edge may be gained through scouring advanced analytics. Within and around the sports industry, that advantage has also been found through using information not available to the betting public or prearranging specific outcomes with players or coaches.

A slew of federal prosecutions have followed that money. In 2025 alone, prosecutors charged dozens of individuals—including professional and college athletes, coaches, and others—with a roster of federal crimes related to sports gambling.

Far from being the first sports gambling scandals in U.S. history, these indictments nevertheless rocked the sports world. Many leagues have adapted to reduce their liability, but so long as access to easy money remains, so will the potential liability.

It is thus critical for industry players, in-house lawyers, and private practitioners to implement certain best practices for navigating internal or government sports-betting investigations and, should it come to it, for defending against a criminal indictment. We discuss all that and more below.

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How We Got Here

As long as there have been sports, people have been gambling on sports. Betting on chariot races, for example, was a favorite pastime of the ancient Romans. Americans are no different.

The legality of sports betting in America, however, has fluctuated wildly over time. (George G. Fenich offers a helpful timeline of legal gaming from 1492 through the end of the 20th century in *A Chronology of (Legal) Gaming in the U.S.*, 3 UNLV Gaming Rsch. & Rev. J. 2 (1996), <https://tinyurl.com/5f5hs3t7>.)

By the twentieth century, every state had banned nearly all forms of sports betting. Just a few states, notably Kentucky, allowed betting on horse racing.

That ban on sports betting didn't stop spectators from gambling on sports, though. Betting on baseball, for example, was widespread and done in the open, even by players. So long as players didn't take bribes to throw games, wagering was broadly accepted. And it was an open secret in baseball that some players threw games in exchange for bribes from gamblers. (Rob Neyer summarizes gambling during baseball's early days in *Two Distinct Periods of Gambling*, ESPN (Jan. 7, 2004), <https://tinyurl.com/5ca9pb7f>.)

Things would change in 1920 as the "Black Sox scandal" unfolded. Rumors that Chicago White Sox players intentionally lost the 1919 World Series had been swirling for some time. Those rumors became a true scandal when prosecutors charged eight White Sox players with conspiring to commit an illegal act by throwing the World Series in exchange for kickbacks from gamblers.

The prosecution unraveled, though, when the judge instructed the jury that prosecutors had to prove not just that the players agreed to fix the World Series, but also that they did so "to defraud the public and others." James Kirby, *The Year They Fixed the World Series*, 74 A.B.A. J. 65, 68 (1988). The jury acquitted all eight players on the first ballot, and the crowd reportedly erupted in celebration when the verdict was read.

Despite the acquittals, the Black Sox scandal shaped the future of professional sports. In response, Major League Baseball created a powerful new office of "Commissioner of Baseball" to make, interpret, and enforce league rules. The first Commissioner's first act was to ban the eight Black Sox players from baseball for life. The other sports leagues would later adopt the same commissioner model, which persists today.

Apart from Nevada legalizing sports gambling in 1949 and a few other states allowing limited forms of sports betting, the trend for the rest of the 20th century

was to tighten existing bans and enact new ones. In 1961, for example, Congress passed the Federal Wire Act, which made it a crime to use interstate wires to transmit sports bets. A few years later, Congress enacted the Sports Bribery Act to prohibit schemes to influence sporting contests.

The next big change would again come in reaction to a baseball scandal. In 1989, an investigation by MLB found that baseball's all-time hits leader, Pete Rose, regularly bet on MLB games, including games that Rose managed or played in. The resulting outcry pushed Congress to enact the Professional and Amateur Sports Protection Act, which prohibited states from allowing sports betting outside the few places it was already allowed.

That is how things remained until 2018, when the Supreme Court held the Professional and Amateur Sports Protection Act unconstitutional in *Murphy v. NCAA*, 584 U.S. 453 (2018). *Murphy's* holding freed states for the first time in decades to legalize sports betting if they wished. And many states quickly did exactly that.

The Current Landscape

As of 2026, 39 states (plus D.C. and Puerto Rico) allow sports betting in some form. Notable exceptions include California and Texas, where nearly all sports betting remains illegal.

