

GAMBLING IN CANADA

Triumph, Tragedy, or Tradeoff?

GAMBLING AND CRIME IN WESTERN CANADA:
EXPLORING MYTH AND REALITY

by Garry Smith, Ph.D. and
Harold Wynne, Ph.D.
SEPTEMBER 1999

CANADA WEST FOUNDATION

ABOUT THE GAMBLING IN CANADA PROJECT

Gambling in Canada: Triumph, Tragedy or Tradeoff? is the first independent national study of gambling in Canada. Funded by a number of philanthropic foundations including the Donner Canadian Foundation, the 3-year Gambling in Canada Project began in September 1998. Emerging from recent public debates about the expansion of gambling, this project is designed to provide a much-needed comprehensive picture of the public policy issues surrounding gambling in Canada. Four overarching research areas are being explored:

- (1) the impact of gambling on the non-profit sector;
- (2) opinions, attitudes and public policy implications of gambling;
- (3) the history and scope of gambling in Canada; and
- (4) the socio-economic impact of gambling on communities.

The Canada West Foundation's Gambling in Canada Project is not supported by any government, the gambling industry, special interest groups, or individuals with known positions on gambling issues. The research objectives and output of the project is overseen by a Project Advisory Committee to ensure the accuracy and objectivity of the research undertaken. Members include David Elton (Chair), President of the Max Bell Foundation; Patrick Johnston, President and CEO of the Canadian Centre for Philanthropy; Phil Boname, President of Urbanics Consulting; Clayton Manness, former Finance Minister in Manitoba; Jacquelyn Thayer Scott, President of University College of Cape Breton; and Patrick Luciani, President of the Donner Canadian Foundation.

Copies of the latest research is available by contacting the Canada West Foundation. For information on the current activities of the Gambling in Canada Project, please contact:

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ABOUT THE GAMBLING IN CANADA LOGO

Like the cogs in a machine, gambling policy issues are comprised of a variety of interrelated and interdependent pieces. The artwork represents the project's attempt to provide a glimpse at the inner workings of these policy issues and to explore these complex relationships. The main gear on the cover, chosen for its resemblance to a roulette wheel, signifies how gambling issues can not be considered in isolation. Each turn of the cog creates political, economic and social implications throughout our communities.

Gambling and Crime in Western Canada: Exploring Myth and Reality

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August 1999

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We are much obliged for the courtesy shown to us by Justice Allan Wachowich of the Court of Queens Bench of Alberta and Alberta Provincial Court Judge Pierre Dube for arranging group meetings with justices and judges who serve these respective courts.

The Canada West Foundation's Gambling in Canada project management team President, Roger Gibbins and Project Director Jason Azmier saw the merits of a project of this nature and provided the funding and supportive working environment to bring about its completion. We also wish to thank the CWF research assistants (Sika Patton, and Val Jepson) who performed a variety of important tasks that improved the quality of the final product. As the primary research assistant, Sika efficiently gathered important documents, proofread materials, and kept us on track, always with a positive and professional attitude.

Finally, an intellectual debt is owed to our colleague, Colin Campbell, who is one of the few Canadian academics writing on crime and gambling issues and who was a key participant at the Regina seminar where the idea for an in-depth, Canadian-based crime and gambling study was first explored.

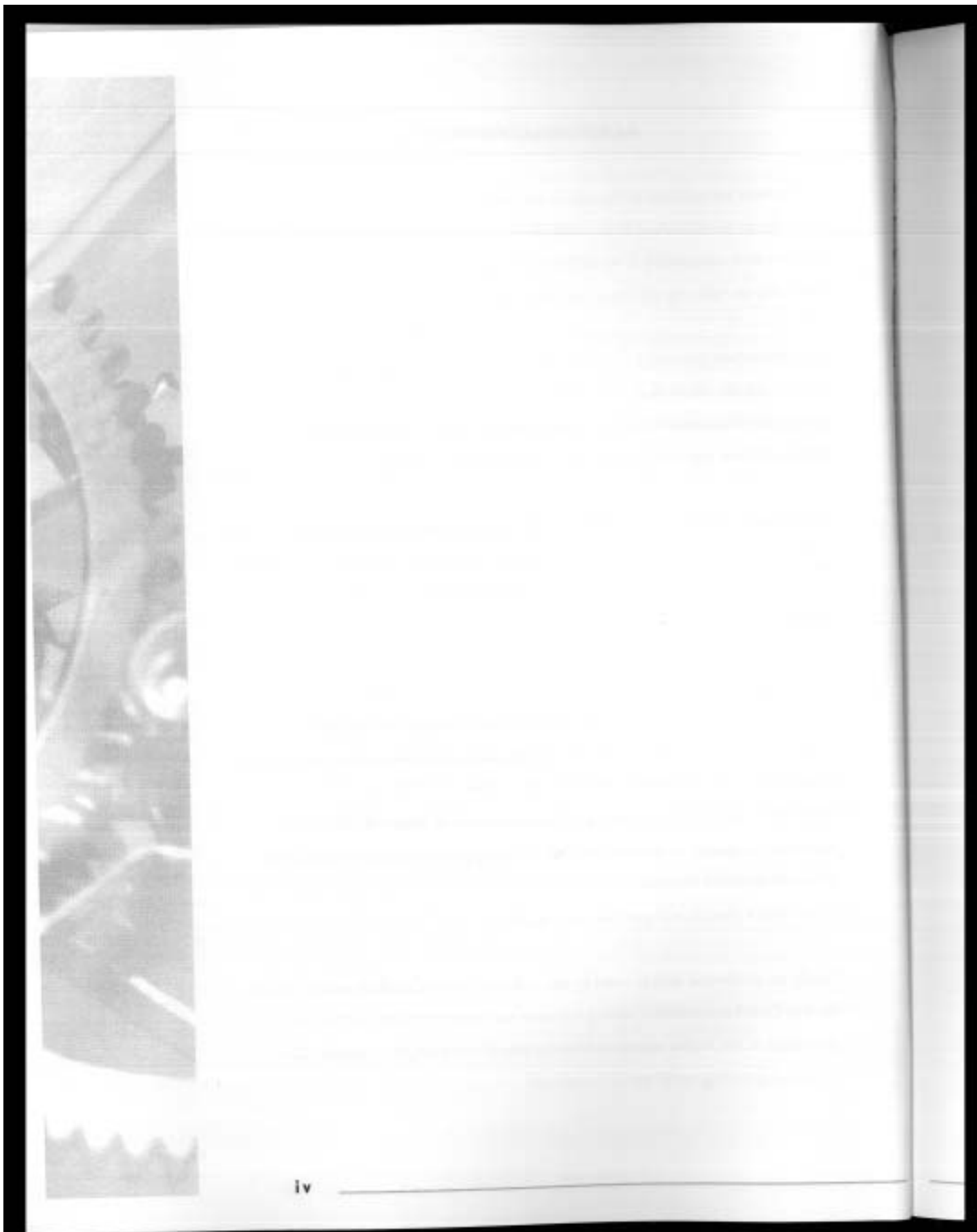


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1. INTRODUCTION

1.1 Background

This study is one of a series of research efforts commissioned by the Canada West Foundation that deal with gambling issues in the Canadian context. The Canada West Foundation is a non-profit, non-partisan research institute whose mandate is to act as a catalyst for informed public debate on policy concerns and to provide a balanced voice by undertaking solid research to support the public education process.

When the propriety of government-sponsored video lottery terminals (VLTs) became a topic for spirited discussion in Alberta, the Canada West Foundation published a position paper that explored the nature and scope of gambling in western Canada (Smith and Azmier, 1997). As the debate over the costs and benefits of legal gambling amplified in Alberta and spread to other North American jurisdictions, the Canada West Foundation acquired funding from various philanthropic granting agencies (including the Donner Canadian Foundation) to implement a comprehensive research program aimed at providing more definitive answers to the many important unknowns associated with gambling in Canadian society.

The Canada West Foundation's gambling research initiative is a multi-year commitment that focuses on three related domains (governments, problem gamblers, and the community) and utilizes a variety of research methodologies. This report overlaps all three domains as it examines the linkages between gambling and crime and the complications created by gambling for law enforcement agencies and the criminal justice system.

In view of the significant expansion of gambling opportunities and the extraordinary increase in gambling revenues that finance public expenditure in western Canada, it is an opportune time to raise questions about the relationship between gambling and crime and the potential impact on police and justice system resources. In the past year both authors were invited to address law enforcement gatherings on the subject of gambling and crime; Dr. Wynne at a meeting of the Executive Committee of Criminal

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Intelligence Service Alberta and Dr. Smith at the Canadian Association of Police Boards conference. Both speeches emphasized the need for exhaustive research and analysis at a national level to determine the extent of the impact of legal and illegal gambling on our law enforcement and judicial systems. Later, the CAPB membership addressed the issue by passing the following resolution:

BE IT RESOLVED THAT the Canadian Association of Police Boards urge the federal government, in conjunction with the police community, to establish the necessary standard reporting system to have gaming occurrences, and gaming related occurrences, collected on C.P.L.C; and

BE IT FURTHER RESOLVED THAT the Canadian Association of Police Boards urge research be undertaken by the appropriate federal agencies into the effect and impact of legalized and illegal gambling.

1.2 Purpose and Goals

In less than thirty years Canadian provinces have expanded the legal gambling marketplace from modest and restricted offerings to a cornucopia of wagering options. Last year the estimated net gambling revenue per adult in the four western provinces was as follows: BC--\$160.88, up 8.8% over the past five years; Alberta--\$404.09, up 155%; Saskatchewan--\$340.36, up 173%; and Manitoba--\$286.85, up 80% (Azmiar and Smith, 1998). If illegal gambling revenues were part of the equation the per capita totals would be significantly higher. Legislators contend that this expansion of legal gambling is a strategic intervention that provides jobs and new forms of entertainment, funds charities, non-profit groups, and civic betterments, and discourages the intrusion of organized crime. While there may be validity in these assertions, there are counterbalancing social costs that must be weighed in discerning whether or not expanded legal gambling produces a net gain for western Canadian provinces.

Expanded legal gambling is presumed to have a major social and economic impact on law enforcement agencies and the criminal justice system. Proke (1994), an Assistant Commissioner in the Royal Canadian Mounted Police, predicted that Canadian jurisdictions will expand legal gambling opportunities until the market is saturated, but in so doing "there will be an increase in enterprise crime and money laundering activity particularly relating to casinos. Legalized gambling will also bring with it an increase in

illegal activities such as loan sharking, extortion and frauds" (p 61). Until now there have been no academic inquiries into the speculated link between gambling and crime in Canada that either support or refute Proke's supposition.

The purpose of this project is to study the relationship between crime and gambling and to provide a preliminary review of the extent to which gambling in western Canada affects law enforcement agencies, provincial gaming regulatory bodies, and the criminal justice system. The investigation centres on three aspects of the gambling and crime nexus: (1) illegal gambling; (2) crimes associated with legal gambling; and (3) crimes committed by problem/pathological gamblers. Specifically, we focus on the evolution of Canadian law pertaining to gambling; the amount and types of legal and illegal gambling currently available in western Canada; and criminal behavior that is linked to gambling (e.g. crimes committed by problem gamblers to support their habit and crimes that occur in and around gambling venues). In addition to documenting the crime and gambling connection, we examine how gambling-related crime is monitored and enforced by law enforcement agencies and dealt with by the justice system. Finally, we consider the public policy implications of our findings.

The data for this report emanate from official police and governmental regulatory agency accounts, media archives, and the perceptions of senior law enforcement, criminal justice, and gambling industry officials who are familiar with gambling and crime-related issues. Due to time and budget constraints, this analysis does not include input from individuals who provide illegal gambling services nor from those who partake in these services.

Because there are so few empirical Canadian-based studies dealing with the relationship between gambling and crime, this report is exploratory in nature and designed to effect grounded theory (Glaser and Strauss, 1967). The primary goals of this project are:

1. To provide a summary review of gambling and crime in western Canada.
2. To identify avenues for future research into the relationship between gambling and crime.

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- 
3. To develop a process that can be used across jurisdictions to assess the links between gambling and crime.
 4. To supply information and analysis that can be used to inform public policy decisions.

The following section contains a literature review on the history of Canadian gambling law as well as an examination of the scholarly work pertinent to gambling and crime.

2. LITERATURE REVIEW

2.1 The History of Canadian Gambling Law

Gambling dates back to prehistoric times and has flourished in nearly all civilizations through the ages (Wykes, 1964). Conventional wisdom has it that early humans created gambling as a diversion, a form of sport or play. However, since its inception, religious leaders have cautioned that gambling runs counter to citizens' moral imperatives because it creates no new wealth, increases crime and welfare costs, corrupts governments, and contradicts social responsibility (Spanier, 1988). The gambling scene has also been depicted as a milieu that attracts "sharpies" and cheaters looking for an edge or trying to get something for nothing (Sifakis, 1990).

The human experience with gambling shows that it has been variously regarded as a sin, a vice, an unfortunate, but tolerable, weakness of human nature (Spanier, 1988), an evolutionarily appropriate behavior (Dietz and Humpf, 1984), an adult form of play (Campbell, 1976), and a teacher and mirror of cultural values (Smith and Abt, 1984). For the majority of participants, gambling may well be the harmless amusement it was intended to be, however, because of the potential for exploitation and foul play, gambling has generally been viewed as an activity that requires strict oversight. Recognizing that the eradication of gambling is a near impossible task, societies have tried to strike a balance between outright prohibition and regulation. Inevitably, efforts to control the activity have resulted in legislation stipulating when, where, and under what circumstances, gambling is permissible.

Having been colonized by Great Britain, it is not surprising that Canada's gambling laws are steeped in the traditions of English common law. Indeed, as Robinson (1983) notes, a British gambling law passed in 1541 was included nearly verbatim in the first Criminal Code of Canada.

In what Robinson labels the "formative years" (1792-1892), the century prior to the inception of the Criminal Code, gambling legislation in Canada was directed against "common gaming houses," "conducting lotteries without the approval of Parliament,"



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and "cheating at play." These prohibitions were often tucked away in odd Acts and statutes; for instance, there were anti-gambling provisions contained in the Marriage and Registrars Act which was part of the Consolidated Statutes of Lower Canada (1861) and in Nova Scotia's Fraudulent Appropriations Statute (1851). A popular trend in the 1870s was to treat conspicuous gambling as an offense against public morals, and legislation to this effect was enacted in Nova Scotia, Ontario, Manitoba, and British Columbia (Robinson, 1983).

Twenty-five years after Confederation, the first Criminal Code of Canada, which "codified the existing common law on crimes, including gaming" (Robinson, 1983, p 58) was formalized in 1892. In a section titled "Offences against religion, morals and public convenience," it was deemed unlawful to keep common gaming houses, conduct lotteries, cheat at play, and gamble in public conveyances. Between 1892 and 1969 the main changes to the gambling provisions in the Criminal Code were to:

- permit small raffles (1900),
- introduce the term "lottery scheme" (1906),
- allow on-track wagering on horse races (1910),
- prohibit dice games, shell games, punch boards (1922), and three card monte (1927), and
- permit games of mixed chance and skill at annual agricultural fairs (1925) (Campbell, 1994).

Two modern-day, watershed amendments to the Criminal Code (1969 and 1985) have subsequently facilitated the expansion of gambling in Canada to the point where there is now a major gambling industry generating significant amounts of capital for both public and private sector interests (Campbell and Smith, 1998). The 1969 amendment was driven by the persistent lobbying of Quebec politicians who were seeking public funding to subsidize two international extravaganzas hosted by the city of Montreal; "Expo 67" and the 1976 Summer Olympics. When legislated in 1969, the amendment gave the federal or provincial governments the option to run state lotteries and expanded charity gambling to include casinos. This revision prompted one academic to

describe the criminal statutes pertaining to gambling as "a patchwork of fossilized law" (Glickman, 1979, p11).

A further amendment to the Criminal Code's gambling provisions occurred in 1985 that gave provincial governments exclusive control over gambling, legalized the use of computer, video, or slot devices for gambling purposes, and repealed the antiquated prohibition against gambling on public conveyances. This change paved the way for provinces to offer video lottery terminal and slot machine gambling which has added billions of dollars to provincial government coffers in less than a decade (Armier and Smith, 1998). Taken altogether, the changes in the Criminal Code's gambling provisions over the past three decades have demonstrated two significant trends:

- A clear transition from criminal prohibition to legalization; and
- A consistent pattern of lesser federal responsibility and greater provincial authority over gambling matters (Campbell and Smith, 1998)

Major consequences of these trends include a rapid escalation of new gambling formats, with a particular emphasis on fast-paced games with minimal skill requirements, and expanded gambling being driven by gambling industry stakeholders (charities, provincial and municipal governments, gaming management firms, gambling equipment suppliers, and hospitality and tourism officials) and virtually never by the general public.

Since 1969, the spread of legal gambling in its many forms and the concomitant interest and participation by the Canadian public has led to a softening of anti-gambling attitudes and broad public acceptance for most forms of the activity. However, as Beare (1989, p 177) notes, the rapid expansion of legalized gambling has created a sense of ambiguity that has "resulted in inconsistent policy, limited research and evaluation, inadequate funding for gaming regulation and enforcement, and little concern for the potential social consequences of gambling." An unintended consequence of the decriminalization of various gambling formats has been a relaxation in the enforcement of those statutory prohibitions against gambling that are still in effect.

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What exists now in Canada are two parallel, marginally competitive gambling markets; one is an area of enlarged government-sanctioned legal gambling offerings, the other is a viable illegal gambling trade that has proven difficult to suppress. Despite the fact that legal gambling revenues in Canada have grown exponentially over the past thirty years, there are wide gaps in our knowledge base regarding how this profusion of gambling impacts our law enforcement and judicial systems. Of particular note is the lack of empirical information on the effects of expanded legal gambling on illegal gambling levels. The widely varying reports of illegal gambling revenues, the perceived role of organized crime, and the link between gambling and various forms of criminality contributes to uninformed public policy decisions. The following section summarizes the topic of gambling and crime as it pertains to Canada.

2.2 Gambling and Crime in Canada

Stebbins (1996) views most gambling excesses as tolerable forms of deviance; that is, they occupy a philosophical middle ground between serious crimes that the public perceives as intolerable, and what they view as acceptable normative practices. Fellow travelers in Stebbin's catalog of tolerable deviant activities include deviant sexual identities and practices, the frequent use of alcohol, cannabis, and prescription drugs for psychoactive purposes, and deviant belief systems. The general public has adopted a laissez-faire attitude toward these activities because they are generally non-threatening to mainstream society. On the other hand, the general public does not enthusiastically endorse these activities for fear that society would be adversely affected if they became too commonplace.

Gambling, per se, can hardly be construed as deviant given that many formats are now legal and virtually 90% of the adult population indulge in the activity on a yearly basis (Wynne Resources, 1998). The deviant label may apply to gambling when it preoccupies the player to the extent that family, job, or school responsibilities are ignored; crimes are committed to support the habit; cheating is involved; or it is engaged in illegally. This study focuses on these aberrant forms of gambling that require the attention of social control agencies.

Arguably, there are four main reasons why Canadian jurisdictions seek to circumscribe their citizens' gambling behavior:

1. To ensure that the legal games are fair and honest.
2. To uphold the Criminal Code by minimizing unlawful gambling.
3. To protect provincial monopolies so that the major portion of gambling proceeds are channeled into government treasuries or into the coffers of licensed charitable, religious or non-profit groups.
4. To mitigate the effects of pathological gambling.

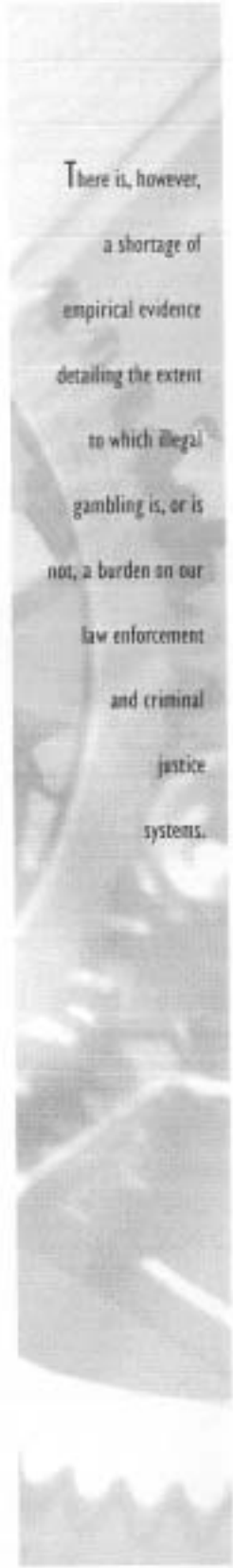
Although the lines of authority may sometimes overlap, the agencies charged with regulating gambling in western Canada are municipal police forces, the Royal Canadian Mounted Police (RCMP), and the Special Investigation Divisions affiliated with provincial government gaming and liquor authorities.

2.2.1 Description of What Constitutes Legal and Illegal Gambling

The following is a brief summary of the relevant Criminal Code gambling provisions:

- Section 201 makes it an indictable offense to keep a common gaming or betting house and an offense punishable on summary conviction to knowingly lease or own such an establishment or be a "found in."
- Section 202 describes several offenses related to betting, selling of pools, bookmaking and wagering. In essence, it is an indictable offence to charge a fee to handle wagers or to take a portion of the stakes or proceeds as payment for operating a gambling event.
- Section 203 makes it an offense to place bets on behalf of others and essentially prohibits certain types of off-track betting schemes.
- Section 204 provides that sections 201 and 202 do not apply to certain pari-mutuel betting enterprises, which are organized and supervised under the auspices of the federal Minister of Agriculture. These provisions permit the traditional wagering on horse racing.
- Section 206 essentially makes all other forms of gambling illegal.

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There is, however,
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Section 207 provides exceptions to the prohibited gambling activities outlined in section 206 and, with the exception of pari-mutuel betting on horse races, lists a range of permitted or non-criminal gambling activities under provincial authority.

In a report prepared for the Solicitor General Canada, Beare, Jamieson, and Gilmore (1988) separate legal gambling formats into three broad categories: private gaming, "true" lotteries, and pari-mutuel betting. Private gaming encompasses the games of chance referred to in Section 207; bingos, raffles, "Nevada" tickets, sports pools, and "50/50" draws. Charitable or religious groups and agricultural fair or exhibition boards under provincial government license may lawfully operate these gambling formats.

"True" lotteries are those activities included under the catch-all "lottery scheme" designation; specifically, these are high profile lotteries (e.g. 6/49), instant scratch tickets, parlay-style sports betting, slot machines, and VLTs. All provinces and territories are members of the Interprovincial Lottery Corporation (IPLC) which administers the nation-wide lotteries. There are also five regional public corporations that conduct true lotteries: the Atlantic Lottery Corporation (maritime provinces), Loto-Quebec, the Ontario Lottery Corporation, The Western Canada Lottery Corporation (prairie provinces), and the British Columbia Lottery Corporation. The proceeds from these gambling formats are allocated at the discretion of each provincial government. Pari-mutuel wagering is covered under separate sections of the Criminal Code and is regulated by Agriculture Canada.

The Criminal Code specifies the range of sanctioned gambling activities in Canada that provincial governments can operate or license, but by no means does it standardize the nature and extent of legal gambling across provincial boundaries. Given their discretionary power to opt in or out of the various legal gambling formats, provinces differ in terms of the betting menus they offer. For example, in western Canada all provinces offer charitable bingo and raffles, "Nevada" tickets, sports pools, Lottery games, instant scratch tickets, parlay-style sports betting schemes, and horse racing.

All western Canadian provinces also provide casino gambling, albeit under different regulatory frameworks. In Manitoba and Saskatchewan, casinos are owned and

operated by the government (Saskatchewan also has four First Nations casinos that are managed by the Saskatchewan Indian Gaming Authority); in Alberta, the government licenses charitable groups to conduct two-day casinos which are hosted and operated by private gaming companies; and British Columbia has a hybrid arrangement whereby licensed casinos are owned and operated by private corporations who are contracted to pay a percentage of the profits to the government. Other key differences include VLT gambling being available in the three prairie provinces, but not in BC, as well as First Nations casinos existing in Saskatchewan, and soon to be in Manitoba and BC, but not yet in Alberta. (For a more detailed description of these provincial regulatory differences see Canada West Foundation's report "The Canadian Gambling Policy Patchwork: A Handbook" by Sika Patton and Valerie Jepson, 1999.)

2.3 Illegal Gambling

Illegal gambling in Canada refers to all gambling formats or operations that are explicitly outlawed in the Criminal Code or not covered by its provisions. In the Canadian academic literature on illegal gambling there are thorough discourses on topics such as the history of gaming law in Canada (Robinson, 1983) and the social origins of Canadian gambling legislation Campbell (1994). There is, however, a shortage of empirical evidence detailing the extent to which illegal gambling is, or is not, a burden on our law enforcement and criminal justice systems.

A pioneering study of illegal gambling in a lower class Toronto neighborhood reveals that gambling clubs have been openly operating without conviction for many years in Ontario (Garry and Sangster, 1968). Informal interviews disclose that the Toronto police force's inability to deter illegal gambling resulted in the gamblers and the police adopting "a conspiracy of silence to neutralize any friction that might have occurred between the police and the subculture" (p. 107). The authors conclude that the extensive illegal gambling in Toronto's tenderloin district had both functional and dysfunctional elements. On the one hand, gambling is seen as a form of recreation and a distraction from the hardships faced by the under-class. On the other hand, uncontrolled gambling is perceived as negatively affecting the mental and physical health of the gamblers and those around them. The authors reckon that when

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gamblers neglect social and familial obligations and break the law to continue gambling, the social organization of the community is placed in jeopardy.

More recent Canadian-based academic studies on the topic of illegal gambling include Smith's (1990) analysis of how sports lotteries compete with illegal bookmakers and Campbell's (1996) treatise on the fraud and money laundering associated with the international resale of lottery tickets by Canadian tele-marketing and mail-order companies.

American sources have examined the impact on crime rates when casinos are introduced into a community (citations appear later in this chapter); the criminal activities of problem gamblers (Lesieur, 1992; Rosenthal and Lesieur, 1996); the operation of illegal numbers games and bookmaking (Light, 1977; Sasuly, 1982; Reuter, 1983; Rosecrance, 1987; Meeker and Dombink; and Moldea, 1989); and the effects of legalization on illegal gambling participation (Hybels, 1979).

Canadian law enforcement agencies have a general awareness of the nature and scope of illegal gambling in their area, but in most instances their official records do not provide an accurate picture of the illegal gambling scene. Consequently, our knowledge of illegal gambling is "shrouded in misconception, mythology, and misinformation" (Rosecrance, 1988, p 88). For example, taken-for-granted assumptions that remain unresolved research issues include:

- That organized crime plays a major role in illegal gambling.
- That illegal gambling revenues can reasonably be estimated, and that they rival legal gambling revenues.
- That there is an undercurrent of violence, corruption of public officials, and cheating associated with illegal gambling.
- That expanded legal gambling offerings will reduce the incidence of illegal gambling.
- That illegal gambling can be, and is, effectively controlled.

The Canadian Centre for Justice Statistics (a division of Statistics Canada) does provide some records of the scope of illegal gambling but the usefulness of these data is limited. Through the Uniform Crime Reporting survey completed by every police agency in Canada the number of reported gambling and betting offences that have been substantiated is very low; only 421 police-reported gambling and betting offences were recorded in 1997 according to Statistics Canada. This paucity of offences likely reflects the lack of official reporting of incidents on the part of the police agencies, and is probably not a reflection of the scope of illegal gambling. The following table summarizes the state of official record keeping in western Canada.

Number of Police Reported Gambling and Betting Offences

REPORTED OFFENCE		MANITOBA	SASKATCHEWAN	ALBERTA	B.C.
1993	Betting House	0	0	0	1
	Gaming House	6	5	5	4
	Other	7	23	20	26
	Total	13	28	25	31
	Persons Charged	11	19	13	3
1994	Betting House	0	0	0	1
	Gaming House	8	0	1	9
	Other	6	6	11	46
	Total	14	6	12	56
	Persons Charged	13	4	5	14
1995	Betting House	0	0	0	1
	Gaming House	0	0	4	9
	Other	12	5	31	45
	Total	13	28	35	55
	Persons Charged	2	1	9	15
1996	Betting House	0	0	0	1
	Gaming House	3	1	1	13
	Other	10	9	242	23
	Total	13	10	243	37
	Persons Charged	7	4	6	20
1997	Betting House	0	0	0	2
	Gaming House	0	1	1	13
	Other	10	14	55	46
	Total	10	15	56	61
	Persons	1	11	17	22

SOURCE: Statistics Canada Catalogue No. 85-205XPE, 85-205E, 85-205
 refers to the number of people charged not the actual number of charges (i.e., a person could be charged with more than one offence)

Many law enforcement agencies in Canada are adopting an unofficial policy of benign prohibition toward illegal gambling activities.

2.3.1 Enforcement Concerns

The persistence of illegal gambling in an era of liberalized legal gambling can be traced to a growing public tolerance for minor vices or so-called victimless crimes and the fact that illegal gambling offers price advantages vis-à-vis legal gambling, superior service and convenience, and more attractive sports betting opportunities (Rosecrance, 1988). Governments face a dilemma in terms of how they respond to illegal gambling; essentially, they have three options (prohibit and strictly enforce, prohibit and loosely enforce or legalize) and each option creates its own set of social and public policy consequences (Smith, 1990).

