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Public Hearing

before

SENATE JUDICIARY COMMITTEE

SENATE BILL No. 1585

(Proposes several changes to the laws governing prostitution)

and

"Discussion on the topic of Compulsive Gambling"

LOCATION: Casino Control Commission
Atlantic City, New Jersey

DATE: April 22, 1993
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator William L. Gormley, Chairman
Senator Louis F. Kosco
Senator Bradford S. Smith

ALSO PRESENT:

John J. Tumulty,
Office of Legislative Services
Aide, Senate Judiciary Committee



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Hearing Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
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New Jersey State Legislature

SENATE JUDICIARY COMMITTEE

LEGISLATIVE OFFICE BUILDING, CN-066

TRENTON, NEW JERSEY 08625-0068

(609) 292-5526

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NOTICE OF PUBLIC HEARING

The Senate Judiciary Committee will hold a public hearing on the following bill:

**S-1585 Proposes several changes to the laws
Gormley governing prostitution.**

The committee will also discuss the topic of Compulsive Gambling.

The hearing will be held on **Thursday, April 22, 1993 at 10:00 A.M.** at the **Casino Control Commission, Tennessee and the Boardwalk, Atlantic City, New Jersey.**

The public may address comments and questions to John J. Tumulty, Judiciary Section, Office of Legislative Services. (609) 292-5526. Those persons presenting written testimony should provide 15 copies to the committee on the day of the hearing.

SENATE, No. 1585

STATE OF NEW JERSEY

INTRODUCED MARCH 11, 1993

By Senator GORMLEY

1 AN ACT concerning prostitution, amending N.J.S.2C:34-1 and
2 R.S.53:1-15 and supplementing Title 2C of the New Jersey
3 Statutes.

4
5 BE IT ENACTED *by the Senate and General Assembly of the*
6 *State of New Jersey:*

7 1. N.J.S.2C:34-1 is amended to read as follows:

8 2C:34-1. Prostitution and Related Offenses.

9 a. As used in this section:

10 (1) "Prostitution" is sexual activity with another person in
11 exchange for something of economic value, or the offer or
12 acceptance of an offer [made in or within view of a public place]
13 to engage in sexual activity in exchange for something of
14 economic value.

15 (2) "Sexual activity" includes, but is not limited to, sexual
16 intercourse, including genital-genital, oral-genital, anal-genital,
17 and oral-anal contact, whether between persons of the same or
18 opposite sex; masturbation; touching of the genitals, buttocks, or
19 female breasts; sadistic or masochistic abuse and other deviate
20 sexual relations.

21 (3) "House of prostitution" is any place where prostitution or
22 promotion of prostitution is regularly carried on by one person
23 under the control, management or supervision of another.

24 (4) "Promoting prostitution" is:

25 (a) Owning, controlling, managing, supervising or otherwise
26 keeping, alone or in association with another, a house of
27 prostitution or a prostitution business;

28 (b) Procuring an inmate for a house of prostitution or place in
29 a house of prostitution for one who would be an inmate;

30 (c) Encouraging, inducing, or otherwise purposely causing
31 another to become or remain a prostitute;

32 (d) Soliciting a person to patronize a prostitute;

33 (e) Procuring a prostitute for a patron;

34 (f) Transporting a person into or within this State with purpose
35 to promote that person's engaging in prostitution, or procuring or
36 paying for transportation with that purpose; or

37 (g) Leasing or otherwise permitting a place controlled by the
38 actor, alone or in association with others, to be regularly used for
39 prostitution or promotion of prostitution, or failure to make a
40 reasonable effort to abate such use by ejecting the tenant,
41 notifying law enforcement authorities, or other legally available
42 means.

43 [(5) "Public place" means any place to which the public or any
44 substantial group thereof has access.]

45 b. A person commits an offense if:

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:
Senate SJU committee amendments adopted May 6, 1993.

- 1 (1) The actor engages in prostitution;
- 2 (2) The actor promotes prostitution;
- 3 (3) The actor knowingly promotes prostitution of a child under
4 18 whether or not the actor mistakenly believed that the child
5 was 18 years of age or older, even if such mistaken belief was
6 reasonable;
- 7 (4) The actor knowingly promotes prostitution of the actor's
8 child, ward, or any other person for whose care the actor is
9 responsible;
- 10 (5) The actor compels another to engage in or promote
11 prostitution;
- 12 (6) The actor promotes prostitution of the actor's spouse; or
- 13 (7) The actor knowingly engages in prostitution with a person
14 under the age of 18, or if the actor enters into or remains in a
15 house of prostitution for the purpose of engaging in sexual
16 activity with a child under the age of 18, or if the actor solicits
17 or requests a child under the age of 18 to engage in sexual
18 activity. It shall be no defense to a prosecution under this
19 paragraph that the actor mistakenly believed that the child was
20 18 years of age or older, even if such mistaken belief was
21 reasonable.

