

## News Roundup

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The internet sweepstakes soap opera took a dramatic turn this week. An employee of a Davidson County sweepstakes business was charged with violating the recently-upheld sweepstakes law, G.S. 14-306.4. The charges were promptly dismissed by the District Attorney, but a sweepstakes vendor called International Internet Technologies nonetheless sued, seeking an injunction prohibiting enforcement of the law against vendors using its updated system, which it contends complies with the statute. A Superior Court Judge granted a temporary restraining order. A hearing on the possibility of a preliminary injunction is scheduled for Monday, and the Attorney General's office has stepped into the fray.

In the meantime, the question on everyone's mind seems to be whether the TRO binds law enforcement statewide, even though the named defendants were Governor McCrory, Secretary of DPS Shanahan, and the Davidson County Sheriff. I'm no civil procedure expert, but generally a TRO "is binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them." N.C. R. Civ. P. 65(d). So I think the key question is whether law enforcement across the state is "in active concert or participation" with the Governor or the DPS. I doubt that, for example, the Sheriff in Avery County views himself as being in active concert with the folks in Raleigh, but a contrary argument is at least possible. *Cf. ACLU v. Johnson*, 194 F.3d 1149 (10<sup>th</sup> Cir. 1999) (injunction prohibiting governor and attorney general from enforcing a criminal law also bound district attorneys). As a practical matter, charging sweepstakes operators using IIT's software between now and Monday may not be worth the trouble. Readers who know more than I do about civil procedure, feel free to weigh in with better informed opinions.

In other news:

1. Sweepstakes industry representatives are seeking legislators to sponsor a bill that would "delay [enforcement of G.S. 14-306.4] for three years so that sweepstakes gambling could be better defined and regulated, [according to the News and Observer](#)."
2. Republicans in the General Assembly are seeking a return to partisan judicial elections, as the *News and Observer* reports [here](#).
3. The *New York Times* just ran [this interesting article](#), noting that New York City has seen a dramatic reduction in crime – above and beyond the national decline – and has done so while reducing its incarceration rate. In essence, the article argues for spending more on cops, and having the officers target criminal activity clustered around geographic "hot spots." Of course, what one person sees as targeted policing another may see as community profiling.
4. The *Wall Street Journal* has [this piece](#) about professional courtesy and how to rein in Rambo litigators. I'm not sure, but I suspect that any lawyer who would choose to attend "a musical refresher course on the virtues of civility" is a lawyer who doesn't need such a course.
5. The ongoing debate about restitution to child pornography victims is well addressed in [this New York Times Magazine piece](#), which tells the very human story of two victims of the child pornography trade. One has collected over a million dollars in restitution, but of course there is no amount of money that could ever truly compensate her for the abuse she endured.
6. Finally, a legislator in Montana has [proposed](#) allowing defendants to choose physical pain through corporal

punishment as a substitute for prison in certain cases. For example, a defendant could choose 10 years or 20 lashes. The legislation is probably not going anywhere and there are obviously Eighth Amendment concerns, but depending on the “exchange rate,” I can imagine some defendants welcoming the opportunity.