The legal status of prediction markets—platforms that let users buy and sell contracts tied to the outcome of events like sports games—is more complicated. Though not the focus of this article, there remains an ongoing dispute between the federal government's position that the Commodity Futures Trading Commission has exclusive jurisdiction over prediction markets and several states' view that they too may regulate prediction markets.

At the federal level, the sports-betting prohibitions remain in place. It is still a crime under the Federal Wire Act (18 U.S.C. § 1084) to transmit sports bets using interstate wires, even in states that allow sports betting. The Sports Bribery Act also still prohibits schemes to influence sporting contests (*id.* § 224). And another statute (*id.* § 1955) makes it a federal crime to conduct a gambling business that is illegal in the state it operates in.

Though not specific to sports or gambling, the federal mail and wire fraud statutes (*id.* §§ 1341, 1343) have become prosecutors' preferred tools to charge sports betting cases. Those statutes criminalize schemes to deprive victims of money or property through deceit.

Ever since the Black Sox case, prosecutors have argued that fixing games or using confidential information when placing bets “defrauds” the sportsbooks or public generally. The theory is: When someone places a bet, they effectively represent that they aren’t using confidential information. So, if they indeed use such information to place bets, the bettors are deceiving the sportsbook and the public in hopes of financial gain at the expense of the sportsbook’s and the public’s integrity.

That latter theory more naturally fits under the honest services fraud statute (*id.* § 1346), which Congress enacted long after the Black Sox scandal. That statute defines a “scheme to defraud” to include one to “deprive another of the intangible right of honest services.” The Supreme Court has read that to mean that it is a crime to accept or provide a bribe or kickback in violation of a fiduciary duty. For example, employees owe their employer a fiduciary duty. So professional athletes who take a bribe to throw a game could likewise violate their duty to their teams in violation of the honest services fraud statute.

Sports betting implicates other laws, too. Sportsbooks must comply with the Bank Secrecy Act (31 U.S.C. § 5311) and related regulations. The money laundering statute (18 U.S.C. § 1956) makes it a crime to conduct financial transactions involving proceeds of an unlawful activity. And engaging in a pattern of fraudulent bets could amount to a “racketeering enterprise” under the RICO statute (*id.* § 1962).

Recent Prosecutions

It was only a matter of time before prosecutors charged a high-profile sports betting case. That first big indictment did not come until 2024, when the Eastern District of New York charged former NBA player Jontay Porter with conspiring to commit wire fraud. The indictment alleged that Porter told gamblers ahead of time that he would remove himself early from at least one game, allowing the gamblers to bet that Porter would underperform his expected statistics. In doing so, prosecutors alleged, Porter engaged in a scheme to defraud the sportsbooks where the bets were placed. Porter pleaded guilty, but he has not been sentenced.

Terry Rozier Case

The indictments kept coming in 2025 and 2026. The next case, *United States v. Earnest*, No. 25-cr-323 (E.D.N.Y.), involved NBA star Terry Rozier and others. Prosecutors alleged that Rozier took bribes from gamblers to exit games early with a feigned injury so that the gamblers could place large “under” bets on Rozier’s performance.

The four-count indictment charges Rozier and others with violating the Sports Bribery Act by accepting or providing bribes to influence NBA games and conspiring to commit money laundering by engaging in transactions using their ill-gotten winnings. It also charges Rozier with conspiring to commit wire fraud when he agreed to the sportsbooks’ terms of service, which prohibit using confidential information to make bets.

Finally, the indictment alleged a conspiracy to commit honest services fraud. Under that theory, Rozier allegedly owed his team and the NBA a fiduciary duty, including a duty not to bet on NBA games or pass confidential information to gamblers. By taking bribes, he is alleged to have violated that duty and thus deprived his team and the NBA of his “honest services.”

Emmanuel Clase & Luis Ortiz Case

Weeks after indicting Rozier, the Eastern District of New York charged two MLB pitchers, Emmanuel Clase and Luis Ortiz. See *United States v. Clase*, No. 25-cr-346 (E.D.N.Y.).