At present, many law enforcement agencies in Canada are adopting an unofficial policy of benign prohibition toward illegal gambling activities. The enforcement of illegal gambling has evolved this way because:

- the broad expansion of legal gambling opportunities has dissolved public moral sanctions against illegal gambling and made Canadians largely indifferent to illegal gambling violations;
- in an era of fiscal cutbacks, law enforcement agencies have placed a lower priority on what they perceive to be victim-less crimes and this policy has caused a reduction in resources for the vice or morality details that deal with illegal gambling;
- within the scaled-down vice and morality units, public pressure dictates that prostitution and pornography be the main investigative targets; and
- gambling investigations are prohibitive because of the unfavorable cost/benefit ratio; the considerable time and manpower required to secure a gambling conviction is not warranted when the judicial system's penalties are so lenient (Smith, 1998).

2.3.2 Organized Crime Involvement

Beare (1996, p 14) indicates that organized crime is "a process or method of committing crimes, not a distinct type of crime in itself." This process is characterized by durability, hierarchy, and involvement in a multiplicity of criminal activities (Reuter, 1983). In essence, organized crime is structured such that individuals can be replaced without impairing the efficiency and viability of the criminal enterprise; it consists of

regular and ongoing criminal conspiracies rather than isolated or occasional criminal activity; and it is sustained through political corruption and/or the potential of violence (Beare, 1995).

The term "organized crime" is not specifically defined in the Criminal Code, however, the phrase "part of a pattern of criminal activity planned and organized by a number of persons acting in concert" appears in Section 183 and is often cited by law enforcement officials as a working definition of organized crime. It is obvious from this broad conceptual view of the phenomenon that there is tremendous variability in organized crime operations depending on their size, structure, sophistication, and motivation.

Illegal gambling has long been considered a staple of organized crime activity, the premise being that illegal gambling (primarily bookmaking, keeping common gaming houses, loan sharking, and unauthorized slot machines) provides organized crime with the working capital to diversify into other criminal enterprises as well as legitimate businesses (Rosecrance, 1988). Lately, scholars have challenged this orthodoxy, the assertion being that organized crime may be involved in gambling ventures but their members do not control the market, nor is illegal gambling thought to be a primary source of organized crime income (Reuter, 1984; Rosecrance, 1988).

Legal gambling undertakings may also be vulnerable to organized crime penetration. Beare, Jamieson and Gilmore (1988) contend that the casino industry is attractive to organized crime because of the potential for "criminal control over the ownership of the casino or its supply companies and over unions; the use of casino credit for loan sharking; and the use of casino gaming for money laundering" (p 343). A report for the Calgary Police Commission titled Current Practices and Policing Issues Related to Calgary Casinos (1996) contains a section listing the ways that organized crime can infiltrate legal casino operations. In addition to the above noted possibilities, these include "rigging construction bids, kickbacks to owners, and corruption among personnel who service the electronic gambling devices" (p 10). In the same vein, Robert Lunney (1994) the former chief of police in Edmonton, Winnipeg and the Peel

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Law enforcement agencies have little empirical evidence to support a fundamental linkage between organized crime and legal or illegal gambling operations.

region of Ontario, advised governments to move slowly with their expansion plans because he foresees "a real danger in the susceptibility of elected and appointed officials to corrupt and unethical conduct" (p. 192).

Whether, and to what extent, organized crime profits from either legal or illegal gambling ventures is highly speculative. Some scholars are skeptical about extensive organized crime involvement in gambling matters because, in their view, the notion is promulgated by law enforcement agencies to serve their own purposes (Rosecrance, 1988; Campbell, 1992). In the first place, these authors suggest that law enforcement agencies have little empirical evidence to support a fundamental linkage between organized crime and legal or illegal gambling operations. As Campbell (1992) notes, the lack of solid data stems from several related factors: the clandestine nature of illegal gambling, an absence of detailed records on gambling-related crimes, and the fact that illegal gambling enforcement is a low priority for most policing agencies. Also, by espousing the view that organized crime is heavily involved in gambling, it provides a justification for tighter regulatory controls and more police resources to combat organized crime.

A recent Angus Reid public opinion poll commissioned by the Solicitor General of Canada (1998) sought to ascertain Canadians' attitudes regarding organized crime. When asked to identify examples of organized crime activities, running an illegal gambling operation was mentioned by 64% of the respondents and ranked third behind high-level drug trafficking and drug importing. However, when asked to rate the seriousness of various perceived organized crime activities, respondents put cheating on the stock market and running an illegal gambling operation in the comparatively less serious category.

The question of whether or not organized crime reaps huge profits from legal and/or illegal gambling operations is still a matter of conjecture among criminologists. This study aims to begin to clarify the nature and extent of organized crime involvement in gambling in Western Canada.

2.3.3 The Impact of Legalization on Illegal Gambling Participation

A common rationale for government legalization of new gambling formats is that it will reduce illegal gambling and will divert illegal gambling revenues into the public purse. The one American study that examined the legal-illegal gambling relationship found the opposite to be true; that is, there is a direct correlation between the number of new legal games offered and the percentage of a state's residents who report wagering illegally (Hybels, 1979). Surprisingly, the likelihood of a respondent wagering illegally was no different whether the person supports or opposes gambling legalization. Goodman (1995) explains this seeming paradox by asserting that expanded legal gambling also creates new players for continued illegal activity. Goodman cites former Chicago crime boss William Jahoda who claims "there always existed one solid constant—any new form or expansion of legal gambling always increased our client base" (p 47). RCMP gambling authority, Sergeant Bob McDonald (1998) concurs in that he believes we are naïve to assume that organized crime has lost interest in gambling just because governments have legalized it. In fact, McDonald argues that expanded legal gambling makes Canadian society more tolerant of illegal gambling.

Hybel's (1979) analysis suggests a complementary relationship between similar forms of legal and illegal gambling; that is, the introduction of the legal game also stimulates participation in the illegal game. Examples in the Canadian context include government sponsored sports betting and illegal bookmaking and poker in legal casinos versus poker in illegal gaming houses. The relationship between legal and illegal gambling has not been studied thoroughly; however, the limited available evidence indicates that gambling legalization is not a panacea for illegal gambling involvement (Wildman, 1997).

2.4 Spin-off Crime from Gambling Venues

This section deals with criminal activities that occur in and around gambling facilities and those crimes committed by disordered gamblers to support their addiction. In terms of crimes associated with gambling venues, British gambling scholar David Spanier (1988, p 189) observes that "crooks and cheats are drawn to gambling like maggots to blue cheese." Criminal behavior that spins-off from legal gambling venues

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may, or may not, be connected to gambling per se. The attraction to the gambling environment is due to the huge sums of rapidly circulating cash, the large numbers of patrons who frequent gambling venues, and the ease by which ill-gotten gains can be cleansed.

Documentation on gambling-related crimes comes from police agency and federal government reports claiming that racetracks and casinos are popular venues for money laundering schemes (Beare and Schnieder, 1990); casinos provide a focal point for crimes such as robbery, prostitution, pandering, and drug trafficking (Calgary Police Commission Report, 1996); and an increase in criminal activity associated with VLT gambling (McDonald, 1998).

In a One-Year Review of Casino Windsor prepared by KPMG Management Consulting (1995) for the Ontario Casino Corporation, Casino Windsor's impact on crime was considered to be minimal. Two reasons which may account for this finding include the casino funding 25 new full-time Windsor Police Service positions to work within a five block radius of the casino and the vast majority (over 80%) of the Windsor Casino's patrons cross the Canada-United States border which is only two miles away.

In a report prepared by KPMG (1997) for the British Columbia Ministry of Employment and Investment entitled "Gaming Review—Expansion Options and Implications," a link between gambling expansion and increased crime is dismissed on the basis of scanty evidence when the authors claim that "the fears of increased crime associated with expanded gambling have not materialized" (p 3). Goodman (1995) is wary of government commissioned reports done by private consulting firms on the advisability of gambling expansion. After reviewing many of these reports Goodman (1995) expressed concern about the general lack of objectivity found in these studies: "The research was in fact often prepared just to support the positions of those who had already decided in favor of gambling expansion" (p 66).

Offenses most often cited as spin-off crimes include cheating at play, theft, fencing stolen property, money laundering, armed robbery, forgery, break and enter,

counterfeiting, embezzlement, loan sharking, prostitution, drug trafficking, corruption of public officials, and passing bad cheques. In addition to crimes where acquiring money or property is the primary motive, the Calgary Police Commission report (1996) notes that assaults, drunk and disorderly behavior, spousal abuse, and child neglect are common misdemeanors in gambling environments.

In a report to the Lethbridge Police Service entitled "Gambling and Its' Impact on Law Enforcement," Rafa (1998) summarizes recent incidents where gambling was thought to be a contributing factor. Lethbridge had 190 VLTs in 36 outlets and one permanent casino at the time of the report. Rafa focuses on crimes associated with VLT and casino gambling but offers the caveat that the Lethbridge police reporting system is not geared toward identifying gambling as a motive for crime.

All but one of the gambling-related incidents discussed in the Lethbridge report were committed by problem gamblers attempting to obtain money to gamble and/or pay gambling debts. Examples include, a single mother financing her son's drug trafficking to support her own bingo habit, employee theft and embezzlement (two of the cases involved workers at VLT outlets), several forgeries, passing bad cheques and ATM frauds, and three suicides linked to excessive gambling.

The only reported incident not driven by problem gambling was the discovery of a plot by six known criminals to simultaneously rob two bingo locations. Rafa's report concludes by stating:

- There is limited criminal activity within the gambling industry because of strict government regulations;
- Organized crime did not appear to be associated with the Lethbridge legal gambling venues, however, it was noted that suspected drug traffickers were regular casino patrons;
- No instances of illegal gambling were reported or investigated; and
- Though crime rates in general have not increased significantly in Lethbridge since legal gambling became more accessible, this may be a result of the casual way that gambling-related crimes are reported.

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environments.



Stokowski's
study establishes
links between casino
gambling and
higher crime rates
but does not
definitively answer
the questions of
whether casino
gambling causes
increased
crime.

Many of the academic studies on the relationship between gambling and crime concentrate on casino gambling and have produced mixed results (Hakim and Buck, 1989; Dombrink and Thompson, 1990; Ochrym, 1990; Kindt, 1994; and Thompson, Gazel and Rickman, 1996). Generally, these studies find a growth in street crime after casinos open in a community. These studies have been criticized, however, on the grounds that the increase in crime is often not statistically significant, there is no theoretical specification of a causal relationship between gambling and crime rates, and the studies are based on per capita crime rates for permanent residents, thus excluding tourists (Miller and Schwartz, 1998).

A review of the social and economic impacts of casinos in two Colorado mountain towns reveals an increase in serious crimes after casino gambling was initiated in 1991; two years after the onset of casino gambling, total arrests increased by 306 percent (Stokowski, 1996). The categories showing the largest growth were larceny and theft offenses, motor vehicle theft, and drunk driving. "The percentage of arrests for narcotics and drug offenses, assaults, disorderly conduct, forgery, and fraud increased as well" (p. 209). In interpreting her findings, Stokowski presents a number of possible reasons for the burgeoning crime rate besides the implementation of casino gambling and these include "larger and more vigilant police staffs, more tourists visiting the community, and the flow of larger amounts of money" (p. 209). Another suggestion was that crime rates in general might have risen across Colorado. This explanation was rejected, however, when her analysis confirmed that the opposite had occurred; total state offenses and arrests declined after casino gambling was introduced in 1991, while expanding in the two mountain towns. Stokowski's study establishes links between casino gambling and higher crime rates but does not definitively answer the questions of whether casino gambling causes increased crime, or whether increased crime near the casino venues was a consequence of more tourists in the area.

A recent study commissioned by the Montana Legislative Services Division (1998) employs two statistical tests to determine the relationship between crime and gambling in Montana. In the first instance, Montana cities are matched with comparable sized cities in bordering states where gambling is less accessible. Secondly, crime rates in

Montana counties are compared on the basis of their per capita gambling expenditures. In general, the study demonstrates that "while gambling may cause an increase in certain types of crime, Montana's overall crime rate increase is not any higher than the increases in matched cities with little or no legal gambling" (p 29). In terms of the intra-state county analysis, a higher per capita spending on VLTs correlates in a statistically significant manner with burglary, larceny-theft, robbery, vandalism, driving under the influence, and weapons offenses. The report estimates that for every \$1 million increase in VLT expenditures there is a corresponding cost of \$32,500 to the state judicial system. This figure is deemed to be ultra conservative "because it is based on reported crimes which represent less than half of the serious crimes that actually occur" (p 32).

In a review commissioned by the American Gaming Association, Margolis (1997) sought to determine whether or not legalized casino gambling in the United States is associated with street crime and the extent to which, if any, organized crime has gained a foothold in American casino operations. Margolis presents three major conclusions:

1. That the previous research on crime and gambling is specious because it "has too often been marked by the use of anecdotal research, statistical sleight-of-hand and statistical distortions" (p 60);
2. When the increased population is factored in, crime rates do not expand significantly after casinos are established in a community; and
3. Organized crime does not infect modern, regulated casino gambling, because it cannot. This is partly due to "the comprehensive, extremely strict internal and external regulatory forces focused directly on publicly traded companies of the gaming industry" (p 59).

A study that refutes Margolis's contentions and makes a causal connection between the presence of casino gambling in an area, and increased crime rates, is that produced by Grinols, Mustard, and Dilley (1999) as part of the research sponsored by the American National Gambling Impact Study Commission. Grinols and his colleague's report is exhaustive in its attempt to address the limitations of previous studies done on the subject. For starters, the Grinols et al study is theory-based in that various hypotheses are advanced as to why casino expansion should either reduce or increase crime rates in



Grinols et al
conclude that, on
average, counties
with casinos have an
8% higher crime
index than do
counties without
casinos.

the surrounding area. The two suggested ways that casino expansion could lower crime rates include by "improving legal earning opportunities" and "indirectly through other effects of economic development" (p 4). On the other hand, Grinols et al posit that casinos may increase crime by hindering economic development, attracting tourists who may commit or be the victims of crime, attracting an unsavory element seeking to take advantage of the convergence of gamblers and free flowing cash, and because of the crimes that will inevitably be committed by some disordered gamblers.

After comparing the crime rates (FBI Index I Offenses—violent crimes and property crimes) from 1977 to 1996 in United States counties with casinos to those that are casino-free and doing a pre- and post-casino analysis of crime rates in counties that have casinos, Grinols et al conclude that, on average, counties with casinos have an 8% higher crime index than do counties without casinos. The authors go on to surmise that there would be an increased crime-related social cost of approximately \$12 billion if every county in America had a casino.

Although not specific to gambling-related crime, Gladwell (1996) uses a concept called the "tipping point" to explain crime rate increases in major American cities. Gladwell's thesis is that social problems behave like infectious agents and can move through populations like epidemics. Epidemics have their own set of rules, but each epidemic has its own "tipping point—the point at which an ordinary and stable phenomenon can turn into a public crisis" (p 36). To predict or fight that epidemic you need to know what that point is. Gambling-related crime is certainly not of epidemic proportion, however, to keep it in check policy makers must be alert to possible tipping points. For gambling-related crime these could include making gambling easily accessible, allowing credit-play, cash machines or liquor at gambling venues or making the enforcement of gambling laws a low priority.

Thompson (1988) also believes there is considerable casino gambling-related crime in North America, but suggests that this could be negated through careful planning. To support his point, Thompson contrasts and compares the operation of legal casinos in

Europe with those in North America. He attributes the markedly lower crime rates associated with European casinos to the following conditions:

- A no-credit policy along with strict cheque cashing rules.
- A low-key ambience—generally, European casinos offer fewer gambling formats and fewer tables. European casinos also have windows, conspicuous clocks, and do not ply their patrons with liquor.
- European casinos exist to serve a community interest; they are expected to participate in community betterments such as sponsoring orchestras, keeping up public grounds, and supporting recreational enhancements.
- As opposed to the open-entry policy of North American casinos, European casinos have registration desks where prospective patrons may be asked for their passports, proof of age, and occupational status. Often an admission fee is charged and a dress code is enforced. These rules are designed to exclude undesirables such as pickpockets, prostitutes, loan sharks, and compulsive gamblers.
- Casino employees in Europe typically aspire to a career in the gambling industry and many of them stay with the same company for the duration of their careers. Under these conditions, casino employees tend to be loyal and customer-service oriented because their success is tied to the casino's viability. The two-way loyalty between casinos and their staffs greatly reduces the incidence of employee theft and cheating scams.

Thompson's (1988) observations were made more than a decade ago. In the interim, European casinos have been Americanized to the extent that new casinos are bigger, have a wider array of gambling formats and, in some cases, have eliminated admission procedures. Judging by Thompson's thesis, one would expect increased crime rates in and around the newer European casinos, however, no empirical studies have examined this hypothesis.

2.4.1 Gambling and Corruption

The corruption of public officials has been linked to gambling for centuries (Dixon, 1991). In turn-of-the-century New York, illegal gambling syndicates were tied to the Tammany Hall political machine; the large numbers of bookmakers and their cohorts were effective at getting out the vote on election days (Haller, 1979). Peterson (1950),



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a former FBI director in several midwestern American cities in the 1930s and 40s, recounts instances of illegal gambling "kingpins" ruling over a city's political structure and "exerting tremendous influence over the police, the prosecutors, and the courts" (p. 20). Peterson's wry observation of the situation is that "under such circumstances the non-enforcement of the gambling laws is no mystery" (p. 20). In northeastern American cities in the 1950s and 60s it was common practice for police to take bribes from bookmakers for non-enforcement of the law (Reuter, 1984). In Canada, even "seemingly harmless gaming activities such as bingo, break-open tickets, and raffles are vulnerable to corrupt and fraudulent influences, skimming and black market activities" (Beare et. al. 1988, p 343).

Because of a declining interest in enforcing gaming laws, there is now little reason for illegal gambling operators to bribe police officers to overlook gambling offenses. By devoting their limited resources to more pressing activities, the police, by default, allow illegal gambling operations to flourish.

Corruptive practices have been identified in every facet of the Atlantic City casino experience (Demaris, 1987), the granting of gaming licenses in Louisiana, the hiring of former politicians as gambling industry lobbyists in Mississippi and Illinois, tribal councils and management companies skimming funds from California Native casinos, influence peddling in the VLT industry, skimming on construction contracts, and lottery corporation executive directors accepting kickbacks from suppliers (Dunstan, 1997; Goodman; 1995, Connor, 1993). Canadians are not exempt from this form of complicity as two pending cases in BC attest. As outlined in the section on mass media coverage of gambling-related crime, the New Democratic party has been accused of skimming funds from charity bingo halls in Nanaimo and the Premier, Glen Clark, recently announced his resignation in the wake of an investigation into his possible influence peddling involving the granting of a gaming license.

2.4.2 Crimes Committed by Disordered Gamblers

Shaffer and Hall (1996) developed a schema that classifies gambling behavior on a continuum that includes non-gamblers (level 1), non-problematic gamblers (level 2),

potential pathological gamblers (level 3), and the sub-set of level 3 gamblers who present for treatment (level 4). Disordered gambling refers to levels 3 and 4 gamblers—those who are unable to control their gambling behavior.

Individuals deep into a gambling addiction are known to commit crimes to support their gambling. Rosenthal and Lesieur (1996) posit that these illegal acts are committed out of desperation and occur in the late stages of the disorder. Typically, the disordered gambler faces overwhelming adversity stemming from gambling losses coupled with domestic and work pressures. Caught in this squeeze, the gambler becomes anxious and depressed to the point where his/her judgment becomes unsound. At this stage, the gambler is preoccupied with the need for money. Whether or not the gambler resorts to crime is dependent on personal values, opportunity, and the existence of threats (Lesieur, 1984). In the vast majority of cases, disordered gamblers gravitate to crimes that can supply large amounts of cash, quickly; seldom is violence used. Brown (1987) believes that disordered gambling precedes criminal behavior in the causal chain and he notes that crime invariably ceases once the gambling addiction is under control. Information on the criminal tendencies of disordered gamblers comes from three primary sources: inpatient gambling treatment programs, Gamblers Anonymous members, and prison populations. The crimes committed vary by grouping, however, this may also be a reflection of the socioeconomic differences between samples. In general, the in-treatment and the Gamblers Anonymous samples perpetrate "white collar" crimes; fraud, tax evasion, credit card scams, embezzlement, forgery, and employee theft. The prison population has a greater affinity for street crimes such as burglary, robbery, pimping, prostitution, selling drugs, and fencing stolen goods (Rosenthal and Lesieur, 1996).

Another type of illegal behavior that attracts disordered gamblers is "gambling-system related crimes." This includes cheating at play, operating or working in an illegal gaming house, and bookmaking. Lesieur (1984) draws an analogy between disordered gamblers involved in illegal gambling schemes and drug addicts selling drugs to support their habits.

Individuals

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The public perception of gambling has moved from sin to vice to entertainment in a relatively short time span.

2.4.2 The Incidence of Criminal Behavior Among Disordered Gamblers

Most of what is known about the unlawful activities of disordered gamblers comes from the select samples of disordered gamblers described above. The available evidence suggests that the link between crime and disordered gambling is a cross-cultural phenomenon. For example, Blaszczynski, McConaghy, and Francova, (1989), studying Australian gamblers in treatment and Gamblers Anonymous members ($n=109$) found that 54.1% of the sample admitted to a gambling-related criminal offense and 21.1% were ultimately charged. In a more recent investigation of a similarly drawn sample of disordered Australian gamblers ($n=306$), Blaszczynski and McConaghy (1994) note that 59% of the group had committed a gambling related offense, with a conviction rate of 21%.

German Gamblers Anonymous members ($n=437$) claimed that 54.5% of them had committed a crime in order to get money to gamble (Meyer and Fabian, 1992), as had 68% of a sample of Quebec Gamblers Anonymous members ($n=60$) (Ladouceur, Boisévert, Pepin, Loranger, and Sylvain, 1994). In American-based studies, Lorenz and Politzer (1990) report that 61% of a sample of disordered Maryland gamblers committed illegal acts to support their gambling and Lesieur (1992) indicated that two-thirds of a non-incarcerated and 97% of an incarcerated sample of problem gamblers said they had carried out crimes to finance their gambling.

The fragmentary evidence from general public surveys shows a much lower incidence of criminal behavior by problem gamblers. In the Alberta replication study, "Adult Gambling and Problem Gambling in Alberta," 1998 (Wynne Resources, 1998), respondents were asked if they had ever been in trouble with the law because of activities related to gambling. Only 2.0% of the problem gamblers and 5.6% of the probable pathological gamblers answered affirmatively. Two factors may account for this discrepancy between the survey findings and the select populations data: (1) survey respondents may be reluctant to divulge deeply personal information to a stranger over the telephone; and (2) all of the respondents in the select populations studies were gamblers who had sought help for their problems, whereas in the survey, none of the 51 problem gamblers and only 11.1% of the 36 probable pathological gamblers had

sought help for their gambling disorder. It is presumed that a major reason for seeking treatment is that crimes are being committed to support a gambling habit.

Blaszczynski and Silove, 1996) reckon that because our knowledge of the incidence and extent of gambling-related criminal behaviors is incomplete, it is likely that the problem is more acute than we suspect:

Arrest and conviction rates are inadequate [indicators] because gambling is not necessarily identified on conviction records as underlying the offense, and not all gambling-related offenses are detected or offenders apprehended. Therefore, the true prevalence rate is likely to be underestimated (p 360).

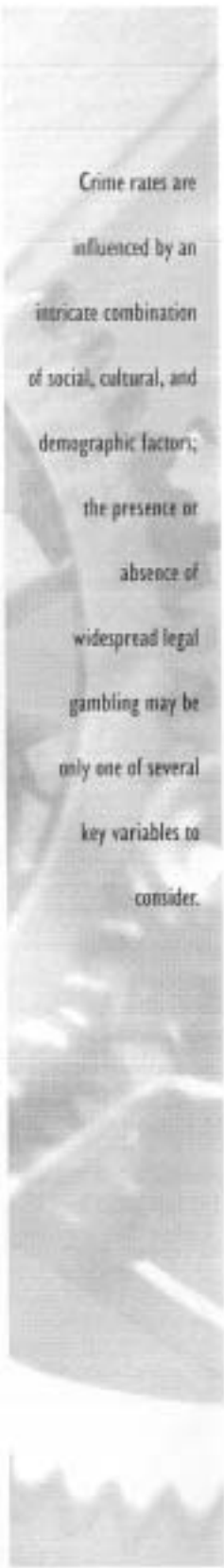
2.4.3 Disordered Gambling as a Legal Defense Strategy

The strong positive correlation between disordered gambling and criminal behavior among in-treatment samples has led to disordered gambling being used as a defense strategy in criminal trials. Essentially, defense lawyers argue that because out-of-control gambling has been formally recognized as an impulse control disorder, there are grounds for claiming that a gambler's impaired judgment makes the individual less culpable for his/her actions. Initially, the justice system was unprepared for this reasoning as little was known about gambling addiction or available treatment options (Lorenz, 1988). Early on, cases were won using this defense, however, prosecutors soon raised the issue of relevance to negate the impaired judgment plea. The relevance challenge holds that "an individual may or may not be able to control his or her impulse to gamble but that should have no bearing on an impulse to steal or commit other crimes" (Rosenthal and Lesieur, 1996), p 159).

The most pronounced effect of the disordered gambling defense has been to gain sentence reductions for individuals where uncontrolled gambling is shown to be a criminogenic factor. Several reasons have been advanced to explain why disordered gambling has become more acceptable as a mitigating factor in sentencing:

The vast majority of disordered gamblers who commit crimes to support their gambling habits have no prior history of criminal involvement. Going to jail usually means that the gambler will not get professional treatment for his/her problem and it increases the likelihood of recidivism (Lorenz, 1988).

We expect the
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1988).



Crime rates are influenced by an intricate combination of social, cultural, and demographic factors; the presence or absence of widespread legal gambling may be only one of several key variables to consider.

- "Judges would like to hope that their sentencing is done for rehabilitation and not merely for punishment" (Rose, 1988, p 249).
- The reduced sentencing is usually contingent upon the offender agreeing to undergo problem gambling counseling, do community service, and make restitution for damages (Meyer and Fabian, 1996).

The public perception of gambling has moved from sin to vice to entertainment in a relatively short time span. Similarly, society's view of disordered gambling has transformed from wickedness and degeneracy to a mental disorder. In keeping with these changing attitudes, we expect the courts to be more understanding about allowing disordered gambling as a pretext for diminished culpability in future criminal cases (Rose, 1988).

2.5 Summary

As this literature review indicates, the relationship between gambling and crime is ambiguous. At present, we cannot confirm a direct causal relationship between more gambling and higher crime rates, whether some forms of gambling are more likely to beget crime than are others or whether expanded legal gambling offerings impact on the viability of illegal gambling activities and their prevalence. We also do not know whether the impact (positive or negative) of gambling on a community changes over time or how long the incubation period is for various gambling formats to produce disordered gamblers. Obviously, crime rates are influenced by an intricate combination of social, cultural, and demographic factors; the presence or absence of widespread legal gambling may be only one of several key variables to consider.

3. RESEARCH METHODOLOGY

The researchers' long-standing interest in the topic of gambling and crime came to a focus in 1997 when, at the fourth Interprovincial Conference on Problem Gambling held in Regina, Drs. Harold Wynne, Garry Smith, and Colin Campbell delivered a presentation entitled *Gambling and Crime: A Research Agenda*. This presentation described the paucity of research into the relationship between gambling and crime and endeavored to stimulate interest amongst researchers in conducting studies on this important topic.

At the Regina conference, the presenters posed thirty specific research questions for consideration in two domains, namely, (1) the impact of crime on the community, and (2) the community's response to gambling-related crime. In terms of community impact, fifteen research questions focused on crime perpetrated by problem gamblers and Criminal Code violations pertaining to illegal gambling. Fifteen additional research questions centred on law enforcement practices, sentencing and corrections, and crime prevention. The presenters solicited feedback from session attendees—many of who had expertise in the nexus of gambling and crime—and based on this input, began developing a prospective "gambling and crime research agenda."

This study is the first attempt to implement the research agenda presented and discussed at the Regina conference. This is significant from a public policy standpoint because there are so many unknowns associated with the impact of legal and illegal gambling on our law enforcement agencies and criminal justice system. Before we can design effective responses we must understand the character and shape of the problem. "The core of any public policy is the triad of problem definition, goals, and instruments" (Pal, 1997, p. 69). This report sits squarely in the "problem definition" phase and our hope is that the findings will be used to frame and implement effective public policy.

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3.1 Research Questions

The purpose of this exploratory study is to examine the relationship between gambling and crime in western Canada, with a view toward dispelling any myths that may exist by gathering valid information from reliable sources. The research design consists of fifteen variables in six domains; within each of these domains, the following research questions guided the inquiry.

DOMAINS	VARIABLES	RESEARCH QUESTIONS
Context	Myths	1. What are the past and present (public, justice, government) perceptions about the relationship between crime and gambling?
	History	2. What is the history of designating "legal gambling" in western Canada?
Legal and Illegal Gambling	Legal Gambling	3. What is the current designation of "legal" and "illegal" gambling in western Canada?
	Illegal Gambling	4a. What is the prevalence of illegal gambling in western Canada?
		4b. What are the characteristics of illegal gambling-gamblers?
		4c. Are there any discernable trends in illegal gambling?
		4d. How does illegal gambling vary from province to province?
		4e. To what extent does illegal gambling replace legal gambling?
		4f. To what extent is organized crime involved in illegal gambling?
		4g. To what extent does organized crime's illegal gambling relate to other illegal activities?
		5a. To what extent are gambling-related crimes attributable to problem gamblers?
		5b. What type of crime is committed by Problem Gamblers?
		5c. What are the characteristics of problem gamblers who commit crimes?
Criminogenic Problem Gambling	Effects and costs	5d. What are the consequences of criminogenic Problem Gamblers?
		5e. What issues are involved with attempting to determine the costs of gambling-related crime?
	Monitoring and Enforcement	6a. How/ to what extent is gambling-related crime monitored and enforced?
		6b. What is the role of gaming regulatory & law enforcement agencies?
		6c. How knowledgeable are law enforcers about illegal/criminogenic Problem Gambling?
		6d. What resources are allocated to agencies to enforce gambling laws?
Law Enforcement		6e. How are illegal gambling activities policed?