22 c. Grading of offenses under subsection b. (1) An offense
23 under subsection b. constitutes a crime of the second degree if
24 the offense falls within paragraph (3) or (4) of that subsection.

25 (2) An offense under subsection b. constitutes a crime of the
26 third degree if the offense falls within paragraph (5), (6) or (7) of
27 that subsection.

28 (3) An offense under paragraph (2) of subsection b. constitutes
29 a crime of the third degree if the conduct falls within
30 subparagraph (a), (b), or (c) of paragraph (4) of subsection a.
31 Otherwise the offense is a crime of the fourth degree.

32 (4) An offense under subsection b. constitutes a disorderly
33 persons offense if the offense falls within paragraph (1) of that
34 subsection.

35 d. Presumption from living off prostitutes. A person, other
36 than the prostitute or the prostitute's minor child or other legal
37 dependent incapable of self-support, who is supported in whole or
38 substantial part by the proceeds of prostitution is presumed to be
39 knowingly promoting prostitution.

40 (cf: P.L.1991, c.211, s.1)

41 2. R.S.53:1-15 is amended to read as follows:

42 53:1-15. The sheriffs, chiefs of police, members of the State
43 Police and any other law enforcement agencies and officers shall,
44 immediately upon the arrest of any person for an indictable
45 offense, or of any person believed to be wanted for an indictable
46 offense, or believed to be an habitual criminal, or within a
47 reasonable time after the filing of a complaint by a law
48 enforcement officer charging any person with an indictable
49 offense, or upon the arrest of any person for shoplifting, pursuant
50 to N.J.S.2C:20-11, or upon the arrest of any person for
51 prostitution, pursuant to N.J.S.2C:34-1, or the conviction of any
52 other person charged with a nonindictable offense, where the
53 identity of the person charged is in question, take the fingerprints
54 of such person, according to the fingerprint system of

1 identification established by the Superintendent of State Police
2 and on the forms prescribed, and forward without delay two
3 copies or more of the same, together with photographs and such
4 other descriptions as may be required and with a history of the
5 offense committed, to the State Bureau of Identification.

6 Such sheriffs, chiefs of police, members of the State Police and
7 any other law enforcement agencies and officers shall also take
8 the fingerprints, descriptions and such other information as may
9 be required of unknown dead persons and forward same to the
10 State Bureau of Identification.

11 Any person charged in a complaint filed by a law enforcement
12 officer with an indictable offense, who has not been arrested, or
13 any person charged in an indictment, who has not been arrested,
14 shall submit himself to the identification procedures provided
15 herein either on the date of any court appearance or upon written
16 request of the appropriate law enforcement agency within a
17 reasonable time after the filing of the complaint. Any person
18 who refuses to submit to such identification procedures shall be a
19 disorderly person.

20 (cf: P.L.1982, c.219, s.1)

21 3. (New section) Loitering for the purpose of engaging in
22 prostitution. a. As used in this section, "public place" means any
23 place to which the public has access, including but not limited to
24 any public street, sidewalk, bridge, alley, plaza, park, boardwalk,
25 driveway, parking lot or transportation facility, public library or
26 the doorways and entrance ways to any building which fronts on
27 any of the aforesaid places, or a motor vehicle in or on any such
28 place.

29 b. A person commits a disorderly persons offense if he:

30 (1) wanders, remains or prowls in a public place with the
31 purpose of engaging in prostitution or promoting prostitution as
32 defined in N.J.S.2C:34-1; and

33 (2) engages in conduct that, under the circumstances, manifests
34 a purpose to engage in prostitution or promoting prostitution as
35 defined in N.J.S.2C:34-1¹; and

36 (3) has previously been convicted of a violation of this section,
37 or of N.J.S.2C:34-1 or N.J.S.2C:14-4 or under any similar statute
38 of the United States, this State or any other state for any offense
39 that is substantially equivalent to N.J.S.2C:34-1 or
40 N.J.S.2C:14-4¹.