The indictment charges a “pitch-rigging scheme.” Sportsbooks allow bettors to place wagers on the speed of specific pitches or whether an umpire would call the pitch a ball or strike. The indictment alleges that Clase and Ortiz prearranged with gamblers to throw specific pitches in the dirt or slower than normal in exchange for a share of the winnings.

As in *Earnest*, the *Clase* indictment has four counts: (1) wire fraud conspiracy, (2) honest services conspiracy, (3) Sports Bribery Act conspiracy, and (4) money laundering conspiracy. The legal theories underlying each count are effectively the same as in *Earnest*.

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NCAA & Chinese Basketball Association Case

The most recent sports betting indictment, *United States v. Smith*, No. 2:26-cr-23 (E.D. Pa.), is the only one outside the Eastern District of New York. The defendants include former NCAA student-athletes and professional players in the Chinese Basketball Association.

Prosecutors allege the defendants engaged in a “point-shaving scheme.” Not all matchups are even. So sportsbooks set a “spread” for each game. For example, a sportsbook might expect the stronger team to win by 10 points and set the spread at 10. Someone who bets on the favored team will win the bet only if that team wins by *more than* 10 points. “Point shaving” is when players on the favored team manipulate their performance to ensure that they don’t “cover the spread”—that is, they win, but they win by fewer points than the spread—e.g., fewer than 10. That is what the indictment alleges happened here. Gamblers bribed players to shave points from NCAA and Chinese Basketball Association games.

This indictment has five counts, charging a violation of the Sports Bribery Act, one count of conspiracy to commit wire fraud, and three counts of wire fraud. Unlike the other cases, it does not charge honest services fraud or a money laundering conspiracy. This indictment also alleges that the general betting public is a “victim” of the scheme to defraud, in addition to the sportsbooks themselves.

How the Industry Is Adapting

The recent indictments have shaken the sports world. In reaction, the NCAA has lobbied to ban “proposition” or “prop” bets—wagers on events or performances within a game rather than on the outcome of the game itself. Prop bets are more easily manipulated than others because a single player can often dictate the outcome. Clase and Ortiz, for example, allegedly rigged prop bets related to whether a specific pitch they threw would be a ball or strike.

The major sports leagues have partnered directly with sportsbooks and government agencies to share information and identify suspicious betting activity. To limit opportunities to exploit information about player injuries, the NBA now requires teams to submit revised injury reports between 11 a.m. and 1 p.m. on gamedays, and the NBA will now update public injury reports every 15 minutes. Other leagues have adopted or are considering similar measures.

Sportsbooks have committed to redoubling their

efforts to identify suspicious betting activity and agreed to tighten restrictions on some prop bets. But the industry has opposed more substantial changes, such as eliminating prop bets entirely.

Navigating Internal or Government Investigations

Whatever else happens, sports betting isn’t going away anytime soon. Instead, all signs point to the leagues, teams, and sportsbooks ramping up their compliance and integrity-protection efforts.

That will mean more internal and government investigations. For practitioners, the standard best practices for conducting investigations or navigating clients through investigations all apply.

Certain best practices, though, take on added importance in sports-betting investigations. When representing players in an investigation, for example, it is essential to immediately identify a clear goal. For some clients, the only goal may be avoiding an indictment. But for others, protecting their public image might be equally, or even more, important. In that case, determining a smart public-relations strategy may be as important as defining a legal strategy. And for still other clients, a “win” might mean something else entirely. But whatever it is, the goal will dictate the strategy. Identifying it clearly and quickly is key.

Relatedly, counsel can never forget that every decision may have second- and third-order consequences. Leagues and teams have collective-bargaining agreements to consider, in addition to potential action by a state or federal regulator. Players have to balance potential criminal liability with potential life-altering punishments that the powerful league commissioners can impose.

Navigating investigations involving wagers across different sportsbooks raises added challenges, as the sportsbooks may operate across dozens of jurisdictions with uncertain or inconsistent legal requirements. Diligence regarding all potential legal exposure is essential.

