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Increased Crime and Legalizing Gambling Operations: The Impact on the Socio-Economics of Business and Government

By John Warren Kindt*

Legalized gambling activities in various forms are being rapidly adopted by many states, but no state has a comprehensive developmental plan that includes the overall socio-economic costs of legalizing gambling. In this situation, states considering initiating or expanding legalized gambling activities must necessarily extrapolate from the best reports available that analyze those specialized costs associated with legalized gambling activities from a statewide perspective. Unlike most business activities, legalized gambling activities add three significant costs to government: (1) regulatory costs; (2) socio-economic costs occasioned by new compulsive gambling activities; and (3) costs to the criminal justice system. These three costs, and in particular, the increased costs to the criminal justice system, are reviewed from the strategic perspective of state governments. This article concludes that the flow of new tax revenues generated by increasing legalized gambling activities can theoretically stay ahead of increased costs to a given state's criminal justice system, but the increased costs overwhelm the benefits when all of the costs are considered.

"[G]ambling itself . . . is probably the biggest producer of money for the American La Cosa Nostra [that] there is."[1]

Critics of expanded legalized gambling activities argue that if the U.S. public has been satisfied with the progress in the "War on Drugs," that public is going to be ecstatic about the

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* Professor, University of Illinois, Urbana-Champaign, Ill. Professor Kindt teaches courses on commerce and legal policy.

[1] James Moody, Chief of the Organized Crime Section, FBI, *as quoted in* Videotape/Transcript of "60 Minutes," Dec. 13, 1992 (CBS). For extensive lists of similar statements by authoritative officials in the U.S. criminal justice system, see Chicago Crime Comm'n, *Analysis of Key Issues Involved in the Proposed Chicago Casino Gambling Project* 9, 11–12 (1992) [hereinafter cited as Chicago Crime Comm'n]; Testimony of Robert R. Fuesel, Exec. Dir., Chicago Crime Comm'n, Before the Ill. Sen. Subcomm. on Gaming, June 8, 1993, at 1–4. See generally President's Commission on Organized Crime, *The Edge: Organized Crime, Business, and Labor Unions* (Mar. 1986); W. Roemer, Man Against the Mob (1989).

forthcoming ."War on Gambling."[2] There are some obvious parallels.[3] Arguably, the war on drugs was not even necessary until the widespread use of illegal drugs during the 1960s when such use came under the rubric of social acceptability.[4] A recognized addictive activity similar to illegal drug use, gambling was not just becoming sociologically acceptable, but as of the 1980s, it was being "legalized"[5]—unlike harmful drugs. Sociolo-

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[2] See generally Ill. St. Police, Div. Crim. Investigation, Intelligence Bur., *How Casino Gambling Affects Law Enforcement* (Apr. 16, 1992) [hereinafter cited as Ill. St. Police Report]. The laundering of money by legalized gambling operations appears to be a common problem. During 1992, for example, "Atlantic City's casinos . . . [were] under investigation for laundering drug money." Roeser, "Chicago Casino Plan Gambles City Future," Wall St. J., Aug. 12, 1992, § A, at 10 [hereinafter cited as Roeser]. Less than two years after being initiated, the Illinois State Police Director, Terrance Gainor, reported that investigations were "being conducted into suspected laundering of illegal drug profits through the riverboats" in Illinois. Urbanek, "Probe Creating Fears for Riverboats' Image," Daily Herald (Arlington Heights, Ill.), Nov. 21, 1992, § 1, at 4; "Laundering on Riverboats," News-Sun (Waukegan, Ill.), Nov. 20, 1992, at 1.

For analyses by the Chicago Crime Commission opposing the introduction of land-based casino gambling to Chicago, see Report of the Chicago Crime Commission on Organized Crime in Chicago (J. Conlon, Pres. 1990). For analyses by the N.Y. Attorney General's office opposing the introduction of land-based casino gambling to New York State, see R. Abrams, Report of Attorney General Robert Abrams in Opposition to Legalized Casino Gambling in New York State (May 1981). For analyses of the impacts of land-based casino gambling on Atlantic City, New Jersey, see O'Brien & Flaherty, "Regulation of the Atlantic City Casino Industry and Attempts to Control Its Infiltration by Organized Crime," 16 Rutgers L.J. 721 (1985).

[3] For examples of the parallel costs of pathological gambling activities and other medical treatment costs (such as for alcoholics), see Politzer, Morrow, & Leavey, Report on the Societal Cost of Pathological Gambling and the Cost-Benefit/Effectiveness of Treatment (5th Nat'l Conf. on Gambling and Risk Taking 1981) [hereinafter cited as Politzer, Morrow, & Leavey]. "Studies demonstrate that there is a high degree of overlap among pathological gambling, alcoholism and drug addiction." Lesieur, "Female Pathological Gamblers and Crime," in *Gambling Behavior and Problem Gambling* 495, 497 (1993) [hereinafter cited as Gamblers and Crime].

[4] To transpose this "acceptability factor" to legal gambling as increasing illegal gambling activities, see U.S. Commission on the Rev. of the Nat'l Pol'y Toward Gambling, *Gambling in America* 49 (Gov't Printing Off. 1976) [hereinafter cited as U.S. Commission on Gambling]. For a review of the literature interfacing pathological gambling and drug addiction, see Gamblers and Crime, note 3 *supra*, at 497.

[5] For example, the Chicago Crime Commission opposed the 1992 proposal to build a $2-billion casino complex in Chicago.