DOMAINS	VARIABLES	RESEARCH QUESTIONS
Law Enforcement (continued)	Prevention	7. What are the prevention strategies aimed at limiting gambling-related crime?
Court System	Volume of Cases	8. To what extent are gambling-related crimes evident in the court system?
	Culpability	9a. To what extent is Problem Gambling used as a mitigating factor in criminal/civil trials?
		9b. How knowledgeable are court officials about Problem Gambling as a mitigating circumstance?
	Sentencing	10. What sentencing options are being used in gambling-related trials?
Gambling and Crime Policy	Policies	11. How does provincial gambling policy address legal/illegal gambling issues?
	Policy Making	12. How does gambling-related crime influence provincial gambling policy?
	Policy Outcomes	13. How does provincial gambling policy minimize gambling-related crime?

To confirm the appropriateness of these domains, variables and questions, feedback was solicited from key informants in the law enforcement community. RCMP Sergeant Bob McDonald, Bureau Manager, Criminal Intelligence Service Alberta (CISA), an acknowledged Canadian expert in the area of gambling and crime, provided valuable input that was incorporated in the research design. Furthermore, Sergeant McDonald conveyed copies of the research plan to Alberta Police Chiefs and criminal intelligence colleagues in the four western provinces and in Ottawa. He also contacted other law enforcement personnel deemed to be key informants apprising them of the study and inviting them to submit comments to him or directly to the researchers. The comments and advice received from these experts was ultimately utilized to guide the direction of this study.

Given the controversial nature of the subject matter, the respondents were guaranteed anonymity and confidentiality, that is, they would not be named in the study nor would their home city be identified so that comments could not be traced to specific individuals. In general terms, the respondents represented the following categories: experienced RCMP and municipal police officers who are familiar with legal and illegal gambling, organized crime, and the proceeds of crime; provincial gaming regulators, who, by in large, are former police officers; casino and racetrack senior executives; and judicial system personnel (Alberta-based lawyers and judges).



3.2 Data Collection and Analysis

The data required to address these research questions were largely qualitative in nature. Notably, the study relied, to a great extent, on the perceptions of key informants gained through face-to-face and telephone interviews conducted by Drs. Smith and Wynne. Other qualitative data sources included studies and research articles gathered through an extensive literature review, official court records of criminal cases identified through computer searches, and a review of print media stories. An effort was made to obtain statistical data relative to the incidence of gambling-related crimes, however, as none of the law enforcement agencies in the western provinces keep records detailing whether gambling is a contributing factor to the commission of a crime, these quantitative data are incomplete.

3.2.1 Context

The first study domain examined is the gambling and crime context, which includes a review of the history of "legal gambling" in western Canada and an identification of the facts and "myths" surrounding this relationship. The review of literature outlines the history of legalized gambling in Canada which has been well-researched in Dr. Colin Campbell's (1994) dissertation entitled *Canadian Gambling Legislation: The Social Origins of Legalization* and in Ron Robinson's (1985) *History of the Law of Gaming in Canada*.

Public perceptions reported in the print media were also examined for evidence of any myths pertaining to the issue of gambling and crime. Western Canadian newspapers for the years 1994 to 1999 were content-analyzed and dominant themes identified. A total of 220 articles containing commentary on a link between gambling and crime were winnowed out of over one thousand stories on the broad topic of gambling. Inter-provincial differences in newspaper coverage of gambling and crime issues were also noted.

3.2.2 Legal and Illegal Gambling

A search of statutory legislation and regulations in each province and an examination of the Criminal Code of Canada were conducted to determine the constitution of

"legal" versus "illegal" gambling. To ascertain the extent of illegal gambling, an effort was made to collect gambling-related crime statistics, however, as noted earlier, this was largely unfruitful because law enforcement agencies do not gather and report these statistics separately.

To determine the characteristics of illegal gambling/gamblers, trends in illegal gambling, provincial variations in gambling regulation, the relationship between legal and illegal gambling, and organized crime involvement in illegal gambling, we relied on the perceptions of key law enforcement officials, gaming regulators, and gaming industry senior executives. This process is generally referred to as "purposive sampling," which is the practice of identifying and questioning those informants, deemed to be most knowledgeable in a given area. In addition to this sampling strategy, a "snowball technique" was used to expand the base of prospective key informants; that is, identified experts were asked to nominate others they knew to be knowledgeable about the topic of gambling and crime in western Canada.

A semi-structured interview format was utilized and questions were based on the research domains presented above. As previously mentioned, interviews were conducted face-to-face or by telephone and, during the interview, the researchers took notes to record respondents' commentary.

3.2.3 Criminogenic Problem Gambling

In this study, criminogenic problem gambling is defined as crime that is perpetrated or precipitated by persons with a gambling problem. To determine the prevalence and incidence of this type of crime, three main data sources were used. First, the literature was searched for information about the types and characteristics of crimes committed by problem gamblers. Second, this information was used as a probe in interviews with law enforcement officials to ascertain whether interviewees could confirm the presence of these types of crimes in their jurisdictions. Finally, court cases wherein "gambling" was a precipitating factor were identified through a computer search and, subsequently, judges were invited to comment on the incidence and type of gambling-related criminal cases appearing in their courts.



3.2.4 Law Enforcement

In this study domain, our focus is on the role of various law enforcement agencies and gaming regulatory bodies, the monitoring and enforcement of statutory law and gaming regulations, and the employment of any gambling crime prevention strategies. The data requirements here included statutes, regulations and documents outlining the respective roles of these agencies for enforcement. In addition, the perceptions of police officers, provincial gaming regulators, and gambling industry personnel were garnered through personal interviews.

3.2.5 Court System

Since the court system ultimately deals with the outcome of gambling-related crime, this study sought to examine the volume of court cases, criminal culpability, and sentencing practices in western Canadian provinces. To gauge the number and type of court cases, official court records were examined. Specifically, case digests located in the Canadian Abridgement Case Digests CD ROM were searched for occurrences of the key word "gambling" and/or Criminal Code violations in British Columbia, Alberta, Saskatchewan, and Manitoba official court records. This search rendered 43 legal cases wherein gambling was a factor, however, of these, only 17 cases were crime-related.

In addition to the computer search of the case law database, the perceptions of Alberta Court of Queen's Bench justices and provincial court judges were tapped to determine the volume and characteristics of gambling-related court cases and the appearance of pathological gambling as a defense strategy. As with the other key informants, brief, semi-structured interviews were conducted with these experts.

3.2.6 Gambling and Crime Policy

In the concluding chapter we comment on public policy as it relates to addressing gambling and crime in western Canada. In this discussion, we rely on a synthesis of gambling-related law, regulations and policy statements, and the perceptions of key informants.

3.2.7 Limitations

Three main limitations of this study are acknowledged. First, documentary and statistical data were limited as neither law enforcement agencies nor courts compile comprehensive data reports on the incidence of gambling-related crime. When police officers lay criminal charges, the record-keeping systems do not provide coding protocols for identifying "gambling" as a salient factor (the exception is for breaches of sections in the Criminal Code that pertain specifically to illegal gambling activities). Furthermore, most of the criminal cases that appear in provincial courts do not have written transcripts filed with the court record; while this is less the case in Court of Queen's Bench, fewer gambling-related criminal cases appear in this higher court. This means that many more court cases are heard daily, weekly, and monthly in the western provinces than are reflected in computerized databases such as the Canadian Abridgement Case Digests. The result is that we obtained relatively few criminal court cases wherein gambling is a factor in proportion to the number of cases actually tried. In light of this discrepancy, it is conceivable that court cases reported in this study are not representative of gambling-related criminal cases, either in terms of volume or type.

The second main limitation of this study lies in the nature of perceptual data. People do not have total recall of experiences and events in their lives, and moreover, these are viewed through subjective lenses which often bias the observations or interpretations proffered. In that we relied on the perceptions of law enforcement officials, gaming regulators, senior gambling industry officials, and provincial judges to further our understanding of the nature of gambling-related crime in western Canada, this study suffers from these normal perceptual biases. This limitation is lessened through our triangulation of perceptual data with other sources of information (literature review, newspaper accounts, and case law), nevertheless the limitation is recognized. This perceptual data could be strengthened by including more interviews with key informants, however, study resources were too limited to conduct a large number interviews in each of the four western provinces.

When police officers lay criminal charges, the record-keeping systems do not provide coding protocols for identifying "gambling" as a salient factor (the exception is for breaches of sections in the Criminal Code that pertain specifically to illegal gambling activities).



Finally, it is noted that the sample of gambling industry respondents was limited to casino and racetrack senior officials because they take the most extensive security precautions to prevent gambling-related crime.

3.3 A Final Comment

As noted elsewhere, this is the first study to be undertaken in accordance with the "gambling and crime research agenda" presented at the 1998 Regina inter-provincial gambling conference. Although most of the domains, variables and questions identified in the original research agenda are included in this study, funding and time constraints have not allowed for an in-depth analysis of these. Consequently, this study must be characterized as preliminary with the hope that other researchers will build on this work.

4. RESULTS AND DISCUSSION

The information in this section addresses the research questions posed in chapter three. Specifically, this study attempts to frame the relationship between gambling and crime in western Canada by outlining the nature and scope of the problem. Data compiled for this chapter was derived from newspaper accounts of gambling-related crime and interviews conducted with the RCMP, municipal police, provincial gaming regulators, criminal justice system officials, and gambling industry executives in western Canada. Information presented in this section represents the main themes and viewpoints expressed by the informants.

4.1 Print Media Coverage of Crime and Gambling in Western Canada

An important component of this study is the print media treatment of crime and gambling-related issues. The frequency, slant, and tone of newspaper coverage can shape the values and viewpoints of attentive readers. The press, in an attempt to be controversial, sometimes creates and perpetuates myths about gambling-related crime that eventually become stereotypical ways of viewing these events.

In an effort to distinguish hype from reality, a content analysis of the print media presentation of gambling-related crime in western Canadian newspapers for the years 1994-99 is provided in this section. Dominant themes are highlighted and described and inter-provincial differences in newspaper coverage of crime and gambling issues are noted. A total of 220 articles containing commentary on a link between crime and gambling were gleaned from over one thousand stories on the broad topic of gambling. The articles were drawn from major publications spread across the four western provinces, including the following: Vancouver Sun, Province, Courier, and Our Town; Calgary Sun and Herald; Red Deer Advocate; Edmonton Journal; Alberta Report; Saskatoon Star Phoenix; Regina Leader Post; Winnipeg Free Press; Globe and Mail; Economist; and Western Report. The major themes that emerged from the content analysis are outlined as follows.

The press, in an attempt to be controversial, sometimes creates and perpetuates myths about gambling-related crime that eventually become stereotypical ways of viewing these events.



"The ABCs of
gambling are
addiction, bankruptcy,
and crime"
(Vancouver Sun, Feb.
14, 1998).

4.1.1 The Apparent or Assumed Association Between Gambling and Crime

This is the most frequently mentioned theme in all of the provinces except British Columbia, where it ranked second. Articles featuring this theme account for one-third of all the articles examined. This theme is most prominent when a major gambling expansion is being considered, and typically, the use of vague terms and an absence of relevant statistical data characterize the articles. In many of the articles, the crime and gambling link is presented in a taken-for-granted fashion along with a prediction that expanded gambling will lead to negative social impacts. Fewer than a dozen of the articles challenged the assumption that gambling and crime are fellow travelers. Sources most often quoted in these articles are police officials, police reports, gambling research studies, politicians, anti-gambling groups, and residents near the intended gambling expansion site.

There are exceptions to the above noted trends; for example, articles in the Saskatchewan print media often mention the social impacts of gambling without explicitly tying gambling to crime. Also in the Saskatchewan print media, the assumed connection between crime and gambling is refuted or actively challenged more often than it is accepted. The Manitoba media coverage of this theme is notable for the use of statistics that foster the crime-gambling connection. The statistic cited most often is from a study released by the Addictions Foundation of Manitoba that identifies 8.1% of their problem gambling treatment program clients as having committed crimes to support their gambling habits.

Typical headlines and statements made in these articles include: "We can expect a rise in crime as the result of the casino" (Globe & Mail, July 2, 1994); "VLT crime link denied" (Regina Leader Post, April 12, 1995); "Evidence from across North America shows that big casinos and their promise of big, easy money attract a criminal element" (Calgary Herald, Jan. 21, 1996); "Anti-gambling activists say that they're against VLTs because they hurt the poor and invite crime" (Vancouver Province, Mar. 4, 1997); "The ABCs of gambling are addiction, bankruptcy, and crime" (Vancouver Sun, Feb. 14, 1998).

4.1.2 Gambling and Political Corruption

In the British Columbia print media, the primary crime and gambling theme centres on allegations that elected officials channeled charity gambling proceeds into political party coffers and that politicians may have acted improperly in helping constituents get a gaming license.

The first incident involves the alleged embezzlement of \$1.5 million from a charity bingo holding fund (the Nanaimo Commonwealth Holding Society). Criminal charges were laid against then NDP finance minister, David Stupich, for transferring charity gambling funds into the provincial party coffers. Although not criminally implicated in the scandal, NDP Premier Mike Harcourt resigned over the issue. This case has received ongoing print media coverage from the time of its discovery in 1994 to the present day. On June 25, 1999 Mr. Stupich pleaded guilty to a pair of indictments that comprised 64 different counts of fraud. In gaining Stupich's guilty pleas, the Crown agreed to drop 18 related charges against Stupich's common-law wife and 16 charges against his daughter. The media spotlight will continue to shine on this caper for the next year as a government inquiry into the "Stupich affair" is being undertaken now that the case has moved through the justice system (National Post, June 26, 1999).

Although only one former elected official was ultimately convicted, the media coverage implicated other NDP legislators. For instance, "Liberal leader Mike de Jong demanded Friday that Attorney-General Ujjal Dosanjh resign in the wake of RCMP allegations that NDP party officials may have committed fraud related to the Nanaimo bingo scandal (Vancouver Sun, Mar. 23, 1996);" "the police recommended charging former Premier Dave Barrett and a former provincial cabinet minister, but Crown prosecutors said there wasn't enough evidence (Calgary Herald, May 6, 1998)."

The latest contretemps in BC involves current Premier Glen Clark's alleged use of political influence to help a friend secure a casino gaming license. This incident became public on March 3, 1999 when the RCMP raided the Premier's home. As yet, no criminal charges have been filed and the RCMP has not indicated what, if anything, their search turned up. Media speculation centered on the unusual circumstances

Media commentary

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surrounding the licensing of a Burnaby gambling establishment. "The raids on Clark's house and provincial government offices, have raised numerous questions regarding how the North Burnaby Inn casino proposal won cabinet support (Vancouver Sun, Mar. 4, 1999)." Subsequent to these events Mr. Clark's decided to resign as Premier of British Columbia.

Another Criminal Code violation tied to the BC political scene broke in 1998 when the BC Supreme Court ruled that the provincial government's method of distributing gaming proceeds was counter to the provisions in the Canadian Criminal Code. In this case the print media used scathing rhetoric to denounce the government's cupidity. For example, "the BC government's scheme to disburse gaming proceeds contravenes the Criminal Code and robs charities and religious organizations of \$millions in raised money (Vancouver Sun, Jan. 10, 1998)." No scandals involving gambling and political corruption were reported in the other three provinces over the past five years.

4.1.3 Crimes Committed by Problem Gamblers

About 20% of the articles reviewed dealt with crimes committed by problem gamblers to support their habits. This theme predominates in the Saskatchewan print media coverage of gambling and crime, ranks second in Alberta and Manitoba, and is mentioned less frequently in the BC media.

Media commentary on the criminal activities of problem gamblers indicates that in, over 50% of the cases, it is a "white collar" type of crime that is committed, typically fraud or embezzlement. Often these articles are presented as human-interest stories that empathize with the gambler's predicament. The articles focus on the circumstances that led to the gambling addiction and feature personal comments from the gambler and family members. In the majority of instances problem gamblers report VLTs as their game of choice and they note how quickly the addiction developed. The fact that BC does not permit VLTs may account for the fewer reported instances of problem gambler-related crime.

Typical quotes from articles that reflect this theme include: "A 34 year old mother of three stole \$8,000 from her employer to satisfy her VLT habit" (Calgary Herald, May

25, 1996); "Lawyer says gambling led client to crime" (Regina Leader Post, July 26, 1996); "The latest VLT criminal to go through the courts walked out a free man yesterday but you could almost see the wreckage of his life trailing behind him" (Calgary Sun, June 16, 1998).

4.1.4 Illegal Video Lottery Terminals

The prevalence of illegal VLTs is the second most mentioned theme in the BC media, but much less of a concern in the other three provinces. This is not surprising given that VLTs are banned in BC and legal in the other jurisdictions. Many of these articles discuss whether or not legalizing the machines will reduce the number of illegal VLTs. For example, BC Government Services Minister at the time, Robin Blencoe, argued that legalizing VLTs would put a huge dent in the province's estimated 10,000 illegal machines (Vancouver Sun, Feb. 25, 1995). On the other hand, RCMP Sgt. Bob McDonald is quoted as saying "that illegal machines remain a problem in Alberta despite the fact that there are 5,800 legal VLTs in bars and lounges across the province" (Calgary Herald, Feb. 21, 1998).

Estimates of the number of illegal VLTs are often included in the BC articles. These estimates are widely divergent and attributed to varying sources. The published numbers range from 2,000 to 10,000 province-wide and some sources speculate there are 3,000 to 5,000 machines in the lower mainland area alone. In only two of the articles are the figures attributed to specific police officers; generally, the source of the estimate is rather vague, such as "regulatory authorities," "BC government," and "police reports."

When the Alberta media mention illegal VLTs in British Columbia the same shadowy estimates are used, however, when commenting on illegal VLTs in Alberta, the focus is not on how many there may be in the province, but on the practical number of how many that have been seized by the authorities. Neither the Saskatchewan nor the Manitoba media are as prone to hypothesize on the numbers of illegal VLTs in their province.

British Columbia

estimates on the number of machines are widely divergent and attributed to varying sources. The published numbers range from 2,000 to 10,000 province-wide and some sources speculate there are 3,000 to 5,000 machines in the lower mainland area alone.



In June 1998, a disgruntled Kelvington, Saskatchewan man who had spent a money-losing night in front of a VLT took revenge by shooting the machine with a shotgun. (Edmonton Sun, June 30, 1998).

4.1.5 Criminal Activity in and Around Gambling Venues

This theme is reflected in all four provinces' media coverage and it accounts for about 10% of the total number of articles. The articles note specific unlawful activities that occur at or near gambling venues. In some instances, the articles insinuate a causal link between the crime and the presence of the gambling establishment; in other cases there is only a geographic association with no presumption that the gambling milieu was a factor in the crime. Most of the articles in this category refer to crimes committed in or near casinos and VLT establishments. For example: "two Edmonton seniors were beaten and robbed of their VLT winnings after they arrived home" (Edmonton Journal, June 27, 1995); "a Calgary man was caught cheating at baccarat by casino surveillance staff" (Calgary Herald, Jan. 13, 1998); and "a man armed with a handgun beat and tied up a bartender after forcing him to empty the lounge's VLTs" (Edmonton Journal, May 13, 1996).

Also in this category are violent crimes and high-profile crimes involving government-owned gambling equipment being vandalized. For example, in July 1997 a Calgary casino owner was robbed at gunpoint while making a bank deposit of the previous day's receipts. The entrepreneur lost \$40,000 and was shot twice in the leg while resisting the hold-up man (Calgary Herald, July 24, 1997). In April 1999 an Edmonton casino lost \$100,000 to armed bandits who struck in broad daylight while Loomis security personnel were transferring cash from the casino to an armored car. No arrests have been made as of this writing. In June 1999 a syringe-wielding bandit accosted a convenience store clerk and demanded lottery tickets (Edmonton Sun, June 9, 1999).

In June 1998, a disgruntled Kelvington, Saskatchewan man who had spent a money-losing night in front of a VLT took revenge by shooting the machine with a shotgun. The man remained in the bar and surrendered peacefully (Edmonton Sun, June 30, 1998). In June 1999, a self-proclaimed addicted gambler destroyed five VLTs with a hatchet in an Edmonton lounge after dropping "tens of thousands of dollars" over the past two years. The man was charged with mischief over \$5,000 and possession of an offensive weapon (Edmonton Sun, June 8, 1999).

4.1.6 Gambling and Organized Crime

A connection between gambling and organized crime is explicitly mentioned in a number of BC and Alberta articles but the theme is under-represented in the Manitoba and Saskatchewan media. The BC coverage is not surprising as Vancouver is frequently cited in media reports as a breeding ground for organized crime activities. Anecdotal evidence is sometimes used to make the connection between gambling and organized crime, but more often than not it is presented as an unsubstantiated claim. Mention of organized crime activities is usually linked to casinos and illegal VLTs and the sources tend to be police officials or politicians. For example, in the above noted shooting of the Calgary casino owner police officials speculated on the possibility of organized crime involvement. The grounds for this conjecture were based on evidence that it was well-planned (the owner's movements were known and two getaway cars were used), the shootings were done "punishment style" (intended to maim and terrify rather than kill), and the fact that it is a time-honored organized crime practice to harass legitimate operators to the point where they will sell the business at below market value (Calgary Herald, July 27, 1997). Although organized crime involvement was never proven in the Calgary shooting episode, the police and media speculation fuelled the urban myth about gambling being connected to organized crime.

Quotes depicting this theme include: "organized crime is running thousands of VLTs in bars and restaurants in BC according to the Coordinated Law Enforcement Unit" (Vancouver Sun, Mar. 3, 1995); "attracting organized crime is a key concern when it comes to allowing casinos on Indian reserves" (Calgary Herald, Jan. 24, 1996); and "for-profit casinos will attract organized crime including prostitution and drug-trafficking, warns Calgary police report" (Edmonton Journal, Jan. 6, 1997).

4.1.7 Gambling and Crime Statistics

Official statistics are rarely used in newspaper reports on crime and gambling, mainly because law enforcement agencies do not keep detailed information on whether or not crimes are gambling-related. As a result it is difficult to check the authenticity of so-called "official statistics." For example, one oft-quoted statistic from the American Insurance Institute claims that problem gamblers commit 40% of all white-collar

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connected to
organized
crime.



The legislation
on gambling in the
four western
provinces is
extensive.

crimes. This statistic has been used for years by reputable publications; only recently was it discovered that this organization is nonexistent.

4.2 Legal and Illegal Gambling

4.2.1 The Regulation of Legal Gambling in Western Canada

This is a brief review of the statutes and regulations pertaining to gambling in the four western provinces. The legislative documents were analyzed to discover elements relevant to crime and gambling issues. The table on pages 46 and 47 outlines in greater detail these provincial regulations. This summary does not cover aspects of legal gambling contained in non-legislative documents, such as gaming commission policies and contracts.

The sources used include: from Manitoba, the Gaming Control Act (1996), the Gaming Control Regulations (1997), the Manitoba Lotteries Corporation Act (1987), Lotteries Regulation (1988), Video Lottery Regulation (1991), the Horse Racing Commission Act (1988), and the Horse Racing Regulation Act (1988); from Saskatchewan, the Saskatchewan Alcohol and Gaming Regulation Act (1989), the Slot Machine Act (1997), the Interprovincial Lotteries Act (1984), the Saskatchewan Gaming Corporation Casino Regulations (1996), the Gaming Licensing Regulations (1994), An Act to Establish a Horse Racing Commission (1983) and An Act for the Regulation of Horse Racing (1983); from Alberta, the Gaming and Liquor Act (1996), the Gaming and Liquor Regulation (1996), and the Racing Corporation Act (1996); from British Columbia, the BC Lottery Act (1996), the Lottery Act Amendments (1998), the Gaming Fees Regulation (1998), the BC Lottery Corporation Act (1996), the BC Lottery Corporation Act Regulation (1997), and the Horse Racing Act (1993).

The legislation on gambling in the four western provinces is extensive. Gambling in Alberta seems to be the least legislated, since all regulatory issues are covered in the Gaming and Liquor Act, the single set of corresponding regulations and the Racing Corporation Act. The number of statutes and regulations may be misleading, however. For instance, the content in the BC documents is much less detailed than that in the less numerous Alberta documents. The legislation from Manitoba and Saskatchewan is detailed as well as numerous.

From the various statutes and regulations, some differences and similarities are apparent. The major themes that are of interest here comprise: the outlines of legal gambling; the monitoring of gambling; and the enforcement of gambling laws. It should be noted that this study provides an analysis of some aspects of the legislation and does not cover everything contained in the documents.

The first theme includes variations in the types of legal gambling that the four provinces allow. The permitted games are mentioned in different amounts of detail in the regulations and sometimes in the statutes of each province. There are some similarities in the types of gambling listed in the legislative documents. All the provinces mention the possibility of legal raffles, bingos, some kind of casino event, slot machines, and the general term of "lottery schemes." The latter is associated with gambling events run by a government appointed authority. Horse racing is also legal in all four provinces. However, it is approached somewhat differently than other types of gambling. It is governed by separate legislation in all four provinces. There are also some variations in the types of legal gambling offered. For instance, all the provinces mention video lottery terminals, except BC, since this is the only western province that prohibits the machines. Only BC and Manitoba mention Wheel of Fortune licenses and Manitoba is the only province with Calcutta Auction licenses.

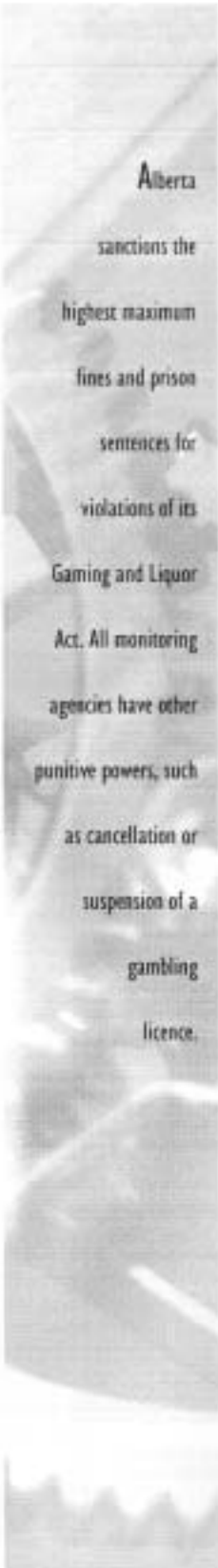
The second area of interest in the study is the monitoring of gambling. It is an area of some consensus and some division. In Manitoba, Saskatchewan, and British Columbia, regulatory duties are granted to a separate organization than the governmental organization that conducts lottery schemes. One agency, the Alberta Gaming and Liquor Commission, performs both functions for that province. BC has further divided the regulatory capacity by according the regulation of charitable gambling to the British Columbia Gaming Commission and the regulation of some aspects of charitable gambling and all other gambling to the Gaming and Audit Investigation Office (GAIO). From Manitoba through British Columbia, much of the regulation and monitoring of gambling is done by an organization at arms-length of government. The GAIO in BC is more closely affiliated with the Ministry of the Attorney General.

In Manitoba,
Saskatchewan, and
British Columbia,
regulatory duties are
granted to a separate
organization than the
governmental
organization that
conducts lottery
schemes. One agency,
the Alberta Gaming
and Liquor
Commission, performs
both functions for
that province.