Representing Individuals After Indictment

Defending individuals facing criminal charges in sports-betting cases presents unique and important considerations.

An indictment is not the ballgame. It is an invitation for advocacy. And there is plenty of room for advocates to meaningfully improve their client’s position before trial. Since the Black Sox acquittal, there have been few sports-betting trials, particularly at the

federal level. Many defendants, such as former NBA player Jontay Porter, have pleaded guilty without challenging the government's allegations, let alone going to trial. As a result, the government's legal theories remain largely untested in the sports-betting context.

That offers a chance for defense counsel to move to dismiss at least some of the charges. To the extent the indictment relies on novel theories or applications of the law, there may be grounds to seek dismissal. For example, counsel for Mr. Rozier moved to dismiss the indictment, contending that the charges stemmed from a violation of sportsbooks' terms of use, not a violation of federal law. Though most motions to dismiss fail, they are nevertheless valuable ways for counsel to reframe the narrative, preserve key legal issues for appeal, and educate the court about the case and legal issues ahead of trial.

Counsel also should do everything possible to sever the case from that of any co-defendants. As Supreme Court Justice Robert Jackson put it in *Krulewitch v. United States*, at a multidefendant trial, "[t]here generally will be evidence of wrongdoing by somebody," and it is nearly impossible for "the individual to make his own case stand on its own merits in the minds of jurors who are ready to believe that birds of a feather are flocked together." 336 U.S. 440, 454 (1949) (Jackson, J., concurring). The risk of guilt by association is real. Counsel must do whatever is possible to avoid a multidefendant trial.

In the face of trial, there are still ample grounds for forceful advocacy. Like motions to dismiss, motions in limine help educate the court about what is and is not important in the case and might keep prejudicial evidence or testimony out of trial. Counsel may seek to exclude codes of conduct or other sports regulations that may cause confusion for jurors or invite them to find that a violation of a code of conduct amounts to a violation of the law. Counsel also should think carefully about moving to exclude unrelated, prejudicial conduct by clients and others alleged to be involved.

The same is true for jury instructions. Counsel should try, however possible, to secure favorable jury instructions that align with the defense theory of the case and explain the law to jurors in plain language. In doing so, counsel should pay special attention to the rules for preserving arguments for appeal in the relevant jurisdiction, as there is considerable variation on that issue from jurisdiction to jurisdiction.

When facing the jury, remember that how jurors process evidence is as important as the evidence itself.

Research shows that jurors do not evaluate facts individually but process new information against a preexisting "script." For example, the statement, "I went to the ballpark and had a snack," is likely to activate a baseball script where all information is unconsciously processed to conform with the listener's understanding of a typical ballpark experience. The listener therefore is primed to believe that the unidentified "snack" was popcorn or peanuts. By contrast, even if the snack was steak (now available at some stadiums), it would be harder for the listener to accept that fact or give it the same weight because it does not fit with the "ballpark" script.

Sports-betting cases likely conjure up certain "scripts" in jurors' minds. Though perceptions are changing, sports-betting schemes challenge the wholesome integrity of beloved pastimes for financial gain. There is a reason that the Black Sox scandal is relevant more than a century later; it is a story with universal appeal and clearly defined characters. In fact, jurors may have in mind the actual script for *Eight Men Out*—the fictionalized version of the Black Sox scandal—as they hear evidence in a sports-betting case.

Defense counsel should work to disrupt those scripts. The first step is to call out a script for what it is. Scripts are powerful because they happen subconsciously. By calling them out, counsel can neutralize or, in rare cases, flip the script on its head, such as by portraying the government's investigation as falling victim to the same subconscious—but erroneous—assumptions about sports-betting generally.

No matter what, though, the game is not over once there is an indictment. From pretrial motions to the trial itself, skilled defense counsel can meaningfully improve a defendant's position at each stage.

Conclusion

The sports-betting prosecution era is just beginning. While the industry adapts, counsel also must adapt in defending against sports-betting indictments with zeal. ■