Those who have been involved in the successful investigation and prosecution of organized crime believe that the legalization of casino gambling would fuel a renaissance of organized crime. It is incorrect to see casino gambling as a way to beat organized crime at its game. Instead, legalized gambling creates the atmosphere in which organized crime [thrives]. . . . Also, the widespread acceptance of casino gambling will encourage people to try the other forms of gambling controlled by organized crime, because those forms of gambling do not provide records for the Internal Revenue Service and other authorities.

gists recognize that this "acceptability factor" combined with an "accessibility factor" will increase the number of compulsive gamblers in society.[6] The "legalization" of gambling activities means that society can anticipate that the number of compulsive gamblers will increase from .77 percent of the overall population[7] to between 1.5 and 5 percent of the population[8]—with a total of 10 percent of the population constituting problem economic gamblers.[9] Historical trends and conditioning factors indicate that the war on gambling will be the added sociological war of the 1990s—financed by society in general and by the taxpayers in particular.[10]

In 1976, the definitive U.S. Commission on the Review of the National Policy Toward Gambling[11] cautioned against the trends toward legalizing and expanding legalized gambling activities and anticipated the increased socio-economic costs and costs to the criminal justice system of ignoring these warnings.[12] Among other findings, the Commission concluded "[i]t is axiomatic that the two principal goals of legalized gambling—revenue raising and crime control—are incompatible."[13] Another conclusion was that gambling activities "contribute[d] more than any

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Press release of the Chicago Crime Commission, May 28, 1992.

[6] See, e.g., Politzer, Morrow, & Leavey, note 3 supra, at 2. See generally A. Lilienfeld & D. Lilienfeld, Foundations of Epidemiology (2d ed. 1980). For a summary (in the political context) of the academic consensus supporting these twin concepts of the "acceptability factor" and the "accessibility factor," see Better Gov't Assoc., Staff White Paper: Casino Gambling in Chicago 2 et seq. (1992) (copies available from Better Gov't Assoc., Chicago, Ill.) [hereinafter cited as Better Gov't Assoc. Report]; Wynn Resources, Alta. Lotteries & Gaming, Gambling and Problem Gambling in Alberta 17 (1994) [hereinafter cited as Alta. Gaming].

[7] The most authoritative baseline data available was reported in 1976 by the U.S. Commission on the Review of the National Policy Toward Gambling. U.S. Commission on Gambling, note 3 supra, at 73; see, e.g., Gamblers and Crime, note 3 supra, at 495 (.77 percent of U.S. adult population were probable compulsive gamblers.

[8] For a summary of the increases in compulsive gambling in different U.S. and worldwide jurisdictions, see, e.g., Alta. Gaming, note 6 supra, at 17–18. See also Meyer & Fabian, "Pathological Gambling and Criminal Behavior," in Gambling Behavior and Problem Gambling 517, 517–518 (1993) (statistics for Fed. Republic of Germany) [hereinafter cited as Meyer & Fabian].

[9] See, e.g., Alta. Gaming, note 6 supra, at 18 (table).

[10] See note 2 supra and accompanying text.

[11] U.S. Commission on Gambling, note 4 supra.

[12] See, e.g., id. at ix, 40–42, 49, 72–74.

[13] U.S. Commission on Gambling, note 4 supra, at 1.

other single enterprise to police corruption in . . . [U.S.] cities and towns and to the well-being of the Nation's criminals."[14] Furthermore, the Commission reported that there was "some evidence that the existence of gambling sanctioned, licensed, or run by the various states—and the attendant publicity—tends to increase citizen participation in *illegal* as well as legal gambling."[15] In 1988, this observation received more conclusive support from the New Jersey Governor's Advisory Commission on Gambling.[16] However, in the years since these Commissions, these *caveats* have slowly eroded from the public memory, and the aforementioned trends have apparently intensified.

Proponents of increased legalized gambling activities counter that these social negatives are more than offset by the increased tax revenues and new jobs created by legalizing gambling activities. Increased tax revenues and jobs are definitely created by the initial increases in legalized gambling activities.[17] However, critics argue that the increased social-welfare costs dwarf the benefits and that preexisting businesses are "economically cannibalized" by legalized gambling enterprises.[18] To investigate these claims, the Ford Foundation and the Aspen Institute funded a study by the Center for Economic Development at the University of Massachusetts.[19] This study analyzed fourteen major reports prepared to evaluate increased legalized gambling activities.[20] Only one report was considered balanced[21] and the reports advo-

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[14] *Id.* at ix.

[15] *Id.* at 49 (emphasis added).

[16] The New Jersey Commission "heard from law enforcement officials in New Jersey who contend[ed] that legalized gaming has not only failed to curb illegal gambling but in fact has been conducive to its growth," and the Commission concluded that legalized gambling did not decrease the illegal gambling in New Jersey. *N.J. Governor's Adv. Comm'n on Gambling, Report and Recommendations* 19 (1988) [hereinafter cited as N.J. Adv. Comm'n].

[17] For specific examples of the "initial" positive impacts of new jobs and tax revenues concentrated in a localized area, see M. Madden, *Economic and Fiscal Impacts Associated With the First Year of Gaming: Deadwood, South Dakota* (1991). This report cautioned that only a short time frame was analyzed. *Id.* at 2-4. See generally B. Davis, *Gambling in America: A Growth Industry* 12-16 (1992).

[18] See, e.g., R. Goodman, *Legalized Gambling as a Strategy for Economic Development* 39-40, 51-56 (1994) (Ctr. Econ. Dev., U. Mass.) [hereinafter cited as Goodman].

[19] Goodman, note 18 *supra*.

[20] *Id.* at 16.