REGULATION AND REQUIREMENTS OF LEGAL GAMBLING IN CANADA

	MANITOBA	SASKATCHEWAN
Legal Age	18 years (16 years for race tracks)	19 years
Type of Legal Gambling	Casinos, Bingos, VLTs, Slots, Lotteries, Ticket Raffles, Break-open lottery, Sports Drafts, Wheels of Fortune, Calcutta auctions, Horse Racing	Casinos, Bingos, VLTs, Slots, Lotteries, Ticket raffles, Break-open lottery, Horse Racing
Licensing or Registration Requirements	Gaming operators, gaming workers, gaming suppliers, gaming establishments and gaming schemes	Gaming operators, gaming workers (does not apply to volunteers), gaming suppliers, gaming establishments and gaming schemes
Horse Racing	Licensed and regulated by the Horse Racing Commission (HRC) May be operated privately	Licensed and Regulated by the Horse Racing Commission (HRC) and the Saskatchewan Liquor & Gaming Authority May be operated privately
Charitable or Exhibition/ Agricultural Association Gambling	Bingo, Ticket Raffles, Break-open lottery, Calcutta auctions, Sports Drafts, Monte Carlo casinos, Wheels of Fortune	Bingo, Ticket raffles, Break-open lottery, Casinos
Government Conducted Gambling	Casinos, VLTs, Slots, Lotteries, Bingo	Casinos, VLTs, Slots, Lotteries
Government Agency That Conducts Gambling	Manitoba Lotteries Corporation (MLC)	Saskatchewan Gaming Corporation (SGC)
Major Regulating Agency	Manitoba Gaming Control Commission (MGCC)	Saskatchewan Liquor & Gaming Authority (includes Liquor and Gaming Licensing Commission)
Gaming Inspectors	- Any person appointed by the MGCC - police constables	- SLGA may appoint any appropriate person - HRC may appoint race track inspectors - police become involved at the request of investigators
Monitoring Power of Regulating Agency	- Search and removal of documents by inspectors without a warrant, except in the case of residences - warrants required in most cases for seizure of evidence - conduct audits of gaming activity	Search by inspectors without a warrant, seizure of evidence with a warrant
Punitive Power	- change or modify terms and conditions, cancel, or suspend a licence or registration - gaming offences are liable to a fine of up to \$100,000 for commercial licenses, \$250,000 for Corporation offences	- change or modify terms and conditions, cancel, or suspend a licence or registration - gaming offences are liable to a fine of up to \$10,000 for an individual, for \$50,000 a corporation. Both are liable to up to 6 months imprisonment - horse racing offences are liable to a fine of up to \$5,000 or 6 months imprisonment
Accountability	MGCC, MRC and MLC report annually to Minister(s) responsible and are audited annually	SLGA, SGC, and HRC report annually to Minister(s) responsible and are audited annually

	ALBERTA	BRITISH COLUMBIA
Legal Age	18 years	19 years
Type of Legal Gambling	Casinos, Bingos, VLTs, Slots, Lotteries, Raffles, Pull tickets, Horse Racing	Casinos, Bingos, Lotteries, Slots Ticket raffles, Wheels of fortune, Class 'B' license Horse Racing
Licensing or Registration Requirements	Gaming operators, gaming workers (does not apply to volunteers), gaming suppliers, gaming establishments and gaming schemes	Gaming operators, gaming workers, gaming suppliers, gaming establishments and gaming schemes
Horse Racing	Licensed and regulated by Alberta Racing Corporation (ARC) and Alberta Gaming & Liquor Commission May be operated privately	Licensed and regulated by the BC Racing Commission (BCRC) May be operated privately
Charitable or Exhibition/ Agricultural Association Gambling	Bingo, Pull-tickets, Raffles, Casinos	Bingo, Ticket raffles, Fairs (includes Social occasion casino and Wheels of fortune)
Government Conducted Gambling	VLTs, Lotteries, Slots	Casinos, Lotteries Bingos, Slots
Government Agency That Conducts Gambling	Alberta Gaming & Liquor Commission (AGLC)	British Columbia Lottery Corporation (BCLC)
Major Regulating Agency	Alberta Gaming & Liquor Commission	British Columbia Gaming Commission, Gaming Audit and Investigation Office (GAIO)
Gaming Inspectors	-AGLC may designate any person to be an inspector -ARC designates racing officials to inspect race tracks -all police officers	-Appointed by the GAIO or BC Gaming Commission -Some race track inspectors appointed by the BC Racing Commission -police can be inspectors
Monitoring Power of Regulating Agency	-Search and seizure by inspectors without a warrant but inspector must give notice to person from whom evidence was seized -inspector may be posted permanently at the premises of a gaming supply manufacturer	Search and removal of evidence by inspectors without a warrant
Punitive Power	-issue a warning, impose or amend conditions, suspend or cancel a licence or registration -gaming offences are liable to a fine of up to \$500,000 and/or 12 months imprisonment	-change or amend terms and conditions, suspend, cancel or revoke a licence or registration -those reselling lottery tickets to persons outside BC are liable to a fine of up to \$100,000 -horse racing offences are liable to a fine of up to \$5,000 or 6 months imprisonment
Accountability	-ARC and AGLC report annually to Minister responsible and are audited annually	BCLC, BCGC and BCRC report annually to Minister responsible and are audited annually



Alberta
sanctions the
highest maximum
fines and prison
sentences for
violations of its
Gaming and Liquor
Act. All monitoring
agencies have other
punitive powers, such
as cancellation or
suspension of a
gambling
licence.

Each province lists in its legislation, a regulatory agency that deals only with horse racing, although the main regulating agency is also often involved in monitoring horse racing.

A similarity amongst the provinces is the detail of their licensing and registration requirements. There are strict conditions that have to be fulfilled in order for gambling to be legal. Further, in all the provinces, the operating agency and/or regulating agency are accountable to a provincial cabinet minister. These organizations must provide an independent audit of their activities and a report which will be tabled by the minister responsible in the legislature. BC is the only province to include in one of its statutes specific prohibitions on the resale of tickets to persons outside the province.

The third major area is monitoring capacity. In all four provinces, police occasionally work in conjunction with the regulating agency. Police officers may be appointed as inspectors under the various gaming Acts. Police and inspectors appointed by the monitoring agency are given wide latitude in carrying out their investigative functions. Many search and seizure situations do not require a warrant. If through inspections or otherwise, an infraction is discovered, all the provinces provide the possibility of fines or imprisonment for anyone who contravenes the regulations. Alberta sanctions the highest maximum fines and prison sentences for violations of its Gaming and Liquor Act. All monitoring agencies have other punitive powers, such as cancellation or suspension of a gambling licence.

The following table provide a statistical overview of the investigations and charges laid in Saskatchewan and Alberta (no investigation data is available from Manitoba or British Columbia). Because of record keeping inconsistency, this data, although the best available is incomplete and should not be compared between provinces.

ENFORCEMENT BY GAMING COMMISSIONS

	SASKATCHEWAN	ALBERTA
1993/94	1,200 investigations proceeding from inspections ¹	n/a
1994/95	594 investigations proceeding from inspections ¹	n/a
1995/96	661 investigations proceeding from inspections ¹	n/a
1996/97	806 investigations proceeding from inspections ¹	93 complaints investigated 56 individuals charged
1997/98	737 investigations proceeding from inspections ^{1,2}	110 complaints investigated 46 individuals charged
1998/99	n/a	n/a

Source: Personal Communication with SLGA, AGLC and BC Gaming Commission
¹Investigations are conducted into areas where criminal activity may be suspected or where there are obvious violations.
²Full Security Investigations not included

4.2.2 The Nature and Extent of Illegal Gambling in Western Canada

This section describes the most common illegal gambling formats in Western Canada. Law enforcement informants report that illegal gambling is extensive in western Canada's four largest cities (Vancouver, Calgary, Edmonton, and Winnipeg), less so in medium sized centres such as Victoria, Lethbridge, Regina, Saskatoon, and Brandon, and a minor concern in rural areas.

The lower mainland area of BC is considered a hotbed of illegal gambling activity; one police officer describes the situation as "out of control." The most prominent illegal gambling formats in the lower mainland are sports betting, card clubs, unlicensed electronic gambling machines, and offshore lottery sales. There are reputed to be twenty-two illegal gambling clubs in BC, of which, fifteen are located in the lower mainland area. The same activities are illegal gambling mainstays in Calgary, Edmonton, and Winnipeg except for fewer unlicensed gambling machines and more limited offshore lottery sales. The same forms of illegal gambling are found in the smaller cities, but on a reduced scale.

Police sources say that illegal gambling operations in western Canada are generally not easily accessible to the public. Wary illegal game operators make it their business to know the players: Are they trustworthy? Do they have the money to play in high stakes games? Are they disruptive? Are they undercover cops? Illegal gambling houses are

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Those that are on
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only." Operators take
this precaution to
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of legitimacy.

typically found in social clubs (often ethnic-based) that employ restrictive membership policies.

Vigilance is also the byword for bookmakers who find it imperative to investigate the backgrounds of prospective clients. Bookmakers seek to ascertain a player's trustworthiness, emotional stability, and financial status. If an aspiring client measures up, he (it is almost always a male) can place small bets (cash-up-front) on a trial basis. If this arrangement works satisfactorily, the bookmaker may then extend credit and accept larger bets. This pre-clearance ritual is necessary to form a bond of trust. Police informants indicate that the days of the vengeful, leg-breaking bookie are over; deadbeat clients are simply written off as bad business decisions and other bookmakers in the area are notified so that the welcher can not place future bets.

Illegal VLTs are usually kept out of public view and reserved for regular customers. Those that are on public display often carry signage stating "for amusement only." Operators take this precaution to establish a pretext of legitimacy. In truth, play will be for amusement only for unknown clients or inquiring law enforcement agents; trusted regulars, however, can play the machines and build up credits which the proprietor will cash in.

The general policy of privacy and secrecy favored by illegal gambling operators throughout western Canada is less applicable in the Vancouver area. Police sources note that illegal operators have become complacent; they are less selective about their clientele, even to the point of advertising their locations and special events. "They have become so brazen that a beat cop can walk into a social club and they don't even stop playing cards." In contrast to the more clandestine illegal gambling operations in the prairie provinces, BC police say that bookmakers can be found in most sports bars and taverns, VLTs are in corner grocery stores, and strangers can walk into many illegal card clubs and find a poker game.

4.2.3 Illegal Gambling Operators and Players

Given the popularity of gambling in general and the variety of illegal gambling formats

available, it is difficult to neatly profile the main participants. The following portrayals provide a broad description of the two primary actors in the illegal gambling scene: the operators and the players.

Police officers characterize illegal gambling operators as "hustlers," the implication being that they may not be hardened criminals, but certainly persons who operate on the margins of society. A hustler is defined as "one who is always on the lookout for an advantage—often an unfair advantage" (Reizner and Mendelsohn, 1983, p. 162). Hustlers are perceived as morally deviant, not so much because of their illegal gambling involvement, but because they "systematically victimize people" (Polsky, 1969, p. 32). Not all illegal gambling operators fit the hustler description; some are criminal types, whereas others, with no criminal background, see themselves as legitimate entrepreneurs providing a needed service.

Hustler types are also employed in illegal gambling establishments. According to one informant, they gravitate to this occupational role by default because "they have failed to make a decent buck in a straight business." Their livelihoods are earned primarily from the house rake in card games and, in some instances, for supplying customer services such as loans or drug purchases. Some operators are quasi-legitimate businessmen; that is, a reputable business may serve as a front for an illegal gambling den. For example, ethnic-based illegal gambling houses are often in the back room of a restaurant or small business. Some of the employees in illegal gambling houses are moonlighting dealers and pit bosses that work in the legal casinos.

Police officials suspect that illegal sports betting flourishes because the government operated sports betting format is perceived by prospective players as unfair. Poor odds and restricted services drive some legal sports gamblers to bookies that offer credit, telephone betting, individual game bets, and reasonable odds. Moreover, with gambling having lost much of its moral stigma, most citizens do not view sports betting as unlawful behavior. As respondents note, bookmakers need repeat customers to survive; unless their business is conducted in an honorable fashion they face immediate economic adversity. The use of violence and paid-off public officials is no longer

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sports betting

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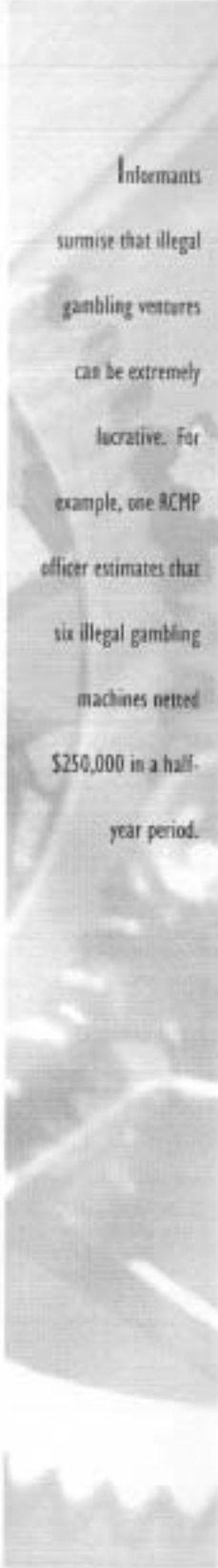
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\$250,000 in a half-
year period.

necessary in bookmaking; prevailing market forces control the activity—how many people want the service at the going price. It is ironic that bookmakers are engaging in a criminal activity, yet their business success depends on honesty and mutual trust.

Police respondents say that illegal gambling machines are found mainly in gambling clubs, ethnic social clubs, bars, coffeehouses, pool halls, bowling alleys, corner grocery stores, and arcades. These machines are unsophisticated compared to the genuine article found in casinos and licensed premises. Proprietors like the machines because the cost of maintaining the machines is low and the monetary return is high because they control the payout structure.

Instances of storeowners being intimidated into installing illegal machines were reported by law enforcement agents. A common scenario is for a couple of "goons" to visit a shop and suggest that the owner could use a few gambling machines in his establishment. If the owner refuses to take the hint, veiled threats are made such as "it would be a shame if there were a fire in the place or if the windows got broken." Faced with the possibility of violence or vandalism, the owner often succumbs and takes the machines. The storeowner's split is forty/sixty or at best fifty/fifty, even though he absorbs the greatest risk. The owner could be fined and lose his business license, whereas, the extortionists only lose the machine.

Obviously, police officers are not privy to the financial statements and business dealings of illegal gambling operations, however, based on investigations over the years, informants surmise that illegal gambling ventures can be extremely lucrative. For example, one RCMP officer estimates that six illegal gambling machines netted \$250,000 in a half-year period. A typical house win from an average illegal machine is \$6,000 to \$7,000 per month. Even though bookmaking offers a small profit margin, police respondents' claim that a large bookmaking operation can handle over \$1 million in wagers a week during the football season when betting volume is highest. Stakes can also run high in the Asian community fan tan and mah jong games where \$100,000 losses are not uncommon and cars, homes, and businesses are known to change hands. One police gambling expert calculates that a popular illegal poker club can easily make \$20,000 in a busy week, based on a four table, twenty-four hour a day operation. With

an average of thirty-five hands played per hour and a minimum house rake of \$2.00 per hand, one table could net \$1,680 per day. If four tables were operating at full capacity all day, all week, the take would be \$47,000. This is, obviously, a best case scenario, nevertheless, the estimate is based on a conservative \$2.00 minimum rather than a \$4.00 maximum rake, which makes the overall \$20,000 a week valuation realistic.

Illegal gambling participants are also hard to categorize because they range from professional members of the community, to blue-collar workers, career criminals, and addicted gamblers. Mostly, they are younger (20 to 25) or older (over 45) males who like to gamble and are unconcerned about the format being legal or illegal.

Respondents say that it is not unusual for a bookmaker's clientele to include professionals such as lawyers, doctors, dentists, teachers, and business owners. They are avid sports fans that have the money to make large wagers, appreciate the convenience of telephone betting, and know there is a slim chance of being embarrassed because of their involvement.

Similarly, professionals and "average Joes" are found in illegal poker clubs, mainly because they enjoy high stakes poker and prefer the anonymity of a private game. Some participants are hustlers and unsavory types who see the games as opportunities to make money, meet friends, and conduct illicit business. Vice squad informants categorize the criminal types who frequent illegal gambling clubs as drug dealers, fraud artists, professional shoplifters, and small time break and enter specialists. The clientele in ethnic social clubs also represent a cross section of society, the difference being that the majority of players are the same nationality.

Why do individuals partake in illegal games when most of the same games can be played legally? Police informants provide the following explanations:

- Better services—this may include longer hours of operation, fairer odds, more extensive wagering propositions (e.g. being able to wager on individual sporting events), telephone betting, availability of credit, higher stakes, the prospect of anonymity, and the possibility of one-stop shopping

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(e.g. play cards, buy drugs, arrange for a prostitute). Over a year the lower rake taken in illegal games amounts to a significant saving for regular players. Also, some preferred games are not available in legal casinos—fan tan and mah jong, for instance.

- Social atmosphere—to be with members of the same ethnic group and speak the native language; newly-arrived immigrants who do not speak English well find legal gambling venues intimidating.
- Community support—the game may be organized by friends or distant relatives; it's better to patronize the operation of someone you know.
- Convenience—many of the illegal gambling facilities are located in the inner city, which makes them handy for working people in the area.
- To take advantage of opportunities—make money, get rid of marked money from a robbery, loan shark, arrange drug deals, cheat and/or scam unsophisticated players.
- Because they are addicted to gambling.

4.2.4 Illegal Gambling and Organized Crime

Organized crime has long been associated with gambling, partly for historical reasons, when it really did control both legal and illegal gambling and partly because of Hollywood's fanciful depiction of the gambling and organized crime connection. In this section we outline how, and to what extent organized crime is linked to gambling in western Canada.

There is considerable variation in informant's notions of organized crime's involvement in gambling. The perceptions of law enforcers concerning the level of organized crime influence in western Canadian gambling range from "minimal," to "some," to "right up to the eyeballs." When it does occur, police informants agree that organized crime interests are associated more with illegal rather than legal gambling and concur that the larger the city, the more likely the involvement in gambling by organized crime.

When police informants speak of organized crime, their reference points are either ethnic or motorcycle gangs. In their view, organized crime is associated with gambling in two main ways: facilitating illegal activities (e.g. operating gambling houses, owning

unlicensed machines, and bookmaking); and using legal gambling venues (casinos and racetracks) to engage in cheating at play, fixing races, loan sharking, and, money laundering. As one police officer claims "they are in it for the easy money and because gambling is safer than the cocaine business."

The consensus among informants is that organized crime groups operate in illegal gambling niche markets in the four largest western Canadian cities, but not to where they control the enterprise. Police intelligence reports say that Asian criminals are prominent in illegal gambling in the four cities and to a lesser extent, so are Italian, Greek, Portuguese, and eastern European criminals. These criminals have a presence in illegal gambling amongst their own cultural groups, but usually not outside of this sphere. Informants see motorcycle gangs as having a minimal involvement in gambling, when they do show an interest, it is usually to supply illegal machines. As one interviewee notes "they prefer muscle over brains, as a result they specialize in strip clubs, escort agencies, and the drug trade."

Law enforcement agents agree that organized crime's involvement in gambling is seldom just about gambling. Gambling complements other illegal activities such as loan sharking and money laundering and is a way to accumulate money that can be directed to other illicit purposes. For example, in the earlier noted incident where an ethnic social club netted \$250,000 in six months from their illegal machines, the revenue was used to purchase cocaine for resale, to yield an even larger profit. In following the money trail, respondents say the cocaine transaction led to several beatings and home invasions. The point emphasized by law enforcement officials is that illegal gambling seems innocuous, however, based on their experience this belief is misleading; illegal gambling ventures are often part of a chain of events that include more serious crimes.

Another variant of organized crime profiting from gambling involves well-orchestrated cheating at play conspiracies. One police official describes an investigation whereby members of an international group of gambling cheats were identified and subsequently arrested for cheating at play at Ontario's Casino Rama in January 1997. Ontario law enforcement officials performed an in-depth analysis of the group and

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identified forty-four individuals who had participated in cheating incidents at eighteen casinos across North America. Five of the casinos were Canadian-based; one in Quebec, two in Ontario and two in Alberta. It is estimated that the group scammed the casinos for over \$2.3 million since 1986; together, the two Alberta casinos were victimized for \$178,000. The analysis also revealed that this organized group of casino swindlers did not differentiate between corporate, government or charity-run casinos.

Police interviewees doubt that there is a significant organized crime presence in the ownership or operation of western Canadian legal gambling enterprises. Ostensibly, this is because the companies and individuals involved are carefully scrutinized by provincial gaming authorities and held to high standards. Even though organized crime involvement in legal gambling management is presumably under control in western Canada, law enforcement officials are still alert for the many ways that organized crime interests can exploit legal gambling, and these include:

- Money laundering—the practice of passing crime-derived revenue through a gambling facility and claiming the money as legitimate winnings. Even with a new federal government policy requiring licensed gambling venues to record cash transactions of \$10,000 or more, informants indicate that money laundering is a regular occurrence at casinos and racetracks. In several major western Canadian cities, the primary cocaine dealers are known to be heavy gamblers. The drug dealers often make a production out of placing large bets, partly to impress their associates in the macho subculture, but also to create the persona of a big time gambler, which can later be used to explain their sudden wealth.
- Loan sharking—the practice of lending money at usurious interest rates (the going rate is 10% a week). Vice squad sources say that loan sharking goes on in and around casinos and racetracks, and though not perceived to be a blatant activity, it is a crime that can lead to assaults and home invasions if the borrower fails to pay up. Several home invasions in the Asian community of a western Canadian city were tied to gambling-related loan sharking. Typically, gang members raid a delinquent client's home and hold the wife and children hostage until a payment is made. Police officers also report instances of fake home invasions; a person owing money to a loan shark vandalizes his own home, reports a break-in to the police and the media, and then tells the loan shark "I have no money. If you don't believe, me look at Tuesday's paper; my house was ransacked."

- Counterfeit transactions—the practice of passing illegal currency is frequently attempted at legal gambling venues; considerable numbers of fake bills are surfacing in western Canadian casinos. Law enforcement agencies combat this problem by alerting the gambling industry about counterfeiting scams and most gambling venues now use infrared scanners to detect bogus bills.
- Player-employee collusion—the practice of cheating a gambling venue with the help of an inside confederate. Common ways this occurs in casinos include the dealer signaling the value of the hole card in blackjack, paying the winning player more than the amount bet, and introducing an unshuffled deck into a blackjack or baccarat game. In these cases, the casino employee and the player(s) have the scam worked out in advance.
- Gambling with ill-gotten gains—an ongoing ethical concern with legal gambling is the source of the money being wagered. Unfortunately, there is no accurate way of determining the proportion of legal gambling revenue that flows from tainted sources. Police surveillance indicates that the major drug dealers in the large western Canadian cities spend considerable time in casinos. Some of the drug dealers are heavy bettors; wins or losses of \$50,000 over a two to three week time span are not uncommon. One police respondent speculates that "a high percentage of casino profits comes from illegal sources because 80% of the high rollers are criminals; they have no visible income to do the kind of gambling they are doing."

A recent joint forces investigation into illegal gambling in a western Canadian city illustrates some of the obstacles that police must overcome. The investigation was two-pronged in that it probed the suspected illegal activities of legal casino staff members and monitored the operations of two illegal gambling establishments in the city's downtown core. Casino pit bosses were allegedly bookmaking, loan sharking, and violating the terms and conditions of the provincial gaming regulations by cashing personal cheques, and abetting cheating at play.

A joint forces team comprised of municipal police, RCMP personnel, and provincial gaming investigators were assembled and a plan involving the use of an ethnic minority undercover agent was devised. After a week of establishing a rapport with the suspects, the undercover agent successfully placed \$200 and \$500 bets on NFL games with a pit boss. During the investigation, the undercover agent also witnessed the following

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doing."



In general,
the interviewees
agreed that
corruption has not
surfaced as a
major problem in
gambling
investigations.

improprieties: a known heavy-gambling drug dealer was attempting to recruit card dealers to sell cocaine; on several occasions a pit boss collaborated with a player to cheat in a pai gow game; and pit bosses were borrowing substantial funds from a loan shark to support their own gambling habits and recommending the loan shark's services to casino patrons.

The undercover agent was unable to substantiate money laundering charges, arrange a loan or cash a personal cheque with a pit boss or gain entry to the illegal gaming houses. Failure to attain these goals was attributed to the fact that more time was needed to develop a trusting relationship with the casino employees and it became evident that penetrating ethnic-based illegal gaming houses requires a confederate on the inside to vouch for the agent.

Despite missing out on several counts, the joint forces operation was deemed a success by the agencies involved. This judgment is based on several positive outcomes: enough evidence was gathered to pursue charges against two casino employees; observations in the casino revealed high stakes gamblers winning and losing substantial amounts (\$50,000 or more), which helped to establish direct and indirect links to organized crime and drug trafficking activity; and lessons were learned about strategies for undercover agents seeking to enter illegal gambling subcultures.

4.2.5 Gambling and Corruption

Respondents were asked to comment on whether and to what extent corruption is a factor in legal or illegal gambling in their province. Admittedly, this is a touchy subject that may explain the guarded responses to the question. In general, the interviewees agreed that corruption has not surfaced as a major problem in gambling investigations. Possible reasons for this include the strict background checks required to work in the industry, the severe damage to a public figure's reputation if they are found out, and that the stakes may not be high enough in western Canada to warrant taking a risk.

Questionable practices that informants considered to be marginally improper include patronage appointments to Gaming Commissions, civic politicians frequenting illegal

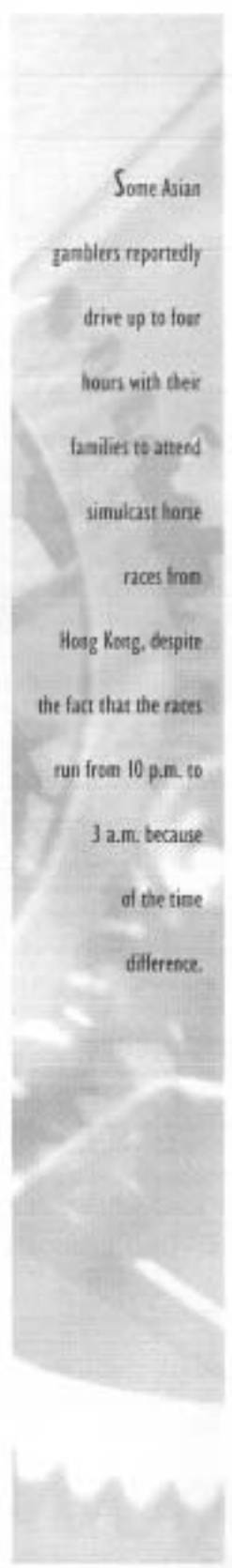
gambling houses, pressure from politicians to influence Gaming Commission rulings, politicians and senior level bureaucrats receiving perks from gambling industry corporations, political pressure backing certain individuals or companies for lucrative gaming contracts, and government contracts not going to public tender. More serious wrongdoings cited by respondents include improper allocation of gaming licenses, BC's "Bingogate," internal skimming at a Native casino, players conspiring with staff to defraud a gambling establishment, and race fixing. While some of these alleged practices are weighty matters, respondents view these as isolated incidents and believe that, on the whole, legal gambling in western Canada is a relatively clean industry. Police officials did, however, strongly assert that law enforcement agencies must always be vigilant for occurrences of corruption and influence peddling, to better police these unethical activities, police informants advocate the creation of an audit mechanism to review contract allocations in the gambling industry.

4.2.6 Asian Gambling

Several national groups stand out because of their avid interest in gambling; these include Australians, Middle Easterners, and Chinese (Cabot, Thompson, and Tootenham, 1993). The interest in gambling by the latter two groups seems paradoxical in that gambling activities are either outlawed or severely restrained in their native lands. Police, gaming regulators, and gambling industry executives all maintain that in western Canadian downtown casinos, racetracks, and illegal gambling houses, there is a noticeably higher proportion of Chinese and Vietnamese players than would be expected based on their numbers in the western Canadian adult population. Whether justified or not, respondents perceive Asians as being heavy gamblers and disproportionately involved in gambling-related crime.

Even though gambling is restricted in mainland China and subject to harsh penalties, it is a popular pastime that is passed on from generation to generation. Chinese immigrants bring with them their love of gambling and find that, rather than being suppressed, gambling in Canada is an accepted social practice. Players have the choice of going to the easily accessible legal gambling outlets or playing with compatriots in a private setting, as they would in their homeland.

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Some Asian
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drive up to four
hours with their
families to attend
simulcast horse
races from
Hong Kong, despite
the fact that the races
run from 10 p.m. to
3 a.m. because
of the time
difference.

The preferred games of Asian players include mah jong and fan tan (which are played in private homes or illegal gambling houses), casino games (especially baccarat, black jack, craps, pai-gow, and sic-bo), and horse racing. Chinese and Vietnamese punters make up over 80% of the crowd at major western Canadian racetracks when the horse races are simulcast from Hong Kong. Their passion for gambling is such that some reportedly drive up to four hours with their families to attend the event, despite the fact that the races run from 10 p.m. to 3 a.m. because of the time difference. Illegal gambling houses are commonplace in the Chinatown areas of western Canada's largest cities and police officials offer several characteristics of these establishments:

- Individual owners or the clan associations that run them make money from the house rake and food and beverage sales.
- All the players are of Asian extraction; many are retired and live nearby while those employed tend to work in the service industry, which is also in close proximity to the illegal gambling clubs. Players appreciate the familiar surroundings (e.g. native language, food, and customs) and the convenience to home and work. Customer service may also be a cut above what legal casinos can offer, as regular players are granted credit and owners will send taxis for newly arrived immigrants who are unfamiliar with the city.
- Because of the ethnic barrier, law enforcement agencies find them extremely difficult to infiltrate and close down.
- In some cases, the games are played for high stakes; for example, \$20 a point in mah jong, and \$5,000 pots in card games.

Asian triads are organized gangs who specialize in drug trafficking, extortion, prostitution, home invasions, sophisticated frauds, and illegal gambling (Beare, 1996). Illegal gambling (bookmaking and illegal gambling clubs) is one source of triad revenue, but nowhere near as lucrative as the drug trade. While triads exist in western Canada, informants claim it is loosely affiliated groups, rather than gang members in the traditional sense who are perpetrating most of the Asian crime. By this, they mean, the groups are unstructured (there is no elaborate initiation ceremony to become a member and individuals drift in and out) and they come together briefly because of a common purpose or interest. These groups, which may or may not include triad members, frequent illegal gaming houses, legal casinos, and racetracks, both to gamble and

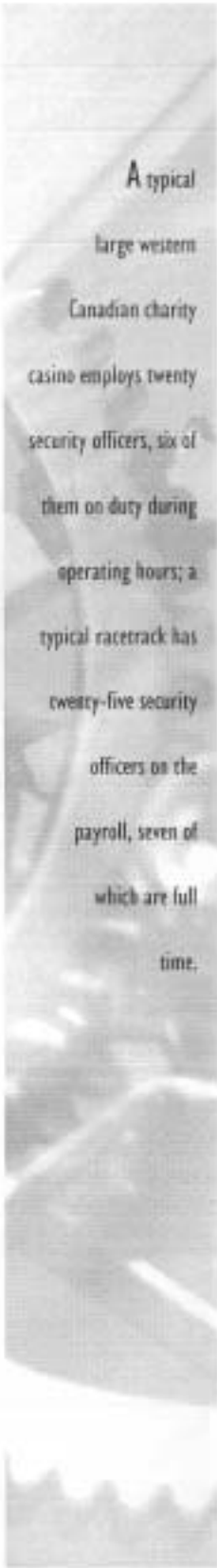
conduct illicit business. A pecking order is evident based on the size of the player's bankroll; a nouveau riche Asian drug dealer may enter a gambling venue with an entourage and try to impress the hangers-on by making maximum bets and by giving his associates money to gamble with when he wins. As one Asian crime expert notes, "their illegal activities revolve around the drug trade; gambling is an ancillary activity that allows them to launder their money and operate in an environment where it is relatively easy to conduct their primary business."