41 c. Conduct that may, where warranted under the
42 circumstances, be deemed adequate to manifest a purpose to
43 engage in prostitution or promoting prostitution includes, but is
44 not limited to, conduct such as the following:

45 (1) Repeatedly beckoning to or stopping pedestrians or
46 motorists in a public place;

47 (2) Repeatedly attempting to stop, or repeatedly attempting to
48 engage passers-by in conversation;

49 (3) Repeatedly stopping or attempting to stop motor vehicles.

50 d. The element described in paragraph (1) of subsection b. of
51 this section may not be established solely by proof that the actor
52 engaged in the conduct that is used to satisfy the element
53 described in paragraph (2) of subsection b. of this section.

54 4. This act shall take effect immediately.

S1585 [1R]

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Proposes several changes to the laws governing prostitution.

STATEMENT TO

SENATE, No. 1585

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 6, 1993

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 1585.

Under the present provisions of N.J.S.2C:34-1, a person is guilty of prostitution if the person engages in sexual activity in return for something of value or if the person offers or accepts an offer in a public place to engage in sexual activity in exchange for an economic benefit. This requirement that a solicitation occur in a public place in order for an offense to be committed has resulted in many prostitutes waiting until they are in a private area such as a hotel room before discussing sexual activity. This practice has greatly hampered law enforcement efforts, particularly undercover operations, aimed at curtailing prostitution. In order to address this problem, this bill would delete the requirement that the offer of sexual activity occur in a public place in order for the offense of prostitution to be committed.

This bill would also provide that persons arrested for prostitution be fingerprinted. Prostitution is presently graded as a disorderly persons offense. Disorderly persons offenses are nonindictable offenses. Under R.S.53:1-15, only persons arrested for indictable offenses are routinely fingerprinted. Prostitutes often use aliases and rarely carry identification. Fingerprinting of prostitutes would help to identify repeat offenders. It would also aid law enforcement officers in those cases in which the person arrested is wanted on other charges.

In addition, this bill would establish the offense of loitering for the purpose of prostitution. A person would be guilty of this offense the person loiters in a public place in a manner and under circumstances manifesting the purpose of engaging or promoting prostitution. This offense would be punishable as a disorderly persons offenses. The committee adopted an amendment that would eliminate as an element of the offense of loitering for purpose of prostitution that the person had been previously convicted of a prostitution-related offense.

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Letter to Councilman J. Pasquale
from Paul J. Gallagher,
Copies of NJSA 2C:34-1, 2C:14-2,
2C:35-1, 2C:35-2, 2C:35-2.1, 2C:35-5,
submitted by Paul J. Gallagher

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bgc: 1-69

SENATOR WILLIAM L. GORMLEY (Chairman): The first bill for today is Senate Bill No. 1585.

First of all, I very much appreciate Senator Kosco coming down from Bergen County today to attend this hearing.

The reason for the hearing is to go over two issues: One, specifically, a recommendation from the City of Atlantic City and former Assemblywoman Dolores Cooper. It's the bill I've introduced, Senate Bill No. 1585, dealing with changes of the State statutes dealing with prostitution. Also, our second topic will be to deal with the issue of compulsive gaming, for what has been an elusive resolution for years. What do we do for funding for compulsive gaming, and to see if we can be -- to have testimony today to build a form of consensus on that particular issue.

As I said, I very much appreciate Senator Kosco coming today. You have a circumstance where this and other issues-- For years there has been a lot of focus on Atlantic City. Senator Kosco has been a member of this Committee, and served with me on this Committee for the last 17 months or so. He has a sincere interest in the redevelopment of this area and the building up of Atlantic City.

This and other hearings have been opportunities for us to outline to Senator Kosco the problems that we face, and sometimes our problems are problems of other cities. Hopefully, we can come up with solutions that won't only just aid Atlantic City, but aid the rest of the State.

Senator, I do appreciate you coming here today, and thank you for taking time out of your busy schedule.

SENATOR KOSCO: Thank you, Senator Gormley.

SENATOR GORMLEY: What we're going to do-- We have a trio of witnesses and they will -- we'll first deal with Senate Bill No. 1585. I'll ask my committee aide, John Tumulty, to outline the changes in the bill. Then what I would like to do after that is ask Assemblywoman Cooper to lead off the

testimony, then get a legal outline from Paul Gallagher as to the circumstances he has run into as Solicitor of Atlantic City, and then Detective Clarke can give us the outline of the actual problems on the street that are faced day-to-day, both by people in law enforcement and by visitors who encounter these circumstances.

So John, if you would outline the bill first.