[21] *Id.* at 70.

cating increased legalized gambling activities were tagged as "often done by the industry itself"[22] and as "hiding the costs,"[23] including increased costs to the criminal justice system.[24]

This debate is far-reaching and beyond the scope of this discussion, but the gravamen of the present analysis is that as the University of Massachusetts report concluded "[t]here are no *state* gambling plans"[25] and "[t]he research used by public officials to evaluate projects is often done by the gambling industry itself."[26] Accordingly, public policy and legal policy dictate that a state considering utilizing legalized gambling activities as economic development should rely primarily on nonindustry studies that are statewide or regional analyses and that have a strategic perspective. In this context, increased costs to the criminal justice system that are occasioned by increased legalized gambling activities must necessarily rely on the most authoritative and current reports available and extrapolate within a statewide or regional population base. Such an analysis can frame the parameters for future debate and encourage more detailed studies. The present analysis focuses on only the potential for increased costs to a statewide criminal justice system as viewed in strategic policymaking. While other socio-economic cost-benefit issues should also be reviewed in state economic plans, these other issues are too broad for this analysis and are, therefore, not addressed. From the perspective of business activity, new businesses will tend not to locate or expand into those areas where crime is increasing at a rate greater than the national average.[27]

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[22] *Id.* at 16.

[23] *Id.*

[24] *Id.*

[25] *Id.*

[26] *Id.*

[27] In business location models, the "community environment" appears to be the most important factor (or one of the most important factors) in the different decision-making analyses. "Increasing crime" would almost uniformly raise a "red flag" in these analyses. For historical background and an introduction to business decision making in general, see F. Rosenkranz, *An Introduction to Corporate Modeling* (Duke Univ. Press 1979). See generally J. Browning, *How to Select a Business Site* (1980); W. Kinnard & S. Messner, *Effective Business Relocation* (1970); D. Smith, *Industrial Location* (1981); J. Thompson, *Site Selection* (1982); A. Weber, *Theory of the Location of Industries* (C. Friedrich trans., Univ. Chicago Press 1937).

Businesses should note the trends evidenced in the FBI crime statistics from 1975 to 1992: U.S. Dep't Just., Fed. Bur. Investigation, *Crime in the United States: Uniform Crime Reports* (1975–1992) [hereinafter cited as FBI Reports (with relevant date)]. See also Las Vegas Metropolitan Police Dep't, Annual Statistical Report: Fiscal Year 1990–1991.

As a corollary, states with legalized gambling in general and locales with particular outlets for legalized gambling will be at high risk not only for failing to attract new businesses, but also for losing preexisting businesses.[28] Preexisting businesses in areas where crime is increasing will be tempted to downsize, expand elsewhere, or even move entirely to another location. States and locales encouraging the gambling philosophy could easily have crime rates that increase exponentially above the national average.[29] It is significant that strategic "business-oriented" reports have noted, for example, "the rate of increase in crime in Atlantic City [which] accelerated 150% (from a 5.4% to a 13.6% increase per year) after gambling was legalized."[30] Given the nationwide preoccupation of states to legalize more and "harder" forms of gambling, it can be argued that those states without legalized gambling will be at a significant strategic business-economic advantage over those states that legalize gambling.

In 1994, these socio-economic concerns were recognized and echoed by authoritative law enforcement officials; for example, Michigan Attorney General Frank Kelley has said:

> Many people try to argue that casinos bring positive results. They say that casinos mean more jobs—more money for the state—a different image. I would say to each of those statements that any positive impact would be so totally outweighed by the negatives that they should want no part of it.[31]

Instinctively, at least some law enforcement officials appear to be concerned with the projected increases in costs to the criminal justice system, as well as the impacts on the preexisting social

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[28] The exception to this corollary consists of those businesses providing cluster services for legalized gambling activities, because of course, these businesses will tend to locate in areas with legalized gambling activities.

[29] See note 27 *supra*. See also Ill. St. Police Report, note 2 *supra*, at 3–11. See generally, Better Gov't Assoc. Report, note 6 *supra*, at 76–126 (a thorough summary of crime-related issues).

[30] Cal. Governor's Off. Plan. & Research, *California and Nevada: Subsidy, Monopoly, and Competitive Effects of Legalized Gambling* ES-3 (Dec. 1992). Increased numbers of people entering the area contributed to this phenomenon, but from the perspective of pre-existing residents, businesses, and taxpayers, the gravamen is that social problems relating to crime will increase. *Id.*

[31] Speech by Frank Kelley, Mich. Att'y Gen. before the Int'l Conference on Gambling, Nashville, Tenn., Feb. 11, 1994, at 3 [hereinafter cited as Mich. Att'y Gen.]. For lists of similar statements by other authorities, see note 1 *supra*.

fabric that are occasioned by legalized gambling activities—particularly casinos.[32] The analysis by Attorney General Kelley's staff and the conclusions are typical:[33]

> According to [the] FBI figures, between 1977, when the first casino opened in Atlantic City, and 1986, just nine years later, the incidence of larceny per capita increased by four hundred and sixty-seven percent.[34] Incidence of all crime combined increased by [one] hundred and thirty-eight percent—and this figure includes all categories of violent crime, including rape and robbery.[35]
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> When Detroit was considering a vote on casino gambling back in 1988, I shared those statistics with a study commission and pointed out that a one hundred percent increase in crime in Detroit would paint a picture of absolute chaos that could barely be imagined. And, that *any money brought into the city would quickly be spent on an expanded law enforcement effort to control the crime.*[36] (Emphasis added.)

As an expert with decades of experience, his conclusion was unequivocal. "I have been Michigan's Attorney General for more than thirty years, and there has never been an issue that has disturbed me any more than the proliferation of gambling in our state."[37] From the business perspective, any issue that concerns a state's chief legal officer to such an extent should necessarily concern businesses and business executives.

Delimitation of Costs

As in some other issue areas, it is sometimes difficult to calculate the increased "administrative costs" associated with legalized gambling activities. The data is preliminary in several regards, but some observations and conclusions can be made. With regard to the administrative costs of monitoring and regulat-

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[32] *Id.*

[33] *Id.*

[34] Compare FBI Reports 1977, note 27 *supra,* at 98 (Table 6), with FBI Reports 1986, note 27, *supra* at 88 (Table 6). In 1992, the larceny rates were down from 1986, but those rates still indicated approximately a 400 percent increase since 1977. FBI Reports 1992, note 27 *supra,* at 134 (Table 6).