Given the interest in gambling in the Asian communities of western Canada, one might expect an elevated problem gambling prevalence rate among this ethnic group. This finding has not surfaced in general population surveys mainly because not enough Asian respondents are captured in the sample to make a definitive statement about their gambling proclivities. A recent study of Chinese residents in Montreal (n=175) classified 4.7% of the sample as problem gamblers and 1.7% as probable pathological gamblers (Chinese Family Services of Greater Montreal, 1997). While admittedly a small sample, the profile of a problem gambler in this study is a recently-emigrated, lower-educated, unemployed male. The profile fits with general population surveys in other Canadian provinces, but the problem gambling prevalence rates are slightly higher.

Problem gambling treatment and self-help agencies such as Gamblers Anonymous report Asians being under-represented in their programs. This may be because the programs are culturally and linguistically inappropriate, or because there is a social stigma associated with mental illness and a fear of public embarrassment in the Chinese community (Luk and Bond, 1992). In recognition of these cultural differences, the Alberta Alcohol and Drug Abuse Commission (the government-mandated agency that offers prevention and treatment programs for problem gambling) has developed a "Responding to Diversity Program" which matches the ethnic backgrounds of the counselors and clients. In its one year of operation there has been a significant increase in the number of Asian problem gamblers seeking help.

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4.2.7 Crimes Associated with the Gambling Scene

As mentioned in the review of literature, the gambling milieu attracts opportunistic criminal types because of the ready availability of cash. The crimes committed may be gambling-related such as cheating at play and race fixing or they may be peripheral to the games themselves, but linked to the gambling environment. Examples of the latter include drug dealers who use casinos and racetracks to gamble as well as hangouts to network, make deals on their cell phones, and launder money; casino workers who steal chips or embezzle funds (casino employees have much higher problem gambling prevalence rates than does the general public (O'Brien, 1998)); and culprits who commit armed robberies and car thefts at gambling venues.

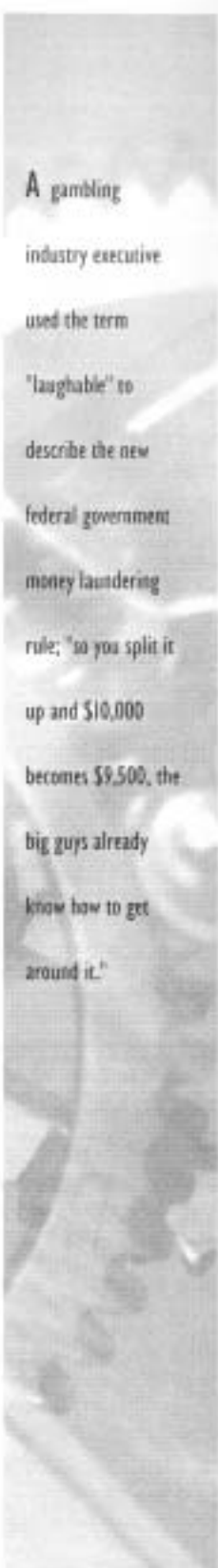
Legal gambling operators take strict precautions to protect their assets and the integrity of the games they offer; these include security personnel to guard the money and keep the peace, supervisors to oversee the games or races, and surveillance cameras to identify and record suspicious or illegal behavior. A typical large western Canadian charity casino employs twenty security officers, six of them on duty during operating hours; a typical racetrack has twenty-five security officers on the payroll, seven of which are full time.

Casino and racetrack executives say that their security personnel deal mainly with matters such as underage players on the premises, abusive or disruptive patrons, illegal substance use, stealing between players, employee theft, car vandalism, counterfeit transactions, panhandling, and cheating at play. Often, these incidents are handled internally; that is, the security staff quells the disturbance or removes the offending customer. If a Criminal Code offense such as counterfeiting, assault, cheating at play or robbery occurs, the offender is held for the appropriate police authority; if it is a terms and conditions violation, provincial gaming investigators are alerted. All incidents are logged, reviewed by the manager and filed for future reference. However, since some criminal offenses and terms and conditions violations are dealt with internally, not all incidents are reported.

Both casinos and racetracks have a vested interest in making their premises safe and pleasant and their gambling formats above-board. A boisterous drunk at a table or an angry spouse dragging a problem gambling mate from the premises creates unwanted attention for the gambling venue. Failure to keep these public disturbances under control would result in a mass exodus of patrons. On the other hand, there is less incentive for operators to root out a disreputable activity such as money laundering because it contributes to their betting handle and generally goes unnoticed by the average customer. Casinos and racetracks cater to "high rollers;" they set aside special tables, rooms, and boxes for their convenience; the source of their betting funds is of little concern to the gambling industry.

Legal gambling operators know that a portion of their revenues comes from the proceeds of crime, but they claim there is little they can do about it. "We can't act on our suspicions. If a supposed drug dealer is playing and demonstrating reasonable conduct, we leave him alone." The situation is rationalized by saying "at least some of the money is going back to the community; society is gaining some benefit." A new federal law designed to curb money laundering calls for monetary transactions of \$10,000 or more to be recorded. One casino operator notes that the regulation "has many loopholes. We collect the names, but they don't go anywhere." Another gambling industry executive used the term "laughable" to describe the new federal government money laundering rule; "so you split it up and \$10,000 becomes \$9,500, the big guys already know how to get around it."

Casinos take steps to identify and disrupt suspected card counters, even though, technically, what they are doing is legal. Casino games managers use ploys such as reshuffling before half the shoe is played, having the pit boss talk to the player to break his/her concentration, and making the minimum and maximum table bets the same. If all else fails, the player can be asked to leave on the grounds that the casino is private property and the person is violating the Petty Trespassing Act. Ironically, known criminals are not on the undesirable list; if they have the money and behave appropriately, they are welcome to play.



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Horse racing
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Racetracks require an additional layer of security because of the potential for race fixing. Even though provincial Racing Corporation stewards and judges closely inspect the racing personnel (jockeys, trainers) and the races themselves, there have been scandals over the years, more so with standardbreds than thoroughbreds. Typically, these improprieties include a horse being drugged to either enhance or hinder its performance, a jockey intentionally holding a horse back, or electrical stimulation being applied to the animal during the race to quicken its pace. All of these manipulations are designed to perpetrate a betting coup for the individuals involved and those who masterminded the scheme.

To guard against race fixing, all races are videotaped and reviewed for irregularities; there are holding barns where horses are sequestered the day of a race to avoid tampering, post-race drug testing, and strict penalties exist for violations. These precautions are taken to protect the integrity of the sport, and yet, because so much money is at stake, there still seems to be room for chicanery. For example, trainers can administer masking agents to make banned substances undetectable, jockeys and trainers are allowed to bet on the races, and because of their "circumstances," support staff (grooms, exercise boys) are considered security risks. These special circumstances may include illiteracy, low wages, substance abuse, and the fact that many "back stretch" personnel live on site.

Racing executives believe more transparency is needed in the industry to protect the public interest. As it now stands, the participants have more knowledge about the horses than the public does. Informants in the racing industry suggest the following ways of sanitizing the industry:

- Recent veterinarian work done on the horses should be noted in the racing form. This is an important variable to consider in making a betting decision.
- Infractions of track and/or racing corporation rules should be made public.
- There should be zero tolerance for administering certain drugs—a life

suspension from the track and criminal charges for defrauding the public by tampering with the outcome of a sporting event.

Jockeys, drivers, and trainers should not be allowed to wager at the racetrack. "This is the thin edge of the wedge; it increases the likelihood of them trying to get an edge. The industry has been declining the past few years; it can't survive an integrity scandal."

4.2.8 The Impact of Legal Gambling on Illegal Gambling

Expanded legal gambling has a dampening influence on some illegal gambling formats, a negligible effect on others, and in some cases, stimulates the growth of illegal gambling. For example, the introduction of legal lottery products virtually eliminated illegal draws such as the "Irish Sweepstakes." Illegal bingo is not a major problem—although in Saskatchewan last year, one First Nation bingo hall was closed down for operating without a license. Bookmaking on horse races has dwindled as a result of the lengthened racing season and the advent of legal off-track wagering and simulcasting; horse race bookmaking is not extinct, however, as two respondents spoke of illegal gambling houses pirating race track television signals and taking in-house bets on the televised races. Illegal gambling machines are reputed to be most prevalent in BC, the one jurisdiction in this study that outlaws them. Whether this is because deprived citizens are hungry to play the machines, or the law is enforced more stringently in provinces that allow machine gambling, is open to question.

The two main forms of illegal gambling in the four western provinces are bookmaking and unlicensed gaming houses. As discussed earlier, bookmaking thrives because team sports are popular and many of the games are televised; the police and justice system take a laissez-faire approach to sports betting, and bookmakers undercut the legal Sport Select game by providing more attractive wagering propositions and better services.

On the surface, legal casinos appear to compete well with illegal card clubs because they offer a wide assortment of gambling opportunities in increasingly more player-friendly surroundings. Illegal card clubs remain viable, at least for the present, because they offer greater privacy, later hours of operation, higher stakes action, and in some cases, act as ethnic enclaves that provide an "old country" atmosphere. The director of security and surveillance at one major western Canadian casino claims that poker room



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profit has declined by \$100,000 from last year due to the competition from illegal gaming houses in the area. Informants have observed individuals inside the casino recruiting patrons to play in the illegal gaming houses. The consensus view of respondents is that eradicating illegal gambling is well nigh impossible, but more vigilant law enforcement and harsher penalties would help to curb illegal gambling.

4.2.9 Internet Gambling

Another form of illegal gambling that has the potential to affect citizen's gambling habits and cut into government gambling monopolies is Internet gambling. Analysts describe the marketplace for online gambling as gargantuan—"there is an estimated 117.5 million people wired around the globe" (Mulgrew, 1997). By 2001 Internet gambling is expected to generate \$2.3 billion (U.S.) (Hamilton, 1998). Internet gambling suppliers are legally operating in Caribbean and Central American tax havens and they feature a variety of virtual gambling formats including lotteries, bingo, sports betting, and casino games. Convenience is the main draw, as anyone with a personal computer and an Internet connection can place a bet from the comfort of home, 24 hours a day.

Informants point out that Internet gambling raises a number of legal, moral, and jurisdictional issues. Playing these games in Canada is illegal because respective provincial governments must approve all forms of legal gambling. In addition, Internet gambling is unregulated and open to serious abuse; for example, credit card fraud, underage gambling, money laundering, and an increase in gambling addiction. Law enforcement informants report receiving an increasing number of complaints about cyberspace gambling (mainly that companies have folded and taken clients' money with them) and are finding that the unique nature of the Internet (no borders and the blurring of jurisdictional lines) makes our present laws inadequate and unenforceable. Currently in western Canada several First Nation groups are exploring the prospect of offering live online casino gambling. One First Nation group in Saskatchewan recently acquired a fibre optic cable system giving the band access to worldwide Internet subscribers. The band has approached the Saskatchewan Indian Gaming Authority with a proposal to develop a framework for broadcasting casino Internet gambling.

Tribal legal experts believe that Canadian First Nation groups could develop Internet gambling and provide services to international customers only. If legislation changes, the same service would be available in Canada. The proposal is still under consideration.

Bell (1998) outlines three major reasons why he thinks it is inevitable that Internet gambling will be legalized:

1. Internet technology renders prohibition futile.
2. The Internet offers an instant detour around merely domestic prohibitions.
3. Consumer demand for Internet gambling and jurisdictions' demand for revenue will create enormous pressure for legalization.

If Internet gambling does not receive government approval, new legal, technological, and political solutions will have to be devised to protect citizens from the potential hazards posed by online gambling.

4.3 Criminogenic Problem Gambling

This section focuses on the criminal behavior of disordered gamblers and the consequences their behavior has for western Canadian society. The reasons why uncontrolled gamblers commit crimes, and the crimes they commit, are well documented in the academic literature. Solid data is lacking, however, on the prevalence of criminal behavior by disordered gamblers, why it is that some of them commit crimes and others do not; and an assessment of the social and economic impacts of these crimes.

Police files do not systematically document whether or not a crime is gambling-motivated. Respondents recalled many cases where disordered gambling led to criminal acts, but could only speculate on how extensive the problem might be. Our informants' experience with crimes committed by disordered gamblers concurs with scholarly reports on the subject (theft, forgery, embezzlement, fraud, and credit card scams). Instances where disordered gambling precipitated domestic violence, break and entries, and suicide, were also noted by informants, but because these activities are outside the

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the government."
- Law Enforcement
Respondent

vice squad purview; they have no way of knowing how frequently this occurs. Criminogenic problem gambling can have a ripple effect that is hard to detect; for example, a problem gambling drug dealer may expand trafficking operations in order to obtain more money to gamble; or a problem gambling dealer may resort to employee theft or conspire to defraud the casino because of the pressure to pay gambling debts. Law enforcement personnel describe disordered gamblers who commit crimes to support their habit in the following terms:

"They are almost victims rather than criminals."

"Before committing a gambling-motivated crime, they were solid individuals who had been an asset to the community."

"The irony is that they are slaves to an activity that is marketed and promoted by the government."

Comments from law enforcement gambling specialists concerning the societal effects of criminogenic problem gamblers include:

"The cost to society is high because these are generally not criminal types."

"We can't accurately measure the havoc created by a parent who has no time for the family; a worried mother calling a casino looking for her 18 year old; or a wife who tries to get her husband barred from a gambling venue, but I'm sure the toll is significant."

"We only see the tip of the iceberg with problem gambling; the kids left in the parking lot on a hot day, the university student who has to quit school because he blew his tuition, the suicides, the psychological harm to children, much of which goes unreported."

"Loan sharks target problem gamblers; if the loan is not repaid the gambler may be asked to provide services—be a drug mule, for example."

Based on problem gambling prevalence survey data, scholars can approximate the proportion of legal gambling revenues derived from problem gamblers (Lesieur, 1997; Volberg, Moore, Christiansen, Cummings, and Banks, 1998). Using data from Alberta (Wynne, Smith, and Volberg, 1994) and British Columbia (Gemini Research & Angus Reid Group, 1994), Lesieur (1997) estimates that 54.2% of Alberta's on- and off-track

horse racing expenditures are made by problem gamblers; in BC 29.5% of the on-track wagering total is supplied by problem gamblers. In terms of casino wagering, Alberta problem gamblers contribute 37.2% of the total in local casinos versus 26.7% for BC problem gamblers. Knowing the behavior patterns of problem gamblers, it is reasonable to assume that some portion of what they spend on gambling has been gained illegally.

Readers should cautiously interpret these data because the number of problem gamblers in these studies is relatively small (*n*'s in the 90-100 range). Clearly, the growth of legal gambling has outstripped scholars' ability to accurately gauge its repercussions on society. Volberg and her colleagues (1998) note that the social costs of problem gambling are all too real, yet the gambling industry and governments are able to discount these social costs because researchers lack sufficient data to prove their hypotheses.

4.4 Gambling Law Enforcement Practices

4.4.1 Law Enforcement Agency Responsibilities Pertaining to Gambling

Representatives from three law enforcement agencies were interviewed for this study (RCMP officers, provincial gaming inspectors, and municipal police personnel). In each instance informants were asked how their agency monitored and controlled legal and illegal gambling, how their resources were deployed, and their perceptions of the deterrents used to curb gambling offenses.

The approach to monitoring and controlling legal and illegal gambling is similar across the four western provinces. Outlined below is each agency's gambling enforcement role:

- RCMP—react to complaints associated with Criminal Code gambling offenses (no proactive role except in Saskatchewan, where one gambling specialist is employed); facilitate communication and the gathering and distribution of gambling-related criminal intelligence information between law enforcement agencies.
- Municipal Police—in the larger urban police departments, illegal gambling enforcement is assigned to vice or morality squads. The gambling detail

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(sometimes it is only one person or a part of one person's time) deals with gambling-related Criminal Code offenses and when asked, assists other law enforcement agencies with gambling investigations. Rural police forces invariably rely on the RCMP and provincial gaming authorities to conduct gambling investigations.

- Provincial Gaming/Lottery Commissions—exercise a dual regulatory and investigative role in that (1) regulators oversee the terms and conditions of provincially-licensed gambling; and (2) inspectors, who generally are former police officers, have the authority to conduct investigations into suspected Criminal Code gambling offenses and make arrests. In Alberta this agency has the sole jurisdiction over all legal gambling except for horse racing, in the other western provinces casinos and lottery products have their own separate oversight agencies. The overriding function of these agencies is to protect the fairness and integrity of legalized gambling. British Columbia also has a Gaming Audit and Investigation Office (a division of the Attorney General Ministry) whose duties include conducting audits, reviewing compliance procedures, carrying out background investigations, and responding to consumer complaints; all for the purpose of "ensuring that public gaming in British Columbia is conducted honestly and is free from criminal and corruptive elements" (Report on Gaming Legislation and Regulation in British Columbia, 1999).

- Gambling Industry Security Operations—all casino and horse racing venues have security staff whose duties include protecting the safety of the staff and customers, securing the physical and financial assets of the company, keeping underage gamblers off the premises, watching for cheating at play and theft, and generally keeping the peace. In Manitoba, Saskatchewan, and Alberta, trained casino staff are used to ensure the operational integrity and efficiency of the games. In addition, casino staff monitor electronic security and surveillance systems to detect any activity that may warrant management attention. British Columbia casino staffs also perform the above noted duties, however, to ensure that all of these procedures are being dealt with satisfactorily, the BC Lottery Corporation has their own on-site gaming control managers at each casino in the province.

Law enforcement officials and gaming inspectors in all four provinces stress the excellent inter-agency cooperation that occurs in joint gambling investigations. Collaborative activities include exchanging information, combined investigations and training sessions, and shared equipment. Although enforcement roles overlap to some extent, the agencies have supported one another without engaging in serious turf disputes.

Theoretically, the lead agency in an illegal gambling investigation should be the RCMP or the local police, depending on the location of the incident. However, because of changing priorities and diminishing manpower, these agencies rely heavily on the expertise and resources supplied by provincial gaming investigators. Recently, the Alberta Gaming and Liquor Commission proposed that they be the front line agency for illegal as well as legal gambling investigations. The rationale for this suggestion being that they have the interest, training, human resources, and budget to do the job, whereas, the RCMP and city police forces are underfunded, lack the manpower, and choose to devote their resources to higher priority areas. The AGLC proposal is based on the premise that RCMP and municipal police authorities need to be more aggressive in monitoring and controlling illegal gambling, otherwise they should relinquish their mandate in this area. So far, this proposal has been held in abeyance because police agencies are reluctant to give up the enforcement of Criminal Code violations.

The same concern surfaced in Ontario in the early 1990s and resulted in a revamped law enforcement structure for dealing with illegal gambling. The Ontario model was frequently cited by interviewees as an effective way for provinces to contain illegal gambling. In 1996 the Ontario Provincial Police were authorized to oversee a coordinated enforcement initiative to deal with organized crime involvement in illegal gambling. The resulting Ontario Illegal Gaming Enforcement Unit (OIGEU) is a consortium of eight Ontario police services that furnish resources to counter organized crime gambling activities. OIGEU's function is to conduct province-wide investigations into illegal gambling by providing investigative expertise, case management, proceeds of crime capabilities, and expert testimony.

The funding for OIGEU comes from lottery and gaming revenues that are allocated to the Ministry of the Solicitor General and Corrections. By being accountable to this ministry, the unit maintains independence from the government's gaming policy and regulation bureaus. Last year OIGEU's budget was \$4.7 million.

The Report on Gaming Legislation and Regulation in British Columbia (1999) points out that, with so many agencies having a role in gambling investigations, a clearer

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provinces.

delineation of authority is needed. As a result, the report recommends that the government approve a special police and prosecutorial program dedicated to investigating illegal gambling and prosecuting criminal offenses. The unit is envisioned as a combined task force established within the RCMP and initially funded from gambling revenues (\$1.5 million) directed through the Gaming Audit and Investigative Office. This recommendation is still under consideration.

In light of the successful forays against illegal gambling initiatives in Ontario and with the growing realization that illegal gambling is often entwined with other illicit activities, attempts to improve the policing of illegal gambling are being undertaken or considered in other provinces. Most notably, these efforts include (1) the addition of qualified personnel to provincial gaming regulatory commissions; (2) permanent combined task forces to focus on illegal gambling; by way of example, the Alberta Justice Ministry provides short term funding to law enforcement agencies for organized crime projects, with the stipulation that they be joint force efforts. The provincial initiative money is encouraging cooperative attempts to investigate organized crime activities, and since illegal gambling is one of several revenue sources for organized crime, it may receive closer scrutiny from Alberta police services; (3) increasing vice unit staff and resources to control illegal gambling; and (4) coordinating the actions of municipal police and RCMP services to code gambling offenses and keep detailed records of gambling-related crimes, as is being tried by RCMP "K" Division in Edmonton and "F" Division in Regina.

In summary, while there is commendable reciprocity and good will between the law enforcement agencies and regulatory bodies that deal with gambling concerns, the agencies do not share the same motivation and preparation to do the job. Wider recognition of this disparity may lead either to the combined task force approach used in Ontario and contemplated for BC or, RCMP and city police services intensifying their efforts to combat illegal gambling. The latter scenario is unlikely unless dedicated resources are established and maintained on an ongoing basis.

4.4.2 Deployment of Resources

Up until the late 1980s, the RCMP employed gambling specialists to investigate gambling-related criminal activity and act as resource persons on gambling matters for other law enforcement agencies. At present, the western Canadian RCMP divisions provide only modest resources to police illegal gambling: Saskatchewan has one full-time specialist assigned to illegal gambling activity; BC has an officer who coordinates and disseminates information on crime and gambling matters; in Alberta, a small portion of three officers' time is dedicated to illegal gambling activities; and Manitoba has no one officer assigned specifically to gambling investigations.

The lean municipal police resources devoted to monitoring illegal gambling in western Canada include two full time officers in Vancouver, two recently assigned vice-squad members in Calgary, and Edmonton, Regina, and Winnipeg vice squad officers who have gambling enforcement as part of their duties. Depending on the size, importance, and urgency of an investigation, extra help is available if necessary.

The complement of provincial gaming regulators has grown rapidly in the past few years. This swelling of the ranks is due to the expansion of legal gambling which requires more regulation (increased legal gambling also provides additional revenues to make the appointments) and an effort to pick up the slack resulting from the decline in RCMP and municipal police gambling law enforcement.

The number of full time gambling investigators varies from province to province; British Columbia has 15, Alberta 13, Saskatchewan 8, and Manitoba has 7 in their lottery operation and will have a larger contingent assigned to the two mega-gaming venues in Winnipeg. Alberta investigators deal with all forms of illegal gambling, whereas, in Saskatchewan and Manitoba, which feature government-run casinos, there are two sets of investigators and security personnel; one for casinos and one for all other gambling formats except horse racing. British Columbia gaming regulators deal only with legal gambling investigations; because there is no gaming act in the province, investigators do not have the authority to make arrests.

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Police agencies also have access to material resources for gambling investigations, such as surveillance equipment, undercover props, and safe houses. Budget considerations are always a key factor in deciding whether, and/or how, to pursue a gambling investigation. A major reason for the increased frequency of joint forces gambling investigations is to create economies of scale and optimal use of resources. Municipal police services and the RCMP often rely on assistance from provincial gaming investigators because they have more personnel to spare, larger budgets, and in some cases are better trained in conducting gambling investigations.

4.4.3 Monitoring and Controlling Legal and Illegal Gambling

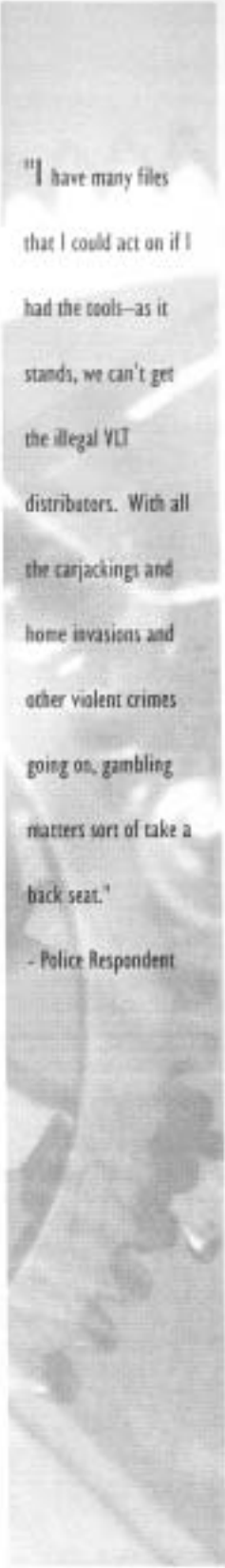
The consensus of respondents' is that legal gambling is generally well regulated and that illegal gambling enforcement is severely deficient. This situation seems to have evolved because the expansion of legal gambling in its many formats and the concomitant interest and participation by the general public erased the moral stigma previously associated with the activity. This change in public attitude, accompanied by a shift in police administration and judicial system priorities, resulted in the statutory prohibitions against gambling not being rigorously enforced. With illegal gambling symbolically relegated to petty crime status, vice squad budgets were reduced, personnel reassigned, and specialist training programs eliminated. This downsizing has led to a law enforcement knowledge vacuum on gambling matters. As these interviews attest, there are still some veterans of the illegal gambling wars around, however, these individuals often comprise a one-person detail that makes it difficult to put a serious dent in illegal gambling activities. As one harried police respondent indicates "I have many files that I could act on if I had the tools—as it stands, we can't get the illegal VLT distributors. With all the carjackings and home invasions and other violent crimes going on, gambling matters sort of take a back seat."

One senior police official recounts that police proficiency in gambling investigations has deteriorated to the extent that "only a few are qualified to give expert evidence in court; it's almost embarrassing." To compensate for the lessened police activity in illegal gambling, provincial gaming commissions have increased their oversight roles to ensure the integrity of their gambling offerings.

This chain of events has created the anomalous situation whereby the independent agencies mandated to uphold the illegal gambling provisions in the Criminal Code (RCMP and municipal police services), are defaulting their duty, thus prompting government gaming commissions to bolster their enforcement contingent to regulate both legal and illegal gambling. By expanding their mandate, it could be argued that provincial gaming regulators are intruding into a primary police jurisdiction. Police respondents believe that if illegal gambling does precipitate other serious criminal activities (e.g. loan sharking, extortion, drug trafficking) they should be the ones to follow up. In this instance, both agencies would benefit from a formal information exchange or joint forces arrangement.

On the surface it is admirable for a government agency to spot a need and fill the breach, however, by taking a lead enforcement role, provincial gaming commissions are open to conflict of interest allegations. The potential conflict arises out of governments' "Catch-22" dilemma; on the one hand, they market and promote gambling and are the major beneficiaries of gambling proceeds, on the other hand, they are expected to regulate themselves. The potential for a compromising situation exists whereby a gaming regulator, out of loyalty to his/her employer, might be tempted to overlook or cover up certain gambling improprieties to avoid a government scandal. As one informant notes "the government is dependent on gambling revenue, so they don't want any bad publicity about it."

Under the present circumstances, the RCMP and municipal police forces generally take a reactive approach to illegal gambling; that is, they respond to complaints and tips but do not initiate investigations on their own. The primary sources of police intelligence on illegal gambling activities come from disgruntled players who think they have been cheated, player spouses, competitors that operate legal gambling venues, and government gaming regulators. Depending on the nature and complexity of the complaint, assistance may be requested from the other two agencies.



"I have many files that I could act on if I had the tools—as it stands, we can't get the illegal VLT distributors. With all the carjackings and home invasions and other violent crimes going on, gambling matters sort of take a back seat."

- Police Respondent



Under the present circumstances, the RCMP and municipal police forces generally take a reactive approach to illegal gambling; that is, they respond to complaints and tips but do not initiate investigations on their own.

Provincial gaming investigators take a more proactive role in identifying illicit gambling practices. When government regulators uncover Criminal Code violations pertaining to gambling, the appropriate police agency is alerted and a strategy is devised to resolve the issue. However, as demonstrated in recent Alberta joint forces gambling investigations, the primary police agencies expect supplemental funding from the provincial gaming authority to pursue illegal gambling investigations.

4.4.4 Nominal Deterrents for Gambling Offenses

Gaming Commission investigators have a powerful deterrent at their disposal; the authority to suspend liquor and/or gaming licenses. The loss of either license could put an entrepreneur out of business. For example, in the past year an illegal gambling club was operating out of an Edmonton hotel. The club was shut down, arrests were made and the Gaming Commission made the hotel forfeit its VLTs just for renting out the space.

Theoretically, police investigations carry the threat of incarceration, but in reality, few cases reach the courts and the punishment for those that do is often a token fine; jail time is a rarity. In a recent case, a defendant was convicted on eight counts of cheating at play and the penalty was a \$100 fine. Law enforcers are frustrated by what they perceive is ultra soft sentencing, because it takes them considerable time and effort to gather evidence that will result in a conviction. Furthermore, the casino may have been billed for \$1000s before the arrest was made. If they wish to, provincial regulatory bodies have the authority to take this type of case one step further by banning the individual from all provincial casinos.