[35] Compare FBI Reports 1977, note 27 *supra,* at 98 (Table 6), with FBI Reports 1986, note 27 *supra,* at 88 (Table 6). "Atlantic City's crime statistics again greatly overshadows [*sic*] all of the national level increases that were experienced in 1977 and 1990." Ill. St. Police Report, note 2 *supra,* at 5. Compare FBI Reports 1977, note 27 *supra,* at 98 (Table 6), with FBI Reports 1990, note 27 *supra,* at 50, 51 (Tables 1, 2).

[36] Mich. Att'y Gen., note 31 *supra,* at 3–4.

[37] *Id.* at 2.

ing casino gambling, states can profit by extrapolating from the costs experienced by similar gambling locales. In the absence of any comprehensive state plans relating to legalized gambling activities,[38] state policymakers are basically relegated to utilizing this type of approach—particularly when short decision-making time frames are involved.

Given these constraints, it should be noted that the administrative costs of regulating just the ''casino gambling'' in Atlantic City, New Jersey, for example, are approximately $56 million to $59 million per year.[39] These costs can be delimited in a variety of ways, e.g., as a function of ''visits,'' or of local patrons vis-à-vis gambling tourists. From a state governmental perspective, however, these costs can be expressed as a function of the state budget. Since the 1991 fiscal year budget of New Jersey was 24.7 billion,[40] the calculation is as follows:

$$\$56 \text{ million} \div \$24.7 \text{ billion} = .23\%$$

Of course, this number appears small, but it looms larger when it is combined with the projected socio-economic costs to New Jersey and then compared to the state revenues actually generated by legalized gambling activities.[41]

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[38] Goodman, note 18 *supra*, at 16.

[39] St. N.J., Comprehensive Annual Financial Report 238 (1992) ($56–$57 million for casino regulatory costs); N.J. Casino Control Comm'n, 1992 Annual Report 23 (1992) ($57 million for casino regulatory costs in 1992, $62 million in 1991). To keep the time frames uniform and to accommodate ''fiscal year'' variations, the focus is on 1992 and 1991. Other time periods are given for purposes of comparison. N.J. Adv. Comm'n, *supra* note 16 *supra*, at 65 ($66.4 million regulatory costs and 1,362 regulatory employees in 1986 for ''all'' gambling activities, and $76.6 million regulatory costs in 1987); see N.J. St. Budget, FY 1986–1987; N.J. St. Budget, FY 1991–1992. See also, Roeser, note 2 *supra*, at 10 ($59 million for casino regulatory costs in 1992). In 1989, the regulatory costs for Atlantic City were also estimated at $85 million per year. Statement of William Thompson, Prof. Mg't & Pub. Admin., UNLV, before the Ill. Sen. Comm. regarding S.B. 572 on Riverboat Gambling, Sept. 27, 1989. See generally Lee & Chelius, ''Government Regulation of Labor-Management Corruption: The Casino Industry Experience in New Jersey,'' 42 Indus. & Lab. Rel. Rev. 536 (1989); Ill. St. Police Report, note 2 *supra*.

[40] U.S. Bur. Census, U.S. Dep't Com., *Statistical Abstract of the United States 1993*, 300 (113th ed. 1993) (figures are for 1991) [hereinafter cited as U.S. Abstract 1993]; see *The World Almanac* 137 (1993). For uniformity and ease of reference for the general public, the *World Almanac* can provide basic numbers. Of course, actual state budgets provide more accurate calculations. See also N.J. Adv. Comm'n, note 16 *supra*.

[41] Except in Nevada and New Jersey, legalized gambling activities do not contribute over 2 percent of the revenues of any state budget. For a statement of this basic proposition, see *World Book Encyclopedia, 1994 World Book Year Book 398* [hereinafter cited as *1994 Year Book*]. Gambling taxes provide Nevada with

In a similar context, the Illinois State Police calculated that their law enforcement costs would increase by 50 percent, or $100 million per year,[42] if a 1992 proposal for a $2-billion casino complex was approved for Chicago. Governor James Edgar estimated that this amount would just match the state's realistic share of the projected new tax revenues from the casinos; that is, $100 million.[43] As a function of the state budget for fiscal year

approximately 20 percent of its revenues. St. Nev., Comprehensive Annual Financial Report 8 (1992) (19.75 percent in 1992, 23 percent in 1991); see Nev. St. Gaming Control Bd., Nevada Gaming Abstract 1992, 1-1, 1-2. Contra *1994 Year Book, infra*, at 398 (40 percent). By comparison, New Jersey received between 3 and 7.2 percent from 1978 to 1989 with the more recent projections in the range of 6 percent. N.J. Adv. Comm'n, note 16 *supra*, at 48.

[42] Speech by Terrance W. Gainor, Dir. Ill. St. Police, at the Ann. IAODAPCA Luncheon, May 8, 1992, at 10 (for "police services alone") [hereinafter cited as Dir. Ill. St. Police]; Chicago Crime Comm'n, note 1 *supra*, at 21. The range of projected increases to the budget of the Illinois state police was between $42 million and $100 million, but since the Director frequently utilized the more cautious estimate of $100 million, this is the estimate utilized. Although delimited in budgetary terms, these estimates apparently parallel the $41 million to $100 million increased costs calculated by interfacing "the incidence of index crime and the subsequent cost to the criminal system to handle those crimes." Ill. Crim. Just. Info. Authority, Casino Gambing and Crime in Chicago 46 (1992) [hereinafter cited as Crim. Just. Info.]. These cost estimates did not include increased costs for (1) regulation; (2) victimization impact; (3) prosecution of organized crime; (4) additional facilities for system workload; or (5) "response to non-index crimes, such as DUI, fraud, extortion, embezzlement, prostitution, and drug offenses." Crim. Just. Info., *infra*, at 46 & 47. See also Ill. Crim. Just. Info. Authority, Riverboat Gambling and Crime in Illinois 2, 3 (1994) (referencing the $41 million to $100 million in costs as specifically related to "Chicago"). The lack of uniform categories of costs in many reports makes comparisons difficult.

Government policymakers frequently argue that the burden of proof should be on the legalized gambling interests to refute any cautious projections by state agencies—particularly law enforcement agencies. On the other hand, proponents of increased legalized gambling activities often argue that law enforcement bureaucracies tend to inflate the costs to the criminal justice system to increase their budgets.

Another common argument justifying increased legalized gambling activities is that persons gambling illegally will transfer their money into legalized gambling activities, but there is no documentation that this phenomenon occurs and there is more support for the proposition that increased "acceptability" via legalization increases the illegal gambling activities already in process. For a review of the literature discounting the proposition that increased legalized gambling activities will decrease illegal gambling activities, see Ill. St. Police Report, note 2 *supra*, at 10-11 (confirming the conclusion of the U.S. Commission on Gambling). See generally Fowler, Mangione, & Pratter, Nat'l Inst. L. Enforcement & Crim. Just., L. Enforcement Assistance admin., U.S. Dep't Justice, Gambling Law Enforcement in Major Cities (1978). See, e.g., N.J. Adv. Comm'n, note 16 *supra*, at 19. "The Commission has heard evidence that the impact of legalized gaming has reduced neither the magnitude nor the frequency of illegal gambling in New Jersey." N.J. Adv. Comm'n, note 16 *supra*, at 19.

[43] Interview with Ill. Gov. James Edgar, on "Crossfire," Cable News Network, Jan. 6, 1993.

1991, these increased state police costs would be:

$$\$100 \text{ million} \div \$25.1 \text{ billion}[44] = .398\%$$

While the added tax revenues were also $100 million or .398 percent of the state budget, which appeared to be a breakeven proposition, there were other costs associated with legalized gambling activities that were not associated with traditional business activities. As calculated in a study sponsored by the proponents of the casino complex,[45] the "regulatory" costs were calculated at $65 million per year[46] and increased Chicago police and fire protection costs were $11.4 million per year.[47]

By comparison, the projected costs to the criminal justice system for a New Orleans casino, one-seventh to one-tenth the size of the proposed Chicago casinos, were $14 million per year, including increased police and corrections systems costs of $10.4 million, increased costs of $2.3 million for the district attorney's office, and increased costs to courts of $1.5 million.[48] The obvious temptation to Illinois agencies was to multiply this $14 million per year by the greater size of the proposed Chicago casino

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[44] St. Ill., Illinois State Budget: Fiscal Year 1991 ($25 billion); see U.S. Abstract 1993, note 40 *supra*, at 300; *The World Almanac* 137 (1993). See note 40 *supra*.

[45] See Chicago Gaming Commission, Economic and Other Impacts of a Proposed Gaming, Entertainment and Hotel Facility 263–266 (May 19, 1992) (report prepared by Deloitte & Touche, Chicago, Ill.) [hereinafter cited as Proposed Gaming Facility Report].

[46] Editorial, "Economically, casinos are a good bet," Chicago Tribune, May 24, 1992, § 4, at 2 [hereinafter cited as Economically]. "Deloitte & Touche also projects the loss of 2,300 jobs and $126 million in sales Downstate, $65 million in casino regulatory costs and $11.4 million in annual costs for police and fire protection." *Id.* at 2. For the actual estimates, see Proposed Gaming Facility Report, note 45 *supra*, at 234–245. For a comparison of the administrative costs of state lotteries, see DeBoer, "The Administrative Costs of State Lotteries," 38 Nat'l Tax J. 479 (1985).

[47] Proposed Gaming Facility Report, note 45 *supra*, at 236–241; see Economically, note 46 *supra*, at 2. The calculations are as follows:
$65 million ÷ $25.1 billion = .258%
$11.4 million ÷ $25.1 billion = .045%
See also Crim. Just. Info., note 42 *supra*, at 45; Chicago Crime Comm'n, note 1 *supra*, at 21.

[48] T. Ryan, P. Connor, & J. Speyrer, The Impact of Casino Gambling in New Orleans 46–47 (1990). These calculations were apparently analyzed and considered to be "balanced" and valid. Goodman, note 18 *supra*, at 85–87; Ill. St. Police Report, note 2 *supra*, at 9; Dir. Ill. St. Police, note 42 *supra*, at 9–10. These costs do not include many "indirect costs" to the criminal justice system. For analyses of other "criminal law" issues, see generally Gaines, "Criminal Law: Florida's Legal Lotteries," 9 U. Fla. L. rev. 93 (1956).

complex (using the industry's own system of commonly utilized square-foot multipliers), which would yield increased costs to the Illinois criminal justice system of between $98 million and $140 million. However, in an attempt to minimize any problems of counting similar costs twice because of the different methodologies utilized in different studies and in different states, the higher costs that would tend to occur when trying to transpose the New Orleans casino estimates to the larger Chicago casino complex were not included in this analysis—although the latter two categories of increased costs to the district attorney's office and the courts probably would not involve any significant overlap with the Illinois figures. These costs ranged somewhere from a base of $3.8 million to an upper range of $26.6 million to $38 million (if the industry's square-foot multipliers were used). Therefore, projecting an additional $3.8 million in costs to the court system of Illinois was probably extremely conservative, but was not added to the basic calculations in the analysis that follows. Similarly, it was difficult to determine where to add Governor James Edgar's increases for the new prisons that would be required at a cost of $15 million per prison per year, and these costs were not included.[49]

When the conservative Illinois costs are added together, the projected $500 million per year in estimated tax revenues[50] to be paid by the proposed 1992 Chicago casino complex pale in significance. The relatively minor amounts paid in taxes become more apparent when it is recognized that the $500 million is really a "projection" that (1) does not materialize until the tenth year, and only at $371 million;[51] (2) includes all taxes from "all" conceivable taxable sources;[52] and (3) involves a dispersion (to a

[49] Press Release, Off. Ill. Gov. James Edgar, "Governor Warns Land-Based Casinos Could Bring Crime Surge as Well as Overall Loss of Jobs and State Revenues," Sept. 29, 1993 [hereinafter cited as Gov. Edgar Press Release].