One respondent contrasts the penalties for an illegal VLT operation with those of drug trafficking. "Say both operations net \$500,000 a year, but if they're caught, the drug dealer could get six to ten years jail time versus a maximum two year jail sentence for the illegal gambling operator. Usually, the illegal gambling charge results in a fine and confiscation of the machines." The respondent was not minimizing the seriousness of drug trafficking, rather, indicating by example that illegal gambling convictions are especially lenient.

Several police officers spoke of raids they were involved in at social clubs featuring illegal gambling. "We processed everybody in the place, we laid charges and we removed every piece of furniture they had in there, and the next day they were open for business." The raids were launched on the basis of several complaints, but as the informant cautions "there aren't the resources to regularly perform several months of undercover work to gather evidence and dedicate fifty officers to a raid." "Provincial prosecutors are under pressure to save money, thus they are not anxious to pursue lengthy investigations on gambling offenses."

Identifying conspiracy evidence, maintaining continuity of physical evidence, statement taking, and the ability to detect suspicious behavior are skills developed through experience. Law enforcement agencies suggest that it would be helpful to receive more criminal intelligence from the gambling industry. As it now stands, some information is passed on to police sources by gambling venue operators, but certainly not all that is available; the presence of police officials in gambling settings is ad hoc because specific dedicated resources are not deployed for this purpose.

Perceiving the judicial system's reluctance to treat gambling crimes seriously, informants allude to the fact that illegal gambling often becomes a secondary consideration in their investigations. It is common for gambling charges to be dropped in order to get a conviction on a more serious offense. For example, drug dealing or loan sharking at a casino would take precedence over illegal gambling.

The consensus view of our law enforcement informants is that illegal gambling infractions are treated exceptionally lightly by the judicial system. Law enforcers claim that judges mistakenly believe illegal gambling offenses to be victimless crimes, whereas, the police contend that illegal gambling is linked to a variety of serious crimes. The position taken by most respondents, is that if the illegal gambling laws are antiquated, the Criminal Code needs amending; in the meantime, since the laws are still on the books, they should be enforced. Maintaining the status quo by not aggressively enforcing illegal gambling laws has the potential to undermine police authority because citizens are flouting the law with impunity by openly engaging in a criminal activity.

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4.4.5 Trends in Gambling Law Enforcement

In the 1990s there has been a consistent pattern of retired RCMP and municipal police personnel being hired as provincial gaming regulators or gambling industry security officers. Respondents see the following pros and cons associated with this trend:

Pros

- Former police officers are valuable gaming regulatory body employees because they have good investigative skills and have already established a rapport with law enforcement personnel in the province, thus opening the lines of communication. Also, they do not require extensive job training.
- For the police officer making the job switch, there is generally less stress and a lower frustration level in gaming regulation than there is in police work.
- Police officers who move into gaming regulation or the gambling industry bring an aura of integrity and credibility to the business that serves to legitimize the activity.
- A police presence in a gambling venue "makes patrons feel safer, ensures an immediate response to incidents, and acts as a deterrent because the bad guys know that seasoned professional security personnel are on the premises."

Cons

- The shift of police personnel to gaming regulation and the gambling industry creates an expertise imbalance. Individuals with specialized training in gambling investigations are leaving law enforcement jobs and not being replaced.
- A "police mentality" is brought to the regulatory or gambling industry side. Some former police officers "have unrealistic expectations; they approach the job with an officious attitude and try to regulate the gambling business like it's a police force." One respondent notes that "being an ex-cop does not necessarily mean that you would be a good gaming regulator."
- When regulators transfer to the gambling industry, there is a potential conflict of interest in that information gleaned as a regulator could be used to enhance the employer's positions vis a vis the competition.

The switch seldom works both ways; that is, gambling industry employees rarely move into regulatory or enforcement positions. "There is a perception that if you work in the industry you are somewhat shady and therefore unsuitable for an oversight role."

In listing the pros and cons of law enforcement personnel moving into gaming regulation or the gambling industry, the authors recognize that there is considerable leeway for interpreting each argument. Each position has a number of facets, depending on one's perspective; a pro for one person may be a con for another, and vice versa. For example, most respondents sincerely believe that a police presence helps keep the gambling industry on the up and up; on the contrary, a smaller segment of the sample view the gambling industry's hiring of law enforcement personnel as cosmetic—a ploy to enhance the public image of the industry without making substantive changes.

Much of the law enforcement gambling expertise in western Canada eventually winds up benefiting provincial gaming commissions and the gambling industry. Hiring former police officers is a sound business practice for regulatory bodies and the gambling industry; however, law enforcement agencies are losing the talent pool that they helped develop. Even though the transferees have taken early retirement in most instances, it may behoove law enforcement agencies to design incentive packages to retain some of their gambling specialists, or to at least hire trained replacements. The perfunctory monitoring of illegal gambling by police agencies may allow provincial gaming regulators to appropriate a basic law enforcement mandate.



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Gambling is cited for two main purposes in the family law cases reviewed, namely; it is presented as a factor that should prevent the gambler from having custody of the child or children, or it is presented as a relevant determinant in ending the marriage and dividing up matrimonial assets.

4.5 Gambling-Related Crime and the Court System

4.5.1 Volume and Types of Court Cases

As noted in the methodology section, an attempt was made to identify specific court cases wherein gambling was a factor. The Canadian Abridgement Case Digests CD-ROM, which contains summaries of official court reports, was searched for gambling-related criminal cases in British Columbia, Alberta, Saskatchewan, and Manitoba. In addition, this electronic search was updated using the latest paper version of the Canadian Abridgement available.

The computer search resulted in 43 cases wherein gambling was a factor, however, only 17 of these cases are crime-related. Gambling appears to have the most impact in the area of "family law." Gambling is cited for two main purposes in the family law cases reviewed, namely; it is presented as a factor that should prevent the gambler from having custody of the child or children, or it is presented as a relevant determinant in ending the marriage and dividing up matrimonial assets. For the most part, excessive gambling is considered as only one of many mitigating factors in judicial decisions. In the area of legal "bankruptcy," the cases reviewed suggest that gambling is seen as unacceptable behavior and is an important factor in deciding whether to grant a discharge of bankruptcy. Some other cases, including those that involve First Nations communities, centre around issues of "municipal law," "constitutional law," or "Native law" (e.g. zoning, licensing gambling establishments, Aboriginal exemptions from gaming offenses), notwithstanding that Criminal Code charges are sometimes involved.

The "criminal law" cases reviewed are, essentially, of two types: (1) cases where obtaining money to gamble or pay gambling debts leads to criminal charges, and (2) cases of illegal gambling based on violations of the Criminal Code of Canada. The cases that involve committing crimes to finance gambling include incidence of theft, drug dealing, and assault. To give the reader a flavor of the nature of this criminal activity, the legal cases reviewed are briefly described below and more detailed summaries are included in Appendix 1.

Criminal Cases Related to Financing Gambling

Theft

1996 R. v. McIvor (Alberta Court of Appeal): Female accused stole money from her bank employer to gamble on VLTs. Court of Appeal holds that gambling is not an exceptional circumstance to limit severity of sentence.

1996 R. v. Ross (Alberta Provincial Court): Female accused kept tenants' rent money to gamble on VLTs. Leniency on sentencing took woman's pathological gambling condition into consideration.

1995 R. v. Whitney (Alberta Provincial Court): 28-year-old female accused stole money from her employer, a Native reserve, to gamble.

1997 R. v. Wong (BC Court of Appeal): 19 year old male accused and companion committed two violent robberies (of a taxi driver and, later, a woman pedestrian) to support drugs and gambling lifestyle.

1995 R. v. Elliot (BC Court of Appeal): Male accused given three concurrent life sentences for three counts of robbery. Gambling addiction mentioned as a factor in sentence reduction and accused's ability to rehabilitate.

1990 R. v. Turgeon (BC Court of Appeal): 35-year-old male accused was a bar manager who stole from the bar to pay gambling debts. The sentence was lightened because he had no previous record and a good standing in community.

1990 R. v. Siu (BC Court of Appeal): Male accused acquired supplies from his business on credit and later sold these goods to pay off gambling debts.

1997 R. v. Sanderson (Manitoba Court of Appeal): 51-year-old male accused robbed a credit union to obtain money to gamble.

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Canada.

1995 R. v. Scanlon (Manitoba Court of Appeal): Male accused in early thirties committed break and enter and theft of a credit card to gain money to pay gambling debts. Rehabilitation of accused for his gambling addiction was considered as a factor in sentencing.

1993 R. v. Zlatic (Supreme Court of Canada) (Québec): Male accused obtained goods on credit and gambled away the proceeds of sale. He believed that he had a gambling system that would allow him to win and to pay back his debts. Court held that this was not an excuse to commit fraud. Gambling referred to as "risky, non-business use."

Drug Dealing

1988 R. v. Shelstad (BC Court of Appeal): 48-year-old male accused became involved with narcotics transaction to pay gambling debts.

Assault

1995 R. v. Duong (Alberta): Male accused committed extortion and assault to collect a gambling debt.

It is evident from the computer search of the Canadian Abridgement Case Digests that, in terms of volume, there are a small number of gambling-related criminal cases appearing before the courts in western Canada. We know, however, that the number of cases appearing in computer databases such as the CACD are not representative of the total volume of cases heard because few provincial court cases have accompanying transcripts filed. Notwithstanding this paucity of gambling-related criminal cases, those cited above illustrate the kinds of offenses committed by persons who are preoccupied with obtaining money to finance their gambling or to pay gambling debts. The following is a brief discussion of these cases.

In the twelve cases cited above, nine of the accused are male while three are female, which suggests that males are more likely to be charged with gambling-related crimes than are females. Not surprisingly, gambling-related crime centres around money—in each of these instances, the perpetrator committed a criminal act to finance his or her gambling. These criminal acts include stealing from employers (bank, bar owner, apartment owner, and Native reserve), robbery (taxi driver, female pedestrian, and credit union), defrauding credit agencies, home break-in and credit card theft, drug trafficking, and extortion and assault. Most of these crimes are non-violent in nature, with the victim losing money or property of value.

In most cases, the victim and perpetrator are known to each other and, furthermore, the criminal frequently abuses a position of trust or, otherwise, takes advantage of this relationship. For instance, the female bank employee who embezzled money from her bank to fund a VLT obsession had worked for the bank for 13 years in a responsible position. She concocted a scheme to steal from the bank that involved opening sham bank accounts in the names of friends. She wrote cheques on these sham accounts made payable to herself and other members of her family and approved the overdrafts. She was able to conceal her activity for 3 months and, by the time she was caught, had taken over \$8,000.

In another example—the assault case—the victim and perpetrator were also known to each other. The victim owed a gambling debt to a third party, the accused approached the victim in a restaurant and asked him to go outside where he was assaulted by a third party, also known to the victim. Even in the fraud cases involving the abuse of credit, it is evident that the victim (the credit company) and person committing the crime were known to each other. It appears that instances of gambling-related robbery, such as the case where the 19 year old accused held a knife to a taxi driver's throat and later accosted a female pedestrian, are much less frequent.

Illegal Gambling

The illegal gambling cases that appear in the courts focus on common questions such as whether the gambling-related action was, in fact, illegal; whether the law prohibiting





the action was valid; or whether an involved party is entitled to compensation because of an unfair gambling law. Recent illegal VLT and slot machine cases appear infrequently in western Canadian court records, especially in comparison to the frequency of eastern Canadian cases.

The following case descriptions and detailed summaries in Appendix 1 provide a glimpse into the nature of illegal gambling cases in the western provinces.

1995 R. v. Brennan (Alberta Provincial Court): Male accused provided lottery tickets to promote poetry book sales and was convicted of conducting an illegal lottery.

1995 R. v. Page (Alberta Court of Appeal): Co-accused was charged with operating a lottery contrary to the terms of a license issued by the provincial gaming authority. Accused maintained that the relevant Order in Council was a regulation that should have been published and was not, therefore, the accused should be protected under the Act and have the trial quashed. Court of Appeal held that accused was not charged with contravention of the Order in Council, or regulation, but with the contravention of s. 207(3) of the Criminal Code.

1991 R. v. Bob (Saskatchewan Court of Appeal): Native male co-accuseds were operating bingo games on a reserve without a license. Accused appealed conviction on the ground that they were exempt under the Indian Act because the licensing fee was a tax designed to bring in revenue. Court of Appeal held that the province's refusal to issue the license without payment of the fee violated accuseds' s.15 Charter rights.

1994 R. v. Nelson (Manitoba Provincial Court): Male Native Canadian was charged with keeping gaming devices and operating a common gaming house. Application for a judicial stay of proceedings because of alleged abuse of process by federal authorities over Native gambling operations was denied.

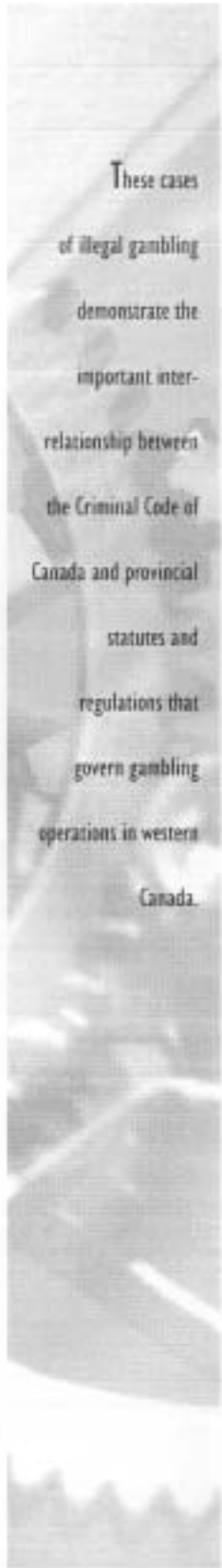
1995 R. v. Jim (BC Supreme Court): Male Native Canadian accused sold tickets and helped organize a large bingo. Argument was made that gambling was an integral

part of Native culture, therefore, providing an exemption from Criminal Code provisions. Court held that gambling was an intermittent and casual form of entertainment in the First Nation's culture, not a constitutionally protected right.

While it must again be pointed out that these five cases are not indicative of the actual volume of illegal gambling cases that appear before the courts, it is reasonable to speculate that these type of Criminal Code violations seldom make it to court in the four western provinces. Moreover, it is both interesting and instructive to briefly examine the nature of these cases as they provide insights into the types of illegal gambling cases that one would expect to encounter in western Canadian provinces.

Two of the cases reviewed involved illegal lottery schemes. In the first, the accused promoted the sale of a book of poetry by providing each purchaser with a sheet of five tickets for a draw to win an automobile. In the second case, the co-accuseds were charged with operating a lottery in contravention of the provincial license that was issued for this purpose. In each of these instances, the defendants contravened provincial gambling licensing regulations, and in so doing, also violated sections of the Criminal Code that pertain to the provinces' sole right to conduct or authorize lotteries. Thus, it is interesting to note that serious criminal charges were brought to bear for the contravention of seemingly innocuous (in the accuseds' view) provincial gambling licensing regulations.

The final three cases are noteworthy because they involve Native Canadians' perceived right to conduct gambling on their reserves irrespective of Canadian federal or provincial law. In the first case, *R.v.Bob*, the accused did not deny that they were keepers of a common gaming house, arguing that, as all proceeds from the games were used to finance pow-wows, the games could have been decriminalized pursuant to the s. 207 (1) (b) of the Criminal Code. The accused were convicted, however, the Saskatchewan Court of Appeal overturned this, ruling that the province could have severed the fee from the rest of the licensing provisions and that the province's refusal to issue the license without payment of the fee violated the accused's s. 15 Charter rights.



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In the second case, *R.v.Nelson*, police raids on Manitoba Native reserves resulted in charges of keeping gaming devices (i.e., slot machines) and operating a common gaming house. The accused argued that the charges were an abuse of process because of the historical abuse of process suffered by Aboriginals within Canadian law, the lack of good faith on the part of the Crown which stood to benefit financially if Native gambling operations were curtailed, the fact that prosecutors used criminal prosecution rather than a constitutional reference to determine Native jurisdiction over gambling, and the Crown's lack of jurisdiction over gambling on Indian reserves. The Manitoba Courts ruled that federal and provincial laws applied to persons living on reserves and that the Crown had no jurisdiction to grant a blanket dispensation from gambling laws to Indians. Finally, in *R.v.Jim*, the accused, a member of the Wet'suwet'en First Nation group, was charged with selling lottery tickets and helping to organize a large bingo without a provincial license. At trial, the accused submitted that s. 206(1) of the Criminal Code did not apply to him because gambling had been an integral part of Wet'suwet'en culture and society for hundreds of years. The British Columbia Supreme Court found that the evidence fell short of establishing that gaming was an integral part of Wet'suwet'en society, therefore, the conviction was upheld.

These cases of illegal gambling demonstrate the important inter-relationship between the Criminal Code of Canada and provincial statutes and regulations that govern gambling operations in western Canada. Contravening provincial gaming regulations may not only result in fines and other minor sanctions being imposed by provincial courts, but violations may also result in criminal charges being laid against the accused. Even more intriguing are the jurisdictional issues surrounding First Nations' rights to promote and self-regulate gambling on Native reserves. While the courts in the western provinces have upheld the Crown's jurisdiction over Native gambling, it will be interesting to follow the criminal case law as gambling will, inevitably, continue to expand on Native reserves.

4.5.2 Criminal Culpability and Sentencing Considerations

As research expands our knowledge of gambling "addiction," it is inevitable that this severe affliction will appear as a partial defense in gambling-related criminal trial.

Indeed, in Germany, Meyer and Fabian (1996) analyzed 56 forensic evaluations written between 1987 and 1993 and discovered that, in 46 cases, the defendants were diagnosed as pathological gamblers and diminished culpability was granted as a defense in 32 of these cases. Increasingly, expert witnesses are called to give testimony relative to the significance of the defendant's gambling addiction on his or her criminal actions.

The issue of considering pathological gambling in the exculpation of crimes has been contentious for at least the past fifteen years, if not longer. For instance, Cunniën (1985) reviews the knowledge about pathological gambling as a clinical disorder and the case law relevant to its use as an insanity defense and argues that pathological gambling is not a serious mental illness for the purposes of the criminal law and that it bears no causal relationship to criminal activity. In contrast, Lorenz (1988) contends that compulsive gambling is a diagnosable psychiatric disorder—an addiction to gambling in which the substance abused is money. She argues that when legal access to money is no longer available, compulsive gamblers often resort to illegal activities in order to obtain funds to support their addiction. Lorenz believes that the expert witness has a multidimensional role to play in "serving the client," and this often includes educating the attorneys, probation officer, and judge involved in a criminal action.

These early positions taken by Cunniën and Lorenz suggest a dichotomy wherein gambling addiction is—or is not—viewed by the courts as a salient element in the disposition of criminal cases. An analysis of sentencing practices in the cases reviewed for this study, and briefly discussed below, shows that gambling addiction as a defense is not dichotomous, but rather, is best viewed on a continuum from outright rejection as a defense by the courts to complete acceptance as a mitigating factor.

In 4 of the 12 cases wherein a crime was committed to finance gambling, the courts considered the accused's gambling addiction as a mitigating factor. In *R.v.McIvor*, the female accused was convicted of embezzling money from her bank employer and her sentence was suspended for three years based largely on evidence of her gambling addiction. The Crown's appeal was upheld and the Alberta Court of Appeal ruled that the sentencing judge erred in finding that the accused's addiction to gambling

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constituted an exceptional circumstance. The accused was subsequently sent to prison for 4 months. In contrast in *R.v.Ross*, the female accused likewise stole money from her employer (she kept tenants' rent monies entrusted to her for the landlord) and she also received a two year suspended sentence. Exceptional circumstances that justified a non-custodial sentence in this case included a psychological assessment that showed the accused to be a pathological gambler and the Crown did not appeal this judgment.

In *R.v.Elliot*, the accused was convicted of three counts of robbery where no weapon was involved and was sentenced to three concurrent life sentences, largely on the basis of his having served the past 20 years in prison for similar robbery offenses. A psychological assessment of the accused indicated that he had a compulsive gambling disorder and that he was likely to be a high risk to re-offend if he remained untreated. He appealed his sentence and the Alberta Court of Appeal found that the lower court judge had mistakenly placed too much emphasis on the accused's prior record. It was deemed that a life sentence for robbery where there was no violence and the accused had no weapon was, in itself, unfit; however, it is unclear to what extent, if at all, the accused's gambling addiction contributed to this judgment. Similarly, in *R.v.Scanlon*, the accused, who was addicted to gambling, committed break and enter and credit card theft to pay gambling debts and was subsequently sentenced to a nine month prison term. He appealed this sentence and the Manitoba Court of Appeal found that, notwithstanding that the trial judge had not erred in sentencing, circumstances which arose after the trial sentencing (i.e. the accused gained employment and refrained from gambling) made rehabilitation and restitution even more likely, therefore, time served was to be substituted.

In each of these cases, the accuseds' gambling addiction was considered at trial and, in three cases, had an effect on sentencing. As mentioned above, these cases illustrate that the courts' treatment of gambling addiction as a mitigating circumstance is best viewed on a continuum from acceptance to rejection. In the first case, the accused, who stole from her employer, had her 3 year suspended sentence overturned, notwithstanding that the court granted she was a gambling addict. In the second case the accused, who also stole from her employer and was also deemed to be a gambling addict, had her 2

year suspended sentence upheld, as the Crown did not appeal. In the latter two cases, the accused had their sentences reduced upon appeal. While it is evident that other mitigating circumstances played a role in these judicial decisions (e.g. embezzlement from a bank is very serious and must be deterred with a custodial sentence), it is also apparent that gambling addiction was also taken into account to a varying degree in each case.

4.5.3 Perceptions of Judges

Fifteen Alberta Court of Queen's Bench justices and provincial court judges were interviewed for this study. These interviews were semi-structured and the questions posed to these key informants are identified in the methods section of this report. An overview of the key findings from these interviews is discussed below.

Volume and type of cases

The justices and judges were first asked to comment on the relative volume of gambling-related criminal cases that appear before them and whether or not they perceived this volume to be increasing in recent years. The Queen's Bench justices stated definitively that, in their courts, criminal cases wherein gambling is a major factor are virtually non-existent. One justice comments that "in 24 years on the bench, I can only recall one case of theft by fraud where the accused had a gambling problem." Another justice "couldn't recall a single case in 7-years on the Queen's Bench." Each of the Queen's Bench justices are aware of criminal cases involving a gambling element, notably those which involved a theft, fraud or robbery perpetrated by an accused with an addiction to video lottery terminals (VLTs). The judicial system informants did say that there had been an increased number of cases involving white-collar crimes and VLT addiction and retirees committing crimes to support a gambling habit in the past few years. They point out, however, that these cases are infrequent and invariably heard by judges at the provincial court level; seldom do these criminal cases go to trial at Court of Queen's Bench.

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Interestingly, the provincial court judges interviewed also could not recollect many gambling-related criminal cases that had appeared before them, as the following comment attests:

Let me say, without even having any recall of any particular case, I would say probably two or three times in the past 5 years I've heard a submission in part of a sentence hearing that has to do specifically with gambling addiction.

Notwithstanding this judge's personal experience, he adds that there are, undoubtedly, more gambling-related cases and he suspects this based on his informal interaction and conversations with other judges. One provincial court judge observes that while the sheer volume of gambling-related cases has not increased dramatically, the amounts of money being stolen to support gambling addictions has increased significantly. "Thefts of over \$100,000 were rare a few years ago; now they are quite common."

The justices' and judges' comments are even more telling when placed in the context of all the cases that they preside over. For instance, one provincial court judge estimates that he dispatches 1,000 cases per month, and it isn't unusual in one community to be faced with a 15, 20 or even 30 page court docket with 20 items on a page (not counting traffic tickets). Most of these cases are not defended and are dispensed with quickly, as with a guilty plea; nonetheless, the volume of cases of all types is huge. In the context of the 1000's of cases before him, this judge comments that, in the last three years, he has "probably seen 7 to 10 theft charges" where "middle-class people in responsible positions of trust stole from their employer to support their gambling habit." In terms of other gambling related crimes, he can recall only one serious assault case "over who got to use the VLT in a bar."

It is evident that gambling-related criminal cases are minuscule in number when one considers the context of all cases that appear monthly before the Alberta courts. It is important to note, however, that many of the cases involving the unlawful behavior of a gambling addict are settled out of court. For instance, in employee theft cases it is common for the employer to cut a deal with the accused in order to avoid the negative publicity for both parties that could come out in a trial. Although these gambling-related criminal cases are few in number, they are somewhat unique in that, often, the

accused is an "upstanding citizen" who would, normally, never come in contact with the law were it not for his or her gambling problem. As one judge observes:

Out where I am, there are some people who would not have come in contact with the law that I have seen because of an associated problem with gambling. But there are not a lot of them and I don't see it as any kind of an epidemic by any means.

Finally, in terms of gambling offenses related to organized crime, the justices opine that, while organized crime is difficult for the courts to define, there is virtually no evidence that particular "criminal organizations or gangs" are involved in illegal gambling schemes. In comparison, there are some cases that appear before Queen's Bench wherein the accused is a member of an Asian gang that is involved in drug trafficking. Even in this latter instance, the number of gang-related drug cases are few in number.

Sentencing considerations

The justices observe that courts are not, necessarily, more lenient because of mitigating factors such as alcoholism, drug addiction, and pathological gambling when it comes to sentencing. Rather, considerations such as the "character" of the individual, family supports, and prior convictions are more likely to be considered.

Invariably, when the accused has a gambling problem, defense counsel will bring this up at trial—as one judge quips "defense counsel always says you can't blame them, they're gambling addicts (or alcoholics, or had bad parents)." This judge generally responds by stating "people make all kinds of choices in their daily life" and that "while a gambling addiction can be an explanation as to what temptation they gave in to, it does not excuse criminal behavior." Another judge laments that "90% of the people he deals with have some kind of dysfunctional problem, be it alcohol, drugs, or gambling," and moreover, "most court appearances are alcohol-related." One provincial court judge distinguishes between types of addictions when he observes that "a physical substance (drugs or alcohol) that impairs the individual is easier to sell as a defense than a psycho-social-related behavior such as gambling addiction."

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The Alberta Court of Appeal directs the provincial court to consider a custodial sentence as a "deterrent" every time there is a theft from an employer and, given that the majority of crimes committed by problem gamblers are of this type, spending time in prison has been a distinct possibility for accused gambling addicts. However, in September 1996, the option of "conditional sentencing" was allowed in the provincial courts; prior to this time, there were prescribed sentences for crimes such as stealing to support a drug or gambling habit and these, generally, included mandatory jail time. Now, provincial court judges have more sentencing options and they are likely to use these, as one judge comments:

If the person who stole is not in a position of trust handling cash and they're not a real risk to society, I sometimes will give a conditional sentence which says they must get counseling and I'll often impose a curfew and a direction that they not be found in any place where there's a gambling machine.

Conditional sentences in cases involving gambling addiction are now routine providing that the convicted poses no danger to the public and that there is little likelihood of the person reoffending. Related to these conditional sentences, some provincial court judges suggest they are under political pressure to do what they can to "keep people out of jail." This is largely an issue of resource allocation. The judges and justices also note that defense lawyers must present a convincing argument for their client's gambling addiction, otherwise, jail time is a likely outcome. In the judges' view, clinical assessments, expert witnesses, and academic materials that describe the phenomenon of pathological gambling make a persuasive defense.

The justice system interviewees freely admit that they are not well versed on the topic of gambling addiction. Because of their heavy workload, judges say they have no time to become experts on the myriad number of mitigating circumstances that are brought up in court. In the judges' view, it is the responsibility of the Crown and the defense lawyers to enlighten them as to the research on gambling addiction, and whether, and to what extent it applies to the situation. To assist in this regard, provincial court judges frequently ask the Crown to prepare pre-sentencing reports and it is at this stage that mitigating circumstances such as a gambling addiction are most likely to be addressed.

5. CONCLUSIONS AND IMPLICATIONS

5.1 Legal and Illegal Gambling

In embarking on this project we assumed several objectives. First, we wanted to supply law enforcement agencies, justice system officials, gaming regulators, gambling industry executives, legislators, and academics with accurate and timely information on the extent to which gambling is linked to criminal behavior in western Canada. It was hoped that this study would provide insight into the impact that gambling-related crime has on police and justice system resources, as well as dispelling the myths and disclosing the realities concerning the interaction between these two activities. While recognizing that this is an exploratory study, we believe that the findings have relevance to individuals on the "front lines" of the crime and gambling battles and for those seeking a broader understanding of the crime and gambling connection.

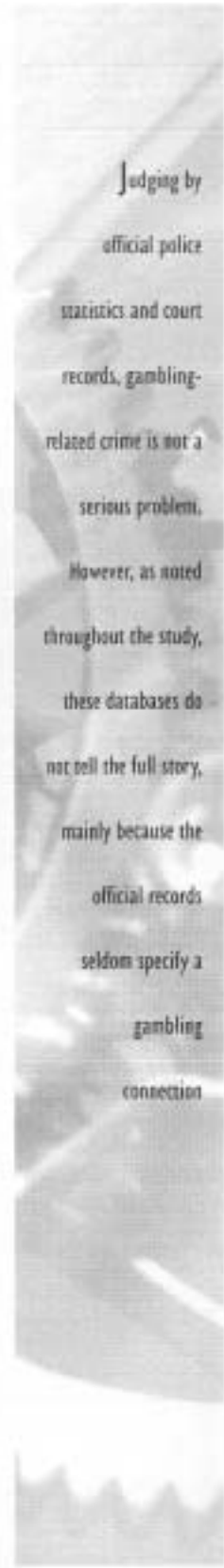
Our second pursuit was that of generating academic interest in this fascinating topic. We believe that scholars can build on this study by extending the process we used and by investigating the many empirical studies suggested by our findings. Finally, we hope the results of this study will be useful in informing the policy decisions of legislators, as well as law enforcement and justice system administrators.