[50] Proposed Gaming Facility Report, note 45 supra, at 270–272. Editorial, "Daley, developers raise the stakes," Chicago Tribune, Mar. 26, 1992, § 1, at 28 ("$500 million in annual tax revenues") [hereinafter cited as Stakes]. Contra, Economically, note 46 supra, at 2 ("$327 million in taxes"). These two editorials in the ChicagoTribune during the same time frame demonstrate how from the public's perspective the economic "positives" fluctuate dramatically—in this instance between $327 million and $500 million in tax revenues.

[51] Proposed Gaming Facility Report, note 45 supra, at 270–271. Obviously, this amount can increase or decrease significantly depending on diverse assumptions.

[52] Id. The tax revenues include, for example, "direct, induced, and indirect" tax revenues from alcohol, automobile rental, corporate income tax ($28–42 million in tenth year), franchise taxes, fuel taxes, hotel occupancy, licenses, real property

large degree) of taxes to the different local and state governments. Illinois Governor James Edgar believed that the state of Illinois could only expect realistically to receive $100 million in new tax revenues, which would not compensate for the increased state police costs of $100 million plus the increased regulatory costs of $65 million.[53] Despite these constraints, the gambling proponents' own estimate of $500 million will be utilized in this example.[54]

Even if it is assumed that the $500 million is the most accurate number, the $500 million shrinks to $323.6 million when deducting for the increased costs to the Illinois state police of $100 million per year plus the increased local police and fire protection costs of $11.4 million per year plus the increased regulatory costs of $65 million per year. However, the largest deduction to the projected tax revenues consists of the increased socio-economic costs due to the increased numbers of compulsive gamblers that the Chicago casino complex would generate. These costs are conservatively calculated at $3.7 billion.[55]

Similar costs can be calculated by utilizing costs from socio-economic studies. Calculating the Chicago population and the surrounding Cook County population at 5.1 million,[56] the population base would be approximately 5 million. Since "hard" casino gambling would be moving into an area that had only the state lottery plus horse racing and off-track betting, the 5 million could be "conservatively" multiplied by .0073, which equals 36,500 compulsive gamblers.[57] This number of 36,500 compulsive gam-

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transfer taxes, sales taxes ($34–48 million in tenth year), telecommunications, utilities, withholding taxes ($26–90 million in tenth year) for a subtotal of $97–212 million, not including the gaming tax. *Id.* The gaming tax at 7.7 percent as "preferred" by the proponents of the casino complex would add another $121–123 million, while a 10 percent tax would add $158–160 million for a grand total of $257–370 million (assuming the higher 10 percent gaming tax). *Id.*

[53] Interview with Ill. Gov. James Edgar, on "Crossfire," Cable News Network, Jan. 6, 1993.

[54] Proposed Gaming Facility Report, note 45 *supra*, at 270–272; Stakes, note 50 *supra*, at 28.

[55] Better Gov't Assoc. Report, note 6 *supra*, at 14, 16–17. See generally R. Custer & H. Milt, *When Luck Runs Out* (1985); H. Shaffer, S. Stein, B. Gambino, & T. Cummings, *Compulsive Gambling* (1989); Levitz, The Experimental Induction of Compulsive Gambling Behaviors (thesis on file at U. Ill., Champaign-Urbana, Ill. 1971).

[56] *The World Almanac* 432 (1993). See note 40 *supra*.

[57] Actually, an increase of .73 percent is probably much too conservative. An increase of 1–1.5 percent would be more probable. See e.g., Alta. Gaming, note 6 *supra*, at 17–18.

blers multiplied by $52,000 per year[58] yields an increased socio-economic cost of $1.9 billion.

Two additional subcategories of the socio-economic costs per year are "white-collar crime costs" of $4,123 per year[59] and "intermediate incarceration costs" of $21,000 per year.[60] Therefore, additional specific socio-economic costs related to compulsive gamblers interfacing with the criminal justice system would be:

Increased "White-Collar Crime Costs" = $4,123/yr. × 36,500 = $150 million

Increased "Intermediate Incarceration Costs" = $21,000/yr. × 36,500 = $766 million

Increased "Long-Term Incarceration Costs" = $2,400/yr. × 36,500 = $87.6 million

The total costs of these three categories would be approximately $1 billion. The long-term incarceration costs, specifically $87.6 million per year, are explained in the following discussion.

According to the Compulsive Gambling Center, practically all compulsive gamblers commit crimes.[61] General averages indicate that 75 percent of compulsive gamblers are not caught or the charges are not pressed.[62] This latter instance is usually due to the fact that most compulsive gamblers commit their initial

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[58] Politzer, Morrow, & Leavey, note 3 *supra*, at 18–20, 20. The better "adjusted" number is $53,000 per year. See Better Gov't Assoc. Report, note 6 *supra*, at 14, 16–17. See also Md. Dep't Health & Mental Hygiene, Alcohol & Drug Abuse Admin., *Final Report: Task Force on Gambling Addiction in Maryland* 2, 59–61 (V. Lorenz & R. Politzer, co-chairs 1990) [hereinafter cited as Maryland Report].

[59] Politzer, Morrow, & Leavey, note 3 *supra*, at 8, 18–20.

[60] *Id.* at 9, 18–20.

[61] Interview with Dr. Valerie Lorenz, Exec. Dir., Compulsive Gambling Ctr., Inc., Baltimore, Md., Dec. 10, 1992 [hereinafter cited as Lorenz Interview]; Maryland Report, note 58 *supra*, at 28. For general discussions of the interface between compulsive gambling and resultant criminal behavior, see Brown, "Pathological Gambling and Associated Patterns of Crime: Comparisons With Alcohol and Other Drug Addictions," 3 J. Gambling Behav. 98 (1987); Lesieur, "Gambling, Pathological Gambling, and Crime," in *The Handbook of Pathological Gambling* (T. Galski ed. 1987). See generally J. Livingston, *Compulsive Gamblers: Observations on Action and Abstinence* (1974); Gamblers and Crime, note 3 *supra*, at 495.

[62] Lorenz Interview, note 61 *supra*; see Maryland Report, note 58 *supra*, at 28. "Research on the connection between pathological gambling and crime is still in its infancy." Gamblers and Crime, note 3 *supra*, at 496.

criminal activities against family members or close associates[63]—for example, stealing money out of a family member's purse or wallet, or selling or pawning property belonging to family members.[64]

The other 25 percent of compulsive gamblers usually find themselves in court and 60 percent of these, or 15 percent of the total number of compulsive gamblers, are convicted and must serve time in jail.[65] The general long-term average cost of incarceration for a healthy compulsive gambler is $25,000 per year, and for an elderly individual, $50,000 per year.[66] By comparison, the average Illinois cost of incarceration per prisoner was $16,000 per year.[67] Taking the most conservative cost of incarceration, the costs of incarcerating compulsive gamblers per year before gambling is legalized in a state are:

.0077 × (state population) = number of compulsive gamblers before legalization

.0077 × (state population) × 15% × $16,000/year = cost of incarcerating compulsive gamblers per year before gambling is legalized

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[63] Maryland Report, note 58 *supra*, at 28; see Gamblers and Crime, note 3 *supra*, at 496–497.

[64] Lorenz Interview, note 61 *supra*. For more detailed analyses, see, e.g., Lesieur, Compulsive Gambling: Documenting the Social and Economic Costs, Table 2, at 21 (1991), published in part as Lesieur, "Compulsive Gambling," Society, May–June 1992, at 42. See also Lesieur & Puig, "Insurance Problems and Pathological Gambling," 3 J. Gambling Behav. 123 (1987); Gamblers and Crime, note 3 *supra*, at 496–497; Meyer & Fabian, note 8 *supra*, at 518.

[65] Lorenz Interview, note 61 *supra*.

[66] *Id*. By comparison, in 1990 the states alone (i.e., excluding federal costs) incurred $23.5 billion in just "corrections" costs for an inmate popuation of 557,000 (1989 figure reported in 1990). Thus, the average cost to a state for each prisoner was approximately $42,300 per year. Off. Just. Programs, Bur. Just. Stat., U.S. Dep't Just., Sourcebook of Criminal Justice Statistics—1991, at 4 (Table 1.4) & 14 (Table 1.10) (1992) [hereinafter cited as Just. Stat. 1991]. These same numbers were reprinted in the 1992 edition. Off. Just. Programs, Bur. Just. Stat., U.S. Dep't Just., Sourcebook of Criminal Justice Statistics—1992, at 4 (Table 1.4) (1993) [hereinafter cited as Just. Stat. 1992].

[67] Ill. Dep't Corrections, Fiscal Year 1993: Annual Report 60, 62 (1994); Ill. Dep't Corrections, Fiscal Year 1992: Annual Report 56, 58 (1993). The average Illinois state cost of $16,000 per year per prisoner has remained relatively the same from 1990 to 1994. This analysis does not address the significant costs of incarceration in the "federal" prison system, which explains in part the higher estimates for compulsive gamblers.

$.015 \times$ (state population) $\rightarrow .05 \times$ (state population) $=$ range of compulsive gamblers after gambling is legalized

$.015 \times$ (state population) $\times 15\% \times \$16,000$/year $\rightarrow$

$.05 \times$ (state population) $\times 15\% \times \$16,000$/year $=$ range of costs of incarcerating compulsive gamblers per year once gambling is legalized.

As applied to the 1992 proposed Chicago casino complex, the calculations would consist of the previously calculated "increase" of 36,500 compulsive gamblers[68] multiplied by the "long-term incarceration costs" of $2,400 per year,[69] which equals "total long-term incarceration costs" of $87.6 million per year. To avoid confusion, it should be noted that the cost of $2,400 per year is expressed as a function of the total number of compulsive gamblers, whereas the cost of $16,000 per year is expressed as a function of only 15 percent of the total number of compulsive gamblers.

The state of Illinois calculated that the actual tax revenues from the 1992 proposed Chicago casino complex would be $82.5 million in the first year of operation, while the lost tax revenues from other legalized gambling organizations in Illinois would be $100 million, for a net loss of $17.5 million.[70] However, even if the larger projected tax revenues of the Chicago complex were presumed to be correct, the gravamen is that for theoretical tax revenues of $500 million (or more accurately, $257 million to $370 million), the following costs to the state of Illinois could be anticipated:

Increased Ill. State Police Costs[71]	$ 100 million
Increased Local Police and Fire Protection Costs[72]	11.4 million
Increased Regulatory Costs[73]	65 million
Increased White-Collar Crime Costs[74]	150 million

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[68] See notes 56–58 *supra* and accompanying text.

[69] See notes 61–67 *supra* and accompanying text.

[70] Gov. Edgar Press Release, note 49 *supra*.

[71] See notes 42–44 *supra* and accompanying text.

[72] See note 47 *supra* and accompanying text.

[73] See notes 45–46 *supra* and accompanying text.

[74] See footnotes 58–61 *supra* and accompanying text.