Because this is a preliminary study that uses a qualitative research strategy, we are not in a position to make definitive statements, and consequently, the conclusions we offer are conservative, in keeping with the limitations of our research methodology. To assist the reader in interpreting the data, we complete the study with a brief overview of our findings; a listing of conclusions and implications based on these findings; and a commentary on the myths and realities pertaining to gambling and crime.

5.1.1 Overview

Our various sources of information provide somewhat different perspectives on the relationship between crime and gambling in western Canada. This was anticipated, as each of the various data sources depict the gambling and crime connection slightly differently. For example, the print media view gambling in general and gambling and

While recognizing that this is an exploratory study, we believe that the findings have relevance to individuals on the "front lines" of the crime and gambling battles and for those seeking a broader understanding of the crime and gambling connection.



Judging by
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statistics and court
records, gambling-
related crime is not a
serious problem.
However, as noted
throughout the study,
these databases do
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official records
seldom specify a
gambling
connection

crime in particular, to be "sexy" topics. Because there is still a certain mystique about gambling and often a whiff of intrigue and scandal, readers find the topic alluring compared to more mundane news items. As a consequence, there has been a steady supply of crime and gambling-related news items in the past few years. The frequency with which these stories appear, and the column inches devoted to the topic, might lead readers to believe that gambling-related crime is rampant in western Canada.

At present, it is virtually impossible to accurately assess the magnitude of gambling-related crime in western Canada. Judging by official police statistics and court records, gambling-related crime is not a serious problem. However, as noted throughout the study, these databases do not tell the full story, mainly because the official records seldom specify a gambling connection, monitoring and controlling illegal gambling is a low priority for police agencies, and in some instances, legal gambling security staff handle problems internally.

Municipal police and RCMP respondents maintain that their intelligence reports show evidence of a considerable amount of gambling-related crime, but because of dwindling resources, they can not give the problem the attention it deserves. In general, the police agencies believe that some forms of illegal gambling are flourishing because the activity has lost its social stigma and because law enforcement agencies and the judicial system are largely ignoring it. While police officials agree that the operational side of legal gambling is relatively clean, they also submit that the legal gambling milieu is a fertile location for illegal activity and, in some cases, a conduit to launder the proceeds of crime. The crimes that are related to legal gambling venues are of two main types; crimes committed by disordered gamblers and crimes designed to extricate the freely circulating cash that exists in and around these venues.

Gaming regulators and gambling industry executives acknowledge that there is a relationship between gambling and crime and probably always will be. They disagree with police authorities, however, about the scope of the problem. From the regulatory and industry perspective, police officials may be magnifying the problem in hopes of bolstering their economic and human resources. The police rebuttal to this argument

is that regulators and industry personnel have a vested interest in minimizing the problem. Realizing that legal gambling is still a political "hot potato," the police agencies believe that those who regulate the industry and work in it, may be downplaying the gambling and crime connection, because for this group, the lower the gambling/crime profile the better.

Justice system informants report seeing more gambling-related criminal cases as the legal gambling menu expands, however, these cases still constitute a small minority of the overall number of cases that come to trial.

5.1.2 The Nature and Extent of Illegal Gambling in Western Canada

Revenue estimates for illegal gambling run as high as \$100 billion per year in the United States (Dunstan, 1997) and in its introductory video, the Ontario Illegal Gaming Enforcement Unit director claims that revenues from illegal gambling in his province are 34 times higher than legal gambling revenues. Even if these claims are wildly exaggerated, if the ratio between legal and illegal gambling revenues is anywhere similar in western Canada, a significant amount of illegal gambling going unchecked, which means that governments are losing hefty potential revenues to criminal sources.

Conclusions

- Illegal gambling is not pervasive throughout western Canada. It is, however, extensive in the four largest cities—Vancouver, Calgary, Edmonton, and Winnipeg—less so in medium-sized cities, and a minor concern in rural areas.
- The most prominent illegal gambling formats are sports betting with a bookmaker, card clubs, unlicensed VLTs, and offshore lottery sales. Generally these illegal gambling formats are not easily accessible to the public, with the notable exception of the Vancouver area, where illegal gambling operations are more open.

Implications

Illegal gambling operations are unevenly distributed across western Canada, therefore law enforcement initiatives should be intensified in the four major cities and, to a lesser

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extent, in the medium sized communities. An inter-provincial "crime and gambling task force," comprised of municipal police agencies, the RCMP, and provincial gaming regulators should be formed and given the resources to develop strategies and programs to combat illegal gambling. One of the first tasks of the group would be to sort out their roles and responsibilities for illegal gambling oversight in light of their respective mandates. The Ontario approach should be considered as a prospective model.

5.1.3 Illegal Gambling Operators and Players

Illegal gambling is prevalent in western Canada because gambling in general has lost much of its moral stigma and because the most popular illegal games--sports betting and gaming houses--compete well with their legal counterparts in terms of offering longer hours of operation, better odds, lines of credit, telephone betting, and individual game bets. Perhaps because violence and paid-off public officials are no longer an integral part of illegal gambling operations, the public perceives illegal gambling to be a relatively harmless activity. Police officials say that this impression is misleading because the proceeds from illegal gambling are often intertwined with more serious criminal activity such as drug dealing.

Conclusions

- Illegal gambling operations are housed in a variety of venues, many of which are legitimate businesses or social clubs (e.g. restaurants, bars, coffeehouses, pool halls, corner grocery stores, and arcades).
- Illegal gambling patrons are mostly male players from all walks of life--professionals (lawyers, doctors, dentists, teachers), blue collar workers, addicted gamblers, and known criminals. The shady players are more aptly characterized as being "hustlers" rather than "hardened criminals."
- Illegal gambling encompasses a variety of formats, the most common of which are sports bookmaking, gaming houses featuring games such as poker, mah jong, and fan tan, and unauthorized electronic gambling machines.

- Illegal gambling operations are profitable businesses that compete effectively with legal gambling formats by providing better odds, special customer services, and familiar surroundings, in many instances for specific social or ethnic groups. Violence and bribery are not necessary for illegal gambling operations to thrive; rather, customer service and, ironically, "honesty"—values generally associated with successful, respected business ventures—ensure patron loyalty.

Implications

In the four western Canadian cities—especially Vancouver—illegal gambling locations are generally known to law enforcement agencies or can be readily identified through surveillance operations. Investigations are seldom mounted against these establishments, unless there is a specific complaint, for two main reasons: (1) well-planned undercover operations take time and consume police manpower and financial resources, and (2) the return on this investment as measured by convictions and accompanying stiff penalties for the perpetrators is very low; indeed. Unless municipal police forces and the RCMP receive the administrative encouragement and resources to investigate illegal gambling, it will remain viable and, probably, even increase, especially in the four largest western Canadian cities.

The federal government should consider amending the Criminal Code to allow single event sports betting. The present law that makes single event sports betting illegal if a commission is charged for handling the wager, technically makes criminals out of normally law-abiding citizens. The fact that many upstanding citizens like to bet on individual sporting events supports bookmaking, which is an illegal activity. Changing the law would produce the practical benefit of decriminalizing a popular form of entertainment and allow provincial lottery corporations to shut the door on independent bookmakers, in addition to augmenting their gambling revenues.

5.1.4 Illegal Gambling and Organized Crime

A frequently cited justification for expanding legal gambling is to blunt the influence of organized crime. Whether this actually happens is not known because there is no accurate way of assessing organized crime involvement in illegal gambling, either before

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or after gambling expansion. Despite there being considerable variation in respondents' perceptions of organized crime links to gambling, respondents do recognize an organized crime presence in illegal gambling in western Canada's major cities, but not to the point where these groups control the market. The revenues generated by organized crime groups through illegal gambling are substantial, but secondary in comparison to the profits gleaned from the drug and sex trades.

Organized crime groups do not dominate illegal gambling in western Canada, and their sphere of influence is usually limited—for instance, to a particular ethnic group. Sometimes individual members of organized crime groups are involved in illegal gambling operations with individuals who have no gang connections. Controlled markets, restricted entry, price fixing, high levels of violence, and bribing public officials to look the other way characterize traditional organized crime gambling monopolies. There is little evidence to indicate that these tactics are being used or that organized crime groups derive significant portions of their income or power from illegal gambling activities. For the most part, illegal gambling is a supplementary activity that takes a back seat to more serious and lucrative illicit activities.

Conclusions

- Organized crime operations—which are commonly associated with ethnic or motorcycle gangs—are active in the four largest western Canadian cities. These groups tend to be involved in drug trafficking, the sex trade and other criminal activities (e.g. theft, extortion, assault); nevertheless, there is organized crime activity that is linked to both legal and illegal gambling operations (e.g. gaming houses, unlicensed machines, cheating at play, money laundering, and loan sharking).
- There is no evidence that organized crime has infiltrated legal gambling operations in western Canada. The legal gambling industry has not been contaminated by organized crime because it is, essentially, a publicly owned, operated and regulated enterprise. Where private interests are permitted, they are strictly licensed and inspected by provincial gaming regulators. This scrutiny includes thorough background checks for all industry personnel.

Implications

Government ownership of most gambling formats along with a tightly regulated gambling industry in western Canada makes it exceedingly difficult for organized crime interests to penetrate legal gambling operations. However, organized crime groups do exploit opportunities that arise in and around these venues (e.g. cheating at play, money laundering, counterfeiting, loan sharking, drug dealing). Law enforcement agencies, provincial gaming regulators, and gambling industry security personnel should confer regularly to discuss the incidence and nature of criminal activities that spin off from casinos and racetracks, with a view to sharing intelligence and devising joint strategies to mitigate these crimes.

5.1.5 Gambling and Corruption

Corruption has not surfaced as a major problem in western Canadian gambling investigations, however, isolated instances of "questionable practices" have been reported (e.g. skimming at a First Nations casino and favoritism in the granting of gaming licenses). While the legal gambling industry in western Canada is largely free from corruption, law enforcement officials remain vigilant for occurrences of graft and influence peddling.

Conclusion

- The dearth of corruption associated with western Canadian legal gambling operations is a result of provincial gaming licensing and regulatory procedures being effectively implemented, monitored, and enforced.

Implications

While instances of gambling-related crime, corruption, and scandal are shocking and sensational as evidenced in the BC "Bingogate" improprieties, these cases are relatively rare in western Canada. More in evidence are examples of gambling-related influence peddling and patronage on the part of a few politicians and bureaucrats, however, even these irregularities are uncommon. Law enforcement respondents make a valid suggestion when they recommend that each province have an audit mechanism to review gambling industry contracts. This practice will help to ensure that, as legal

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gambling expands in western Canada, it will continue to do so free of corrupting influences.

5.1.6 Asian Gambling

Several ethnic groups have been singled out for their avid interest in gambling (i.e. Australians, Middle Easterners, and Chinese). In western Canada there is a noticeably high proportion of Chinese and Vietnamese gamblers who frequent casinos, racetracks, and illegal card rooms. These ethnic gamblers prefer familiar games such as mah jong, fan tan, sic bo, pai gow, and the simulcasted horse races from Hong Kong.

Conclusion

Illegal gambling operations that cater exclusively to Asian players are reportedly

- commonplace in the Chinatown areas of the four largest cities. Police officials perceive Asians to be heavy gamblers (i.e. willing to make large wagers) and contend that Asians are disproportionately involved in gambling-related crime.

Implications

Although illegal gambling operations in Chinatown areas offer specialized customer services and a comfortable atmosphere for Asian gamblers, these activities are, nonetheless, illegal and, furthermore, patrons of these establishments risk being victims of gambling-related crime. Gambling law enforcement efforts in these ethnic enclaves should involve Asian community leaders and organizations to provide insight into the significance of gambling in the Asian culture. Conceivably, gaming licensing and regulation procedures could be amended to allow traditional Asian gambling in designated areas. With the cooperation and support of the Asian community, illegal gambling operations may decrease in number and pave the way for police agencies to deal effectively with those illegal games that continue to operate.

5.1.7 Crimes Associated With the Legal Gambling Scene

The legal gambling milieu attracts opportunistic criminal-types because of the ready availability of cash. The crimes engaged in might be gambling-related (e.g. cheating at play and race fixing) or crimes that take advantage of the gambling environment (e.g. theft, counterfeiting and loan sharking).

Conclusions

- Gambling venues, notably casinos and racetracks, act as magnets that attract certain types of crime. For instance, it is well known that casinos and racetracks
- are preferred locations for laundering the proceeds of crime.

- Security staff at these venues concentrate on ensuring the safety of the employees and customers, protecting the assets of the business, and protecting
- the honesty and fairness of the games. They are less concerned with criminal activities such as loan sharking and money laundering that does not directly affect their business operation.

Implications

Through their security operations, casino and racetrack executives can effectively identify and control criminal activities that impinge on their operations. Police officials, on the other hand, have had limited success in dealing with the spin-off crimes associated with these venues. New tools—such as the \$10,000 disclosure requirement—have had minimal utility in arresting money launderers. Strategies for surveillance, information exchange, and joint investigations should be explored and a formal arrangement worked out amongst law enforcement agencies, provincial gaming regulators, and gambling industry security personnel to suppress spin-off crimes in legal gambling venues.

There are a number of suggested direct actions that can be taken to improve the integrity of the racing industry, including making public recent veterinarian work done on horses and violations of track and racing corporation rules; life suspensions and criminal charges for administering certain banned substances; and not allowing jockeys, drivers or trainers to bet at the racetrack.

5.1.8 The Impact of Legal Gambling on Illegal Gambling

Expanded legal gambling can reduce illegal gambling if the legal format competes favorably with the services and payouts offered by illegal gambling operators. For instance illegal lotteries, raffles, and bingos are less prevalent with the expansion of

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legal formats and where there is legal electronic gambling, there are fewer "gray" machines than in provinces that outlaw electronic gambling. On the other hand, illegal gambling formats such as poker rooms and sports bookmaking flourish because their legal counterparts are unable or unwilling to provide the same services or betting options.

Conclusion

In western Canada, expanded legal gambling has a dampening influence on some illegal gambling formats, a negligible effect on others, and in some cases, may

- stimulate the growth of illegal gambling.

Implications

To eliminate the main forms of illegal gambling, provincial governments must make their own competing games more consumer-friendly in addition to devoting more resources to policing the illegal games.

What is ironic about the legal-illegal gambling comparison is that the main forms of illegal gambling in western Canada, sports bookmaking and unlicensed card rooms, appear to be relatively benign in terms of fostering a gambling addiction. On the other hand, VLT gambling, which is legal in three of the western provinces, is the format most closely linked to problem gambling (Wynne Resources, 1998). In this instance, the legal product may be riskier for communities and individuals than the illegal offerings.

5.1.9 Internet Gambling

Internet gambling is illegal in Canada because, except under provincial authority, it is unlawful to provide gambling sites in Canada. The existence of Internet gambling has created legal, moral, and jurisdictional concerns because it is competing with legal gambling formats, operating without regulation, and is open to serious criminal abuse.

Conclusions

- Internet gambling has immense growth potential because the technology is readily available, millions of people worldwide are on-line, and the gambling operations exist in cyber-space, which puts them beyond provincial laws and regulatory controls.
- Because the present laws against Internet gambling are inadequate and unenforceable, consumers are vulnerable to crimes such as fraud, credit card theft, and cheating. Moreover, there is no way for provinces to stop under-age gamblers from playing.

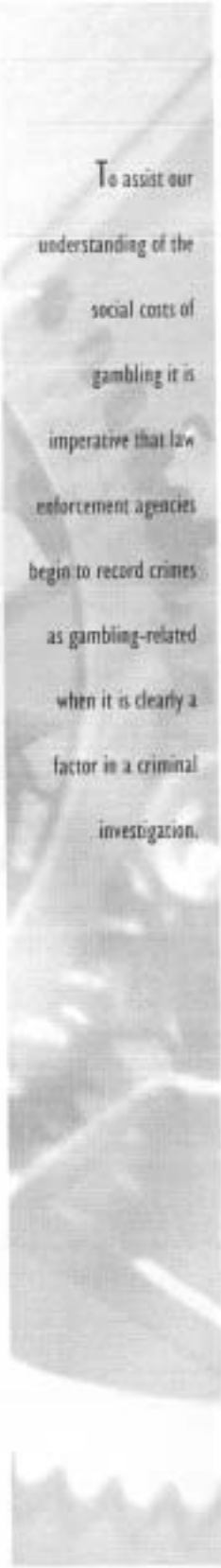
Implications

Western Canadian legislators have a difficult choice to make with respect to Internet gambling. Do they permit and regulate this form of entertainment, perhaps operating Internet gambling themselves, or do they continue declaring Internet gambling to be illegal, and attempt to keep it out of the western provinces? Jurisdictions throughout the world face the same predicament; and so far the trend is for Internet gambling to be legalized as has been done in Australia. Legalization seems likely because prohibition is futile in the face of advanced technology, the Internet avoids domestic prohibitions, and there is tremendous potential for governments to raise large revenues.

5.2 Criminogenic Problem Gambling

Clearly, our findings do not adequately outline the scope of this problem nor do they provide significant insight into the impact that these crimes have on law enforcement agencies and the judicial system. From previous studies (Wynne Resources, 1998; Gemini Research and Angus Reid Group, 1994) it is known that 3% to 5% of western Canadians have a gambling problem; VLTs are the gambling preference for the majority of problem gamblers; and that problem gamblers contribute a much higher portion of VLT, horse racing, and casino proceeds than expected based on their numbers in society.

Legalization of Internet gambling seems likely because prohibition is futile in the face of advanced technology, the Internet avoids domestic prohibitions, and there is tremendous potential for governments to raise large revenues.



To assist our understanding of the social costs of gambling it is imperative that law enforcement agencies begin to record crimes as gambling-related when it is clearly a factor in a criminal investigation.

Conclusion

- The types of crimes committed by problem gamblers are well known to western Canadian law enforcement agencies, and these include theft, forgery, embezzlement, fraud, credit card scams, domestic violence, break and enters, and suicide. Less understood is the prevalence of these crimes, as police agencies do not keep statistics that show whether a particular crime is gambling-related.

Implications

Solid data are lacking on the prevalence of criminal behavior by problem gamblers and why some problem gamblers commit crimes and others do not. Furthermore, a better understanding of the ripple effect of criminogenic problem gambling is needed to determine the social and economic impact of problem gambling and, most importantly, to develop strategies to reduce this cost to society. To assist in gathering this evidence, it is imperative that law enforcement agencies begin to record crimes as gambling-related when it is clearly a factor in a criminal investigation.

It would also be helpful if each province's Justice Ministry compiled an annual report that combined gambling and crime-related police and court records with the incidents investigated by government gaming regulators and gambling venue security personnel. A document such as this would provide a much clearer and deeper understanding of how gambling impacts law enforcement agencies and the justice system.

5.3 Gambling Law Enforcement Practices

Our findings indicate that official police agencies have made gambling law enforcement a low priority in terms of the manpower and fiscal resources they assign to it. To compensate for the lack of a police presence in illegal gambling oversight, provincial gaming regulatory bodies have added former police officers to their ranks and begun criminal investigations in addition to overseeing legal gambling operations. This makeshift arrangement creates gaps in gambling law enforcement that can be exploited by enterprising criminals. To remedy this situation, the police agencies either have to become more assertive in combating illegal gambling or give way to provincial gaming regulators who have an interest in expanding their sphere of influence. Either way,

direct action is required to give credibility to the gambling provisions in the Canadian Criminal Code.

Conclusions

- The approaches to monitoring and controlling legal and illegal gambling are similar across the four western Canadian provinces and, furthermore, there is excellent inter-agency cooperation in terms of intelligence sharing and joint investigations.
- Municipal police services and the RCMP have limited resources to investigate illegal gambling activities, whereas, the resources available to provincial gaming regulators to oversee legal gambling have increased as gambling has expanded. In fact, provincial gaming authorities and casinos are hiring experienced law enforcement agents to assist with investigations and security operations. In view of this trend, provincial gaming regulators are proposing that they also be authorized to conduct illegal gambling investigations.
- The consensus of both police officials and gaming regulators is that legal gambling formats are well regulated, but that illegal gambling enforcement is severely deficient. This imbalance may be due, in part, to the fact that gaming regulators have powerful financial deterrents at their disposal (i.e. the authority to suspend or withdraw gaming and/or liquor licenses), whereas in contrast, although police investigations carry the ultimate threat of incarceration, few cases reach the courts and, when they do, the penalty is usually a token fine, with jail time being a rarity.

Implications

Although law enforcement agents and gaming regulators have worked cooperatively in the past, this professional relationship may be in jeopardy as police agencies' resources are diminished and they lose experienced personnel to provincial gaming commissions. Police agencies do not have the necessary manpower to enforce the Canadian Criminal Code provisions pertaining to illegal gambling, and while gaming regulatory bodies do not have this mandate, they have the resources, expertise, and desire to take on the job.

A western Canadian inter-provincial "gambling task force" along the lines of the Ontario model, should be formed to suppress illegal gambling.

Despite the infrequent appearance of gambling-related cases, provincial court judges are beginning to notice an increased number of thefts, frauds, and embezzlement tied to VLT play and increasing dollar amounts associated with these crimes.

As suggested earlier in this section, a western Canadian inter-provincial "gambling task force" along the lines of the Ontario model, should be formed to suppress illegal gambling. This multi-stakeholder entity would have the added advantage of forestalling future "turf wars" amongst the law enforcement and provincial gaming regulatory agencies involved.

5.4 Gambling-Related Crime and the Court System

Several general observations can be made based on our review of gambling-related criminal cases in western Canada and our discussions with senior justice system officials: (1) gambling-related crime is not an urgent matter for the courts; (2) based on their sentencing patterns, judges and justices view illegal gambling violations as non-serious, victimless crimes and are generally unaware that illegal gambling operations are often linked to more serious crimes; and (3) there is a growing recognition among the judiciary that VLTs are addicting vulnerable citizens, some of whom are engaging in criminal acts to support their habits.

Conclusions

- Gambling-related cases that appear before the courts in western Canada are few in number and generally of two broad types: (1) cases where obtaining money to gamble or pay gambling debts leads to criminal charges (e.g. theft, fraud, break and enter, drug dealing), and (2) cases of illegal gambling based on Criminal Code of Canada violations (e.g. cheating at play, illegal lottery sales, unlicensed gambling on Native lands, keeping a common gaming house).
- Gambling-related cases are more likely to come before provincial courts than before the Court of Queen's Bench, but even in the former court, the number of cases is quite small. Despite the infrequent appearance of gambling-related cases, provincial court judges are beginning to notice an increased number of thefts, frauds, and embezzlement tied to VLT play and increasing dollar amounts associated with these crimes.
- An analysis of sentencing practices in the cases reviewed for this study shows that gambling addiction as a defense strategy is best viewed on a continuum from

outright rejection by the courts to complete acceptance as a mitigating factor for the criminal behavior.

- Judges have a limited knowledge of the effects of gambling addiction, consequently, they suggest that it is incumbent on counsel to demonstrate how problem gambling is related to the commission of a crime and why the accused should receive consideration based on this disorder. In most cases judges are prepared to give non-custodial, conditional sentences to convicted problem gamblers. Typical conditions include community service, obtaining treatment, a curfew, making restitution, and staying out of gambling establishments.

Implications

A perceptual gap exists between police agents and the judiciary in terms of how they view gambling-related crime. Judges see few cases of illegal gambling or gambling-related crime and those that do make it to the courts are generally of a non-violent and "victimless" nature. In that these cases are few in number, and seemingly innocuous in terms of the perceived impact on society, the courts tend to impose relatively mild penalties. In contrast, through their investigations, police officers see numerous instances of illegal gambling and criminal behavior that is gambling-motivated. As a result of this frequent contact with gambling-related crime, the police are more aware of the inter-connectedness of various crimes—for instance, they may know that a suspect sold drugs or committed a robbery to support a gambling habit. As a consequence, many of our law enforcement respondents have adopted a cynical attitude toward the court's handling of gambling-related crime, to the extent that some police agencies are reluctant to devote resources to gambling investigations. This situation is potentially damaging to the justice system because it threatens the credibility of the gambling provisions in the Criminal Code of Canada. The perception that gambling-related crimes are inconsequential should be acknowledged and redressed by provincial and federal legislators, police agencies, and officers of the court because gambling is an important, multi-billion dollar industry that occupies the interest of millions of Canadians.

Many of our law enforcement respondents have adopted a cynical attitude toward the court's handling of gambling-related crime, to the extent that some police agencies are reluctant to devote resources to gambling investigations.



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5.5 Gambling and Crime: Some Thoughts on Myths and Realities

The press, in an attempt to be controversial, sometimes creates and perpetuates myths about gambling-related crime that eventually become taken-for-granted ways of viewing these events. Our analysis of 220 news articles from western Canadian newspapers uncovered three of these myths and these are presented below in contrast with the findings from this study:

Myth #1: There is a clear causal link between the availability of gambling and higher crime rates. The presumption is that gambling expansion inevitably leads to more crime.

Finding: The link between gambling and crime in western Canada is tenuous and not well understood. For instance, while illegal gambling operations exist in western Canada's major cities, they are relatively small in scope in comparison to legal gambling initiatives; moreover, some forms of illegal gambling thrive even when legal gambling expands and, conversely, some illegal gambling formats are driven out of the marketplace by their legal gambling competition. Besides, the number of gambling-related crimes is still relatively low in western Canada even though gambling opportunities are widespread. While there are undoubtedly more crimes committed when gambling opportunities are increased, this eventuality does not impute a direct causal relationship between gambling and crime. As we know from the Windsor experience, expanded gambling when coupled with an augmented police presence may actually stabilize crime in the vicinity of the casino.

Myth #2: Gambling and political corruption go hand-in-hand.

Finding: The only incidents of gambling-linked political corruption uncovered in this study occurred in British Columbia. Other than these two high-profile cases, there is little evidence to indicate that political corruption is a factor in western Canada's legal gambling operations. On the contrary, police officials, gaming regulators, and gambling industry respondents agree that legal gambling in the western provinces is strictly controlled and relatively free of corrupt practices. Respondents do, however, point to the questionable ethics of political and bureaucratic influence peddling, gambling

industry lobby groups receiving preferential treatment, and patronage appointments to provincial Gaming Commissions. While these may be undesirable practices, they are hardly limited to the gambling realm of government operations.

Myth #3: Organized crime groups control gambling operations.

Finding: Organized crime influence is most pronounced in western Canada's four major cities, and is predominantly associated with ethnic or motorcycle gangs. While organized crime groups invariably engage in any disreputable activity that will turn a profit, there is no evidence that these groups dominate the illegal gambling markets. They may be involved in the business of illegal gambling, but their focus is on more rewarding activities such as drug dealing and the sex trade. Also, it is highly improbable that organized crime can penetrate legal gambling enterprises, mainly because of the rigorous licensing rules and surveillance procedures of provincial gaming regulatory bodies. Known criminals do frequent casinos and racetracks and sometimes engage in criminal activities such as money laundering, drug dealing, loan sharking, and cheating at play at these venues, however, their role is relegated to that of a "user" of the gambling facility rather than a "controller."

5.6 Final Comments

The rapid expansion of legal gambling in western Canada in the last three decades has influenced the public definition and acceptance of the activity. Generally, gambling is viewed as a relatively harmless form of entertainment; however, as research is clearly indicating, out of control gambling can lead to adverse repercussions, both for individuals and society. Among these negative impacts is an increased level of gambling-related crime.

Three main types of gambling-related crime were considered in this study: illegal gambling as proscribed by the Criminal Code of Canada, crimes committed in and around the legal gambling scene, and crimes committed by disordered gamblers. Our interviews disclose that the legal system's understanding of, and response to, these societal impacts is still evolving. The standard practice now in western Canadian provinces is tight regulatory controls over the terms and conditions for legalized

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gambling and a contrasting lax enforcement of illegal gambling violations. The oversight of gambling laws appears to be at a crossroads; legislators will either continue to disregard illegal gambling, in effect decriminalizing it, or intensify efforts to monitor and control the activity.

To protect against criminogenic problem gambling we must educate our citizens to gamble responsibly. The crimes associated with legal gambling venues may be reduced through closer customer scrutiny; for example, Beare (1996) recommends that casinos be allowed to exclude known criminals from their premises and Eadington (1998) expresses the radical notion of licensing gamblers in the same way that drivers are licensed. Eadington views the license as a privilege that can be removed if players are unable to control their gambling behavior.

Western Canadians have become pragmatic about legal gambling; they realize the economic benefits and entertainment opportunities it creates, while also recognizing the hazards inherent in the activity for some people. After weighing the pros and cons, the majority of citizens still view gambling as an acceptable social activity. To ensure that legal gambling retains public confidence and remains scandal-free, it is necessary to enforce the gambling sections in the Canadian Criminal Code, reduce the criminal enterprise at legal gambling venues, and address the social and health issue of problem gambling.

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APPENDIX 1

SUMMARIES OF GAMBLING-RELATED CRIMINAL CASES AND CRIMINAL CASES RELATED TO FINANCING GAMBLING

Theft

1996 R. v. McIvor (Alberta Court of Appeal): Accused stole money to gamble. Court of Appeal holds that gambling is not an exceptional circumstance to limit severity of sentence.