Increased Intermediate Incarceration Costs[75]	766 million
Increased Long-Term Incarceration Costs[76]	<u>87.6 million</u>
	$1.18 billion

Of course, this $1.18 billion does not include the other socio-economic costs of $1.9 billion[77] (which is quite conservative when compared with the reasonable $3.7 billion calculated by the Better Government Association).[78]

To be extremely conservative, the last category of long-term incarcertion costs can range between $87.6 million and zero if it can be argued that somehow this category can be subsumed somewhat under intermediate incarceration costs. Similarly, the costs to the Illinois state police can range between $100 million and $42 million. Absent new data to the contrary, the other four categories seem to be fairly well established as solid estimates. Accordingly, the best estimates of increased costs to the criminal justice system with the introduction of legalized casino-style gambling in the major Illinois population base appear to range between $1.03 billion and $1.18 billion. It should be emphasized that these numbers were calculated by state agencies and academics in 1992—before significant or widespread riverboat gambling was in operation in Illinois, particularly in the Chicago area. Therefore, it can be argued that the influence of other legalized gambling activities on these calculations was minimal, and other states considering legalized gambling activities can extrapolate from these numbers and make some strategic calculations of increased costs to their criminal justice systems.

To express these costs to the Illinois criminal justice system (including regulatory costs) as a function of the entire population, the $1.03 billion to $1.18 billion can be divided by the taxpayer base that will have to support most of these costs; that is, the population of the state of Illinois of approximately 11 million.[79] This type of per capita calculation is regularly utilized in the

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[75] *Id.*

[76] *Id.*

[77] See note 58 *supra* and accompanying text.

[78] See note 55 *supra* and accompanying text.

[79] *The World Almanac* 389 (1993) (Illinois population = 11.43 million).

statistics promulgated by the U.S. Justice Department.[80] Accordingly, the $1.03 billion to $1.18 billion divided by 11 million provides a range of $93 to $107 per person. These costs expressed as a funciton of each "new compulsive gambler" would be $28,200 to $32,300 per year.[81] The other socio-economic costs of $1.9 billion per year would translate into $173 per Illinois resident or $52,000 per new compulsive gambler.[82]

By comparison, the 1990 "preexisting costs" to the Illinois criminal justice system expressed as a cost per Illinois resident totaled $232.58 or specifically: (1) $125.08 police protection; (2) $26.44 courts; (3) $12.67 prosecution and legal services; (4) $3.34 public defense; (5) $63.72 corrections; and (6) $1.34 other justice activities.[83] In summary, each Illinois resident must contribute $232.58 for preexisting costs to the criminal justice system. This amount should be compared with the $93 to $107 per person increases projected by studies as necessary to accommodate increased legalized gambling activities (e.g., via a large Chicago casino complex). Therefore, increased large-scale legalized gambling activities could precipitate fairly immediate increases to the state criminal justice system of 40 to 50 percent.

Similarly for other states, some important strategic approximations of increased costs to the criminal justice system can be calculated by multiplying these new "added" costs of $93 per person (the most conservative cost) times the population of the state. Obviously, these numbers need to be refined for different demographics, but they provide the starting point for the calculations. However, the number of new (or anticipated) compulsive gamblers can be calculated with some certainty, and therefore, the cost of $28,200 per year per new compulsive gambler provides a base point for costs to the criminal justice system (including regulatory costs).

Of course, there is some error in these numbers, but as of

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[80] See, e.g., Just. Stat. 1992, note 66 *supra*, at 5 (Table 1.5); Just. Stat. 1991, note 66 *supra*, at 5 (Table 1.5).

[81] See notes 58, 71–76 *supra* and accompanying text. The calculation is $1.18 billion per year divided by 36,500 calculated new compulsive gamblers (a conservative estimate). Much higher costs have been calculated. See, e.g., Maryland Report, note 58 *supra*, at 2.

[82] See Politzer, Morrow, & Leavey, note 3 *supra*, at 8–9, 18–20.

[83] Just. Stat. 1991, note 66 *supra*, at 5 (Table 1.5). These same numbers were reprinted in the 1992 edition. Just. Stat. 1992, note 66 *supra*, at 5 (Table 1.5).

1992, these estimates appeared to be the best available. These numbers have much more "balanced" support from the academic authorities[84] and from the field research,[85] than the numbers usually referenced by the legalized gambling interests.[86]

It should be emphasized that as the Better Government Association of Chicago reported:

> We found that no one [that is, no expert] argues that casino gambling has positive societal effects, except for the *purported* secondary effects from the economic gains of more jobs and tax revenue. As a result, any debate over the societal effects of legalizing an additional form of gambling centers around the *extent* of the negative social impact. . . .[87]

This conclusion should be broader in its scope, because the negative societal impacts also affect business-economics, commerce, and legal and governmental policy. The costs that can be calculated fairly accurately—namely, the socio-economic costs, the criminal justice system costs, and the administrative costs to state governments—can be readily converted into economic costs affecting businesses and commerce in general. Accordingly, the "purported secondary effects from the economic gains of more jobs and tax revenue"[88] are, in fact, overwhelmed by the socio-economic costs and are illusory benefits akin to "fool's gold."[89]

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[84] See, e.g., Better Gov't Assoc. Report, note 6 *supra*, at 2-3.

[85] *Id.* at 121-123; see Goodman, note 18 *supra*, at 16, 39-46, 68-87.

[86] Better Gov't Assoc. Report, note 6 *supra*, at 124-126. See generally Goodman, note 18 *supra*.

[87] Better Gov't Assoc. Report, note 6 *supra*, at 2 (1st emphasis added and 2d emphasis original).

[88] Better Gov't Assoc. Report, note 6 *supra*, at 2.

[89] Reutter, "Economists: Allure of legalized gambling like that of fool's gold," Inside Ill., Jan. 18, 1992, at 7 (copies available from Univ. Ill. News Bur.). Furthermore, the "poor and desperate people of our states are those who are most likely to fall for the promise of the elusive pot of gold," which thus represents a "regressive tax on those who are least able to afford it." Mich. Att'y Gen., note 31, *supra*, at 2.