R. v. McIvor (1996), 181 A.R. 397, 116 W.A.C. 397, 106 C.C.C. (3d) 285 (C.A.), varying (October 26, 1995), Doc. Calgary 5039741P10101 (Alta. Prov. Ct.)

Jurisdiction: Alberta R10A.28889 XII.19

CRIMINAL LAW Fraudulent transactions relating to contracts and trade -- Miscellaneous offences. Accused embezzling money from employer bank to fund video lottery obsession. Accused had worked for the bank for 13 years and held a responsible position. She had become addicted to video lottery terminals, and entered into a scheme to steal from the bank which involved the opening of sham bank accounts in the names of friends. She wrote cheques on the sham accounts made payable to herself and other members of her family and approved the overdrafts. She was able to conceal her activity for 3 months, and had taken over \$8,000. She pleaded guilty to fraud, and sentence was suspended for 3 years. Crown appealed. Held, the appeal was allowed. Barring truly exceptional circumstances, a first offender convicted of embezzlement had to be sentenced to jail as a general deterrent. Except for accused's addiction to GAMBLING, her circumstances were not remarkable, and she had not suffered any unique consequences as a result of the charge or conviction. Accused's addiction or obsession with GAMBLING was neither an exceptional circumstance justifying the imposition of a non-custodial sentence nor a mitigating factor warranting a sentence of less than what would otherwise be fit or proper, and the sentencing judge erred in principle in finding that it was.

R. v. McIvor (1996), 181 A.R. 397, 116 W.A.C. 397, 106 C.C.C. (3d) 285 (C.A.), varying (October 26, 1995), Doc. Calgary 5039741P10101 (Alta. Prov. Ct.)

Jurisdiction: Alberta R10A.28260 XII.1.f.i.B

CRIMINAL LAW Fraudulent transactions relating to contracts and trade -- Fraud -- Sentencing -- Adult offenders -- Quantum. 4 months' imprisonment -- 3 years' probation -- Restitution. The accused, a first offender, pleaded guilty to defrauding her employer, a bank, of \$8,075 over a period of 3 1/2 months. She had worked for the bank for 13 years and held a responsible position. She opened sham bank accounts in the names of friends, wrote cheques on the sham accounts payable to herself and approved the overdrafts. Except for an addiction to GAMBLING, her personal circumstances were not remarkable. The trial judge suspended the passing of sentence and placed the accused on probation for 3 years, ordering her to make restitution. The Court of Appeal (O'Leary J.A., Hembroff and Nash JJ.) allowed the Crown's appeal, stating that, barring truly exceptional circumstances, a first offender convicted of embezzlement must be sent to jail, and that the trial judge erred in finding that the accused's addiction to GAMBLING constituted an exceptional circumstance. The accused was sentenced to 4 months' imprisonment. The probation order, including the provision for restitution, was affirmed.

1996 R. v. Ross (Alberta Provincial Court): VLT case. Woman took money from place of employment to gamble. Leniency on sentencing took woman's pathological gambling condition into consideration.

R. v. Ross (1996), 185 A.R. 224 (Prov. Ct.)
Jurisdiction: Alberta R10.21925 XI.1.a.v.A

CRIMINAL LAW Offences against rights of property -- Theft and offences resembling theft -- Theft -- Sentencing quantum -- Adult offenders. Accused receiving money from tenants but using money for GAMBLING -- Accused admitting offence as soon as employer discovering shortages and accused co-operating fully with police -- Accused and husband both losing jobs over incident -- Accused suffering from major depression and GAMBLING addiction for which she was being treated -- Scheme completely unsophisticated and accused not attempting any cover-up -- Exceptional circumstances justifying suspension of sentence. The accused was employed as a building accountant and manager of an apartment building. One of her duties was receiving rents and issuing receipts. She was underqualified for her job, which she greatly enjoyed, but which caused her a great deal of stress. Over a two-month period she took \$8,000 in cash from tenants and used the money for video lottery terminal GAMBLING. She spent about the same amount of her own money on GAMBLING during the same period. She intended to replace the money but was unable to do so. When her employer discovered the cash shortages, the accused immediately confessed and co-operated throughout the police investigation. She was dismissed, as was her husband, who worked for the same employer. She was 34 years old, with three children. Her psychological assessment indicated that she suffered from major depression as well as a pathological GAMBLING condition, for which she was receiving treatment. Her pre-sentence report indicated she would be an excellent candidate for probation. She pleaded guilty to theft and consented to a restitution order. Held, the sentence was suspended for 2 years. Certain unique circumstances of the case took it outside the rule that the dominating sentencing principle in such cases should be general deterrence. Not only had the accused lost her job, so had her husband, and the long-term income available to the family had come to an end. Furthermore, she was suffering from depression as well as an addiction to GAMBLING. There was a complete lack of sophistication in the accused's conduct, and she did not plan any scheme to cover up the theft. Her own admissions provided the information needed to investigate the offence, and the accused was very remorseful. There were exceptional circumstances that would justify the court in considering a non-custodial sentence.

1995 R. v. Whitney (Alberta Provincial Court): Money stolen partly because of gambling addiction. Possible consideration in sentencing.

R. v. Whitney (1995), 167 A.R. 187 (Prov. Ct.)
Jurisdiction: Alberta R10.21959 XI.1.a.v.A

CRIMINAL LAW Offences against rights of property -- Theft and offences resembling theft -- Theft -- Sentencing quantum -- Adult offenders. 90 days' imprisonment. The accused, a 28-year-old Native Canadian, pleaded guilty to stealing between \$6,000 and \$9,000 from her employer, a Reserve. Initially, she took relatively small amounts of money and replaced it before the theft was detected. Then, she began to GAMBLE, and started taking much larger amounts of money. She re-evaluated her life and used the proceeds of a large bingo win to help repay stolen funds. She admitted the thefts when they were detected and offered restitution. The Reserve refused to discuss amounts with her and thwarted her efforts to make orderly restitution. It also terminated her employment. The accused was a single mother with a grade 12 education. She had a 1989 conviction for driving over 80. She lived on the Reserve and suffered some

ostracism as a result of her acts. Stating that the breach of trust involved in this offence called for a period of incarceration, Pradsham Prov. J. sentenced the accused to 90 days' imprisonment.

1997 R. v. Wong (BC Court of Appeal): 19 year old accused and companion committed violent robbery and was involved with drugs and gambling. Possible consideration in sentencing.

R. v. Wong (1997), 88 B.C.A.C. 246, 144 W.A.C. 246 (C.A.)
Jurisdiction: British Columbia R11C Supp.788 XXVII.5.g.iii

CRIMINAL LAW Appeals – Appeal of sentence – Types of orders – Sentence confirmed. Accused given global sentence of four years for conviction on two counts of robbery and one count of attempted robbery all of which occurred in two-day period – Accused appealed sentence on grounds trial judge failed to give weight to principle of rehabilitation – Appeal dismissed – Trial judge took into account all relevant factors and saw need to balance potential rehabilitation against need for denunciation due to nature of offences – Sentence imposed was within range appropriate for offences. The accused and a companion robbed a taxi driver by holding a knife to his throat and temporarily blinding him. The next evening, the accused grabbed a woman pedestrian and unsuccessfully tried to force her into a car with the intention of robbing her. About one hour later, the accused and his companion robbed another taxi driver. The accused pleaded guilty to two counts of robbery and one count of attempted robbery. The accused was sentenced to two years on the first count, three years on the second count and four years on the third count, all to be served concurrently. The accused was a 19-year old student with strong family and community support that would assist him in his rehabilitation. The accused and his companion were both first offenders, but they were involved in drugs and GAMBLING. The trial judge rejected the accused's defense that he acted under the influence of his companion and observed that the accused lacked true remorse. The seriousness of the offences involving violence to vulnerable citizens was considered. The accused appealed the sentence on the grounds that the trial judge failed to give weight to the principle of rehabilitation. Held, the appeal was dismissed. The trial judge took into account all relevant factors as was evident in his reasons. The judge saw a need to balance the potential rehabilitation of the accused with the need for denunciation because of the nature of the offences. The range of sentence in a case such as this was from two to four years. The sentence imposed was within that range and was imposed after balancing all appropriate factors. The sentence was fit.

1995 R. v. Elliot (BC Court of Appeal): Accused given three concurrent life sentences for three counts of robbery. Gambling addiction mentioned as a factor in accused's ability to rehabilitate.

R. v. Elliot (1995), 64 B.C.A.C. 64, 105 W.A.C. 64 (C.A.)
Jurisdiction: British Columbia R10.23095 XI.2.e.i.A

CRIMINAL LAW Offences against rights of property – Robbery – Sentencing – Adult offenders – Principles. Trial Judge sentencing accused to three concurrent life sentences for three counts of robbery where no weapon involved – Trial Judge erring in placing too much emphasis on accused's prior record. Accused was charged with three counts of robbery. There was no indication that accused at any time had a weapon in his possession. At the time of sentencing, accused had spent almost all of the previous 20

years in prison for prior breaking and entering, theft, and robbery offences. A psychological assessment of accused indicated that he had a compulsive GAMBLING disorder and that he was likely to be a high risk to re-offend if he remained untreated. Accused was sentenced to three concurrent life sentences. He appealed. Held, the appeal was allowed. A life sentence for robbery where there was no violence and accused had no weapon was in and of itself unfit. The sentencing Judge erred in placing too much emphasis on accused's prior criminal record. The nature of the crime should have been the most compelling consideration.

1990 R. v. Turgeon (BC Court of Appeal): Gambling cited as cause for theft charge. Turgeon's sentence lightened because he had no previous record and a good standing in community. Perhaps, gambling behavior seen as an anomaly to his character.

*R. v. Turgeon (September 12, 1990), Doc. V01287 (BC C.A.)
Jurisdiction: British Columbia R10.22120 XI.1.a.v.A*

CRIMINAL LAW Offences against rights of property -- Theft and offences resembling theft -- Theft -- Sentencing quantum -- Adult offenders. 6 months' imprisonment -- \$4,524.36 restitution. The accused aged 35, pleaded guilty to a charge of theft over \$1,000. While working as a bar manager, he stole money from his employer by making out false liquor requisitions. He did this because he had become involved in GAMBLING and owed a substantial amount of money. The accused had no criminal record and had a good record in the community. The trial Judge, stating that breaches of trust of this nature must, in normal circumstances, result in jail terms, imposed a sentence of 6 months' imprisonment and ordered the accused to make restitution in the amount of \$4,524.36. On appeal by the accused, the Court of Appeal (Macfarlane J.A.; Wallace and Toy JJA concurring) affirmed the sentence.

1990 R. v. Siu (BC Court of Appeal): Example of debt leading to criminal charge (fraud). Siu sold supplies bought on his business' credit to pay for gambling debts.

*R. v. Siu (June 11, 1990), Doc. CA012172 (BC C.A.)
Jurisdiction: British Columbia
R10A.28207 XII.1.f.i.A*

CRIMINAL LAW Fraudulent transactions relating to contracts and trade -- Fraud -- Sentencing -- Adult offenders -- Principles. Betrayal of business relationship not same as breach of trust. Accused secured \$6,700 worth of supplies from his business on credit. He later sold these goods to pay off GAMBLING debts. Accused made restitution to the supplier, continued to do business with him and was working to pay off the debt. His criminal record consisted of a 10-year-old theft conviction. Accused was sentenced to 6 months in jail on the principles of "breach of trust" and deterrence. Accused appealed from sentence. Held, the appeal was allowed. Accused's crime was a betrayal of a business relationship but not a breach of trust. Incarceration would not assist in rehabilitation of accused and nor was it required as a general deterrent. Accused needed income to pay off debts and incarceration would have caused him to lose his business. The sentence was suspended with 6 months' probation.

1997 R. v. Sanderson (Manitoba Court of Appeal): Gambling cited as a cause for the accused illegal action (robbery). Possible mitigating factor in sentencing.

R. v. Sanderson (1997), 115 Man. R. (2d) 205, 139 W.A.C. 205 (C.A.) Jurisdiction: Manitoba R10 Supp.303 XI.2.e.i.B

CRIMINAL LAW Offences against rights of property -- Robbery -- Sentencing -- Adult offenders -- Quantum. Accused became addicted to GAMBLING and robbed credit union -- Accused was convicted and sentenced to two years less one day imprisonment -- Accused's appeal from sentence was allowed -- Service of sentence in community would probably be as effective in reforming accused as service in institution. The 51-year old accused used a fake bomb to threaten staff at a credit union, falsely suggested that he had a gun and stole \$1,600. He was convicted of robbery while wearing a disguise. The accused appealed his sentence of two years less a day imprisonment. Held, the appeal was allowed. The accused had no previous convictions. Until the present offence, he had been a productive member of society and had taken care of his disabled mother. He had robbed the credit union to obtain funds to gamble. He had made a full confession to the police and had sought treatment for his addiction. The sentence of two years less a day was a fit one having regard to the accused's circumstances. The sentencing judge had erred in deciding whether the sentence could be served in the community. Service of the sentence in the community would not endanger the community. In the present case, it would probably be as effective in reforming the accused as service in an institution.

1995 R. v. Scanlon (Manitoba Court of Appeal): Gambling cited as a cause for accused legal action (break and enter, robbery). Rehabilitation of accused gambling addiction considered as a factor in sentencing.

R. v. Scanlon (1995), 107 Man. R. (2d) 190, 109 W.A.C. 190 (C.A.) Jurisdiction: Manitoba R10A.25387 XI.5.c.vii.A

CRIMINAL LAW Offences against rights of property -- Breaking and entering and related offences -- Breaking and entering and committing indictable offence -- Sentencing quantum -- Adult offenders. Time served -- Probation -- Restitution order. The accused was convicted of break, enter and theft and the unlawful use of a credit card. He was a golf professional, in his early thirties, who became addicted to GAMBLING and committed these offences when he was unable to pay his debts. He had no criminal record. The victims in both cases were family friends. In one case, the accused used a credit card that he had taken from his friends' house while visiting them. In the other case, committed 1 year later, the accused gained entry to the same friends' house through an unlocked door in the middle of the night and stole over \$6,000 in cash and negotiable instruments. Housekeeping and caregiving staff were suspected and humiliated by interrogation and lie detector tests. The friends no longer felt secure in their home and experienced difficulty in sleeping. The accused turned himself in to police and made a full confession. The trial judge sentenced the accused to 9 months' imprisonment for the break, enter and theft and to 2 months concurrent for the unlawful use of a credit card. He also made a probation order with terms requiring full restitution and the acceptance of counseling for the accused's GAMBLING addiction. The accused served 5 weeks of his sentence before being released pending appeal. Upon release, he found well-paid, long-term employment, which increased the likelihood of rehabilitation and made restitution, a more achievable goal. The Court of Appeal (Twaddle J.A.; Helper and Monnin J.J.A. concurring) allowed the appeal and reduced the sentence to time served followed by probation as ordered by the trial judge, except that the probation order was amended to include a further term that the accused abstain absolutely from

GAMBLING. The Court stated that the sentence was fit when imposed but had become unfit, and that sending the accused back to jail would prejudice both his rehabilitation and his ability to make restitution.

R. v. Scanlon (1995), 107 Man. R. (2d) 190, 109 W.A.C. 190 (C.A.)
Jurisdiction: Manitoba R10A.25188 XI.5.c.vi.A

CRIMINAL LAW Offences against rights of property – Breaking and entering and related offences – Breaking and entering and committing indictable offence – Sentencing principles – Adult offenders. Court of Appeal imposing sentence of 5 weeks' time served for theft and housebreaking – Criminal Code, R.S.C. 1985, c. C-46, s. 687(1)(a). The accused was addicted to GAMBLING. Unable to pay his GAMBLING debts, the accused unlawfully used a credit card he took from a friend's residence. Accused later entered that residence through an unlocked door and stole \$6,000. Accused turned himself in and pleaded guilty to both charges, his first offences. A trial Judge found exceptional circumstances warranting a lesser sentence than usual for the charges, and imposed 9 months' imprisonment for break, enter and theft and 2 months' imprisonment for the unlawful use of a credit card, and a restitution order. After serving 5 weeks', accused appealed his sentence. During interim release pending the appeal, accused secured long-term employment. The accused was obtaining counseling and had refrained from GAMBLING. Held, the appeal was allowed. A totality of circumstances might warrant a departure from the general rules of sentencing. What was required were circumstances which indicated that a rehabilitative sentence would be in the public, and the offender's, interests. The trial Judge correctly considered that the mitigating circumstances entitled accused to a lesser sentence than that usually imposed for such crimes. Section 687(1)(a) of the Code empowered a Court of Appeal to consider circumstances that arose after the trial sentencing. The accused's new employment made rehabilitation and restitution even more likely. Considering the exceptional circumstances, time served was to be substituted.

1993 *R. v. Zlatic*: (Supreme Court of CANADA) (Québec): Accused had belief that he could gamble back his debts. Court held that this was not an excuse to commit fraud. Gambling referred to as "risky non-business use."

R. v. Zlatic (1993), 19 C.R. (4th) 230, 79 C.C.C. (3d) 466, 100 D.L.R. (4th) 642, 151 N.R. 81, 54 Q.A.C. 161, [1993] 2 S.C.R. 29, affirming (1991), 65 C.C.C. (3d) 86 (Que. C.A.)
Jurisdiction: Supreme Court of Canada Quebec
R10A.27959 XII.1.a.i

CRIMINAL LAW Fraudulent transactions relating to contracts and trade – Fraud – Nature and elements of offence – Fraudulent intent. Accused obtaining goods on credit and GAMBLING away proceeds of sale – Criminal Code, R.S.C. 1985, c. C-46, s. 380(1). Accused wholesaler obtained goods on credit from suppliers. He gambled away the money obtained from the sale of the goods. He believed that he had a GAMBLING system, which would allow him to win and to pay back his debts. He appealed his subsequent conviction for fraud. Held, the appeal was dismissed. With respect to the actus reus, accused's taking of the goods without concern for payment and GAMBLING away the proceeds amounted to fraud by "other fraudulent means" within the meaning of s. 380(1) of the Code. Although accused had the legal right to use the funds he obtained from the sale of the goods, that right was not unrestricted. Diverting the funds to a risky non-business use was dishonest. With respect to mens rea, fraud by "other

fraudulent means" did not require a subjective appreciation of dishonesty. It was only necessary that accused knowingly undertake the dishonest conduct and subjectively appreciate that the consequences of the conduct could cause loss to another person. Accused's belief that he could win and pay off his debts was not an excuse. (67 pages)

Drug Dealing

1988 R. v. Shelstad (BC Court of Appeal): Accused became involved with narcotics transaction to afford gambling debts.

R. v. Shelstad (August 8, 1988), Doc. No. Vancouver CA007543 (BC C.A.)

Jurisdiction: British Columbia R28.734 V.1.d.i

NARCOTIC AND DRUG CONTROL Sentencing -- Principles of sentencing -- Mitigating factors -- General. Five years for trafficking in heroin. Accused, aged 48 was sentenced to 8 years' imprisonment for trafficking in heroin, his first offence. He had testified that he became involved in the transaction through his efforts to collect a GAMBLING debt. Accused had worked all his life and had a common law wife and son. Accused appealed. Held, the appeal should be allowed. In the circumstances, the sentence was reduced to 5 years.

Assault

1995 R. v. Duong (Alberta): Accused committed extortion and assault to collect a gambling debt.

R. v. Duong (April 13, 1995), Doc. Calgary Appeal 15038 (Alta. C.A.)

Jurisdiction: Alberta R9.1484 I.7.a.ii

CRIMINAL LAW General principles involving criminal law -- Involvement in crime -- Complicity -- Parties by common intention. Criminal Code, R.S.C. 1985, c. C-46, s. 21(2). The victim owed a GAMBLING debt to a third party. Accused approached him in a restaurant and asked him to go outside. He demanded that the victim pay him the money owed to the third party. At that time two more men approached and demanded the money from the victim. One of the other men threatened the victim and then punched him and threw him to the ground. Accused did not participate in the fight and during the course of it left the scene. He and the assailant were charged with extortion and assault. Accused was convicted and he appealed. Held, the appeal was dismissed. The trial Judge had expressly stated that he did not find the common intention between accused and the assailant extended to the assault. He had found accused guilty of assault by virtue of s. 21(2) of the Criminal Code by finding that he knew or ought to have known that the assault would occur. To reach the conclusion that accused was guilty of assault it was not necessary for the trial Judge to find that accused had participated in the pre-planning of the assault. (8 pages)

Criminal Cases Related to Illegal Gambling

1995 R. v. Brennan (Alberta Provincial Court): Accused provided lottery tickets to promote book sales. Charged with conducting an illegal lottery.

R. Brennan (1995), 59 C.P.R. (3rd) 200, 164 A.R. 391 (Provincial Court), Jurisdiction: Alberta R9C.15792 IX.26.a.i

CRIMINAL LAW Disorderly houses, gaming and betting – Lotteries – Advertising or printing lottery scheme – Nature and elements of offence. Accused running lottery to promote book of poetry – Lottery tickets provided to each purchaser of book – Criminal Code, R.S.C. 1985, c. C-46, s. 206 (1)(f). Accused promoted the sale of a book of poetry by providing each purchaser with a sheet of five tickets for a draw to win an automobile. There was also a weekly draw for a \$50 prize. Anyone who did not wish to purchase the book received one free ticket. Accused was reluctant to quickly proffer one free ticket. The entire scheme was geared to the provision of five free tickets upon the purchase of the book of poetry. Accused was charged with conducting an illegal lottery, contrary to s. 206(1)(f) of the Code. At trial, held, accused was convicted. The disposition of the automobile was by means of a lottery of chance in which money was paid for the chances. The fact that the lottery was held to promote a book of poetry was immaterial. The occasional provision of a free ticket was not a defense.

1995 R. v. Page (Alberta Court of Appeal): Accused was charged with operating a lottery contrary to the terms of license. Accused maintained that the relevant Order in Council was a regulation that should have been published and was not. Therefore accused should be protected under the Act and have its trial quashed. Court dismissed.

R. v. Page (1995), 165 A.R. 88, 89 W.A.C. (C.A.), affirming (1994), 153 A.R. 301, [1994] C.C.L. 11848 (Q.B.), Jurisdiction: Alberta R9C.15835 IX.26.d.iv

CRIMINAL LAW Disorderly houses, gaming and betting – Lotteries – Conducting lottery – Miscellaneous issues. Statutory instruments Act, R.S.C. 1985, c. S-22, s.11(2) – Criminal Code, R.S.C. 1985, c. C-46, s. 207, 207(3). Accused were charged with operating a lottery contrary to the terms of a license issued by the Alberta Gaming Commission under the authority of the Lieutenant Governor of Alberta and pursuant to s. 207 of the Code. The means of delegation of authority to issue the license was an Order in Council naming the Commission as a license issuer. Accused maintained that the Order in Council was a regulation, which required publication, and since it had not been published, they were entitled to the protection of s. 11(2) of the Act. Accused's application to have their committal for trial quashed was dismissed and they appealed. Held, the appeal was dismissed. Assuming that the Order in Council was a regulation, which required publication, accused, did not come within the protection of s. 11(2). That section said that no person could be convicted of an offence consisting of a contravention of any regulation which had not been published. Accused was not charged with contravention of the Order in Council, or regulation, but with the contravention of s. 207(3) of the Code.

1991 R. v. Bob (Saskatchewan Court of Appeal) Accused was operating a gaming house on a reserve without a license. Accused appealed conviction on the ground that he was exempt under the Indian Act from paying the required licensing fee because it was a tax designed to bring in revenue. Appeal allowed.

R. v. Bob (1991), 3 C.R.(4th) 348, 2 C.N.L.R. 104, 88 Sask. R. 302, 6 C.R.R.(2nd) 144(C.A), Jurisdiction: Saskatchewan R9C.15640 IX.8.c.iv

CRIMINAL LAW Disorderly houses, gaming and betting – Keeping common gaming house – Presumptions – Constitutional validity of provision. License fee illegal tax on Native people 185(1), 190(1), (1)(b) – Indian Act, R.S.C. 1970, c I-6, s. 185 (1) of the Code due to their operating bingo games on a reserve without first obtaining a license from the provincial government. Accused did not dispute that they were keepers of a common gaming house. As the proceeds from the games were used to finance pow-wows, the games could have been decriminalized pursuant to s. 190(1)(b) of the Code, except that no license had been granted under that section. The relevant regulations allowed the granting of a license provided that the province received a fee. The province refused to issue the license when accused refused to pay the fee. Accused appealed conviction on the ground that the fee was a tax from which they were exempt pursuant to ss. 87(1) and (2) of the Indian Act. Held, the appeal was allowed. The fee was a tax designed to bring in revenue. Although the requirement for the fee was severable from the rest of the licensing provisions, the province's refusal to issue the license without payment of the fee violated accused's s. 15 Charter rights.

1994 R. v. Nelson (Manitoba Provincial Court): Application for a judicial stay of proceedings (trial would never proceed) because of alleged abuse of process by federal authorities over Native gambling operations. (Stay of proceedings was denied.) (Two Case Digests)

R. v. Nelson (1994), [1995] 1 C.N.L.R. 107 (Man. Prov. Ct.) Jurisdiction: Manitoba R9.2183 II.2.f.iii

CRIMINAL LAW Constitutional issues in criminal law – Prosecutorial responsibility – Abuse of process – Conduct of prosecution. Indian accused arguing historical abuse of process against Indians – Prosecution not exhausting civil remedies first – Accused claiming Crown financially benefiting from prosecution. Accused, an Indian, was charged with keeping gaming devices and operating a common gaming house. The charges came after police raids on various Indian reserves. Accused argued that the charges were an abuse of process because of the historical abuse of process suffered by Indians within Canadian law, the lack of good faith on the part of Crown which stood to benefit financially if Native GAMBLING operations were curtailed, the fact prosecutors used criminal prosecution rather than a constitutional reference to determine Native jurisdiction over GAMBLING, and Crown's lack of jurisdiction over GAMBLING on Indian reserves. Accused applied for a stay of proceedings. Held, the application was dismissed. Any historical abuse of process suffered by Indians did not entitle accused to a stay of proceedings since, otherwise, no Indian would ever be charged with a criminal offence. There was no evidence that Crown's prosecution of accused was motivated by financial gain. Crown did not act for an improper purpose. In the absence of flagrant impropriety, the Courts were not to second-guess prosecutors. Crown was not obligated to exhaust civil remedies such as a constitutional reference before

being allowed to resort to criminal proceedings. Federal and provincial laws applied to persons living on reserves. Crown had no jurisdiction to grant a blanket dispensation from GAMBLING laws to Indians. A stay of proceedings for abuse of process was available only in the clearest of cases. Accused failed to demonstrate that the present case was one of those cases.

R. v. Nelson (1994), [1995] 1 C.N.L.R. 107 (Man. Prov. Ct.)
Jurisdiction: Manitoba R28 Supp.847 X

NATIVE LAW Miscellaneous issues. GAMBLING prosecution -- Abuse of process -- Blanket dispensation of Indians from GAMBLING laws -- Jurisdiction of GAMBLING law over reserves -- Indian accused arguing historical abuse of process against Indians requiring stay of proceedings. Accused, an Indian was charged with keeping gaming devices and operating a common gaming house. The charges came after police raids on various Indian reserves. Accused argued that the charges were an abuse of process because of the historical abuse of process suffered by Indians within Canadian law, the lack of good faith on the part of Crown which stood to benefit financially if Native GAMBLING operations were curtailed, the fact prosecutors used criminal prosecution rather than a constitutional reference to determine Native jurisdiction over GAMBLING, and Crown's lack of jurisdiction over GAMBLING on Indian reserves. Accused applied for a stay of proceedings. Held, the application was dismissed. Any historical abuse of process suffered by Indians did not entitle accused to a stay of proceedings since, otherwise, no Indian would ever be charged with a criminal offence. There was no evidence that Crown's prosecution of accused was motivated by financial gain. Crown did not act for an improper purpose. In the absence of flagrant impropriety, the Courts were not to second-guess prosecutors. Crown was not obligated to exhaust civil remedies such as a constitutional reference before being allowed to resort to criminal proceedings. Federal and provincial laws applied to persons living on reserves. Crown had no jurisdiction to grant a blanket dispensation from GAMBLING laws to Indians.

1995 *R. v. Jim* (BCSC): Argument that gambling was an integral part of Native culture, therefore providing an exemption from Criminal Code provisions. Held that gambling was an intermittent and casual form of entertainment--not a constitutionally protected right.

R. v. Jim (1995), 14 B.C.L.R. (3d) 350, [1996] 3 W.W.R. 30, [1996] 1 C.N.L.R. 160, 66 B.C.A.C. 105, 108 W.A.C. 105 (C.A.), leave to appeal to S.C.C. refused [1996] 7 W.W.R. ix (note), 21 B.C.L.R. (3d) xxxvi (note), 83 B.C.A.C. 320, 136 W.A.C. 320 (note), [1996] 3 C.N.L.R. iv (note), 203 N.R. 399 (note) (S.C.C.)
Jurisdiction: Supreme Court of Canada British Columbia R9C.15678 IX.11.d

CRIMINAL LAW Disorderly houses, gaming and betting -- Exemptions from gaming offences -- Miscellaneous exemptions. Accused arguing gaming integral aboriginal right exempt from Criminal Code provisions -- Accused appealing gaming convictions on grounds trial Judge applied wrong tests in determining whether gaming integral part of culture -- Criminal Code, R.S.C. 1985, c. C-46, s. 206(1). Accused, a member of the Wet'suwet'en aboriginal group, sold tickets and helped organize a large bingo. Accused was charged on two counts of gaming under s. 206(1) of the Code. At trial, accused submitted that s. 206(1) did not apply to him because GAMBLING and gaming had been an integral part of Wet'suwet'en

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