MR. TUMULTY (Committee Aide): Essentially, the bill would make three changes to the present law dealing with prostitution. The bill would delete the requirement that the offer of sexual activity occur in a public place in order for the offense of prostitution to be committed. The bill would also provide for the fingerprinting of prostitutes, and the third thing that the bill would do is establish the offense of loitering for the purposes of prostitution.

SENATOR GORMLEY: Okay, thank you very much.

I'd like first to introduce someone who has had introduced before and passed, in her term of office, legislation that has improved enforcement in this area, and has had a real interest in this as a former resident, and someone who still is deeply concerned about issues of this nature in terms of the image of Atlantic City. I would like to introduce former Assemblywoman Dolores Cooper. Dolores?

D O L O R E S G. C O O P E R: Thank you, Senator. Good morning, everyone. It's a privilege to be here, considering the background that goes into today's hearing.

On July 24, 1991, Governor Florio signed my Assembly bill to crack down on prostitution or its promotion; stiffer fines and penalties which we all hoped would check the spread of AIDS.

At that time, depending on the circumstance of the offense, the promotion of prostitution was graded as either a crime of the third degree or a crime of the fourth degree.

Now, what does that mean to a layman, with no pun intended? A third-degree crime is punishable by between three and five years in prison, and a fine of up to \$7500. A fourth-degree crime is punishable by up to 18 months imprisonment, and a fine of \$7500.

Under my bill at that time, the crime of promoting prostitution was upgraded to one of the second degree if the offense involved a child under the age of 18.

Living on Pacific Avenue in Atlantic City for 43 years, I can tell you from firsthand that many of the prostitutes who walk those streets day and night were children. The bill continued on, if a person promoted prostitution of their own child or dependent, they were also guilty. Violation of this crime would be punishable by between five to ten years imprisonment and a fine of up to \$100,000.

At that time, the act of prostitution was classified as a petty disorderly person offense, punishable by up to 30 days in jail or, a \$500 fine. But what happened? In many cases, those charged with prostitution were back on the streets doing exactly what they were doing before. Do you think a pimp is going to lose his income? No way.

I have brought with me today, and will leave it for your observation, a press coverage right after the bill was signed that appeared in the Atlantic City Press where prostitutes were interviewed by our police. And their sarcastic comments-- Because as one hooker said after her pimp beat her up, she said, "He was my pimp. I'm not ashamed of that. But he was more, he was my best friend and my lover, and I miss him." This was after he was shot. She said she was now working to make enough money to buy him a headstone for his grave. So that gives you the kind of thinking we were faced with.

Many of you present today will remember the Channel 40 exposé on prostitution flourishing in Atlantic City. This was about two years ago. I formerly lived on Pacific and Stetton

Place, as many of you know, which was affectionately known as hookers' corner. While I was being interviewed by Channel 40, the johns drove up, cut their deals, and hookers got right in the car and drove off. Of course, all this was seen on television.

Do you all know that the child prostitutes exchange a place to stay or food to eat for their sexual exploitations? And this still continues. I had hoped the crackdown would check the spread of the deadly AIDS virus, but has it really? Check your papers; you know it hasn't.

I could go on and on about the experiences I've had with prostitution. I also, before the Governor signed my bill, was in Trenton with the late Captain Mucci and several detectives from our police department who also testified on the almost inability to cope with the ever-increasing problem, which is of course a detriment to Atlantic City.

Now, I'm going to interject a personal comment here. When the City of Trenton had started its rebuilding program, it was going along very slowly because of the high degree of prostitution. So the Trenton newspapers decided on a program of publishing the johns who were arrested when the prostitutes were arrested. Suddenly there was a drop in street prostitution, because if you were a john and your name appeared that you'd been picked up by the police and you're going to be in court, it was quite an embarrassment.

All of us went to the local paper and tried to interest them in doing the same thing, but the suggestion was turned down and we never could get that through. I personally, as many of my friends in the casinos, feel that if the johns did have their names published, it would be a controlling factor.

Therefore, I highly endorse Senator Gormley's bill, Senate Bill No. 1585, which of course after careful review is another giant step forward in attempting to protect cities such

as Atlantic City, whose visitors to the casinos should be able to be without the fear and threat of hookers, and not be propositioned every time they turn the corner.

As Mr. Tumulty just read, the three factors of the bill-- I think fingerprinting is probably one of the most important issues of your bill, Senator Gormley, because we know many of hookers are wanted for crimes in other areas. This will give our police department an opportunity to find out who these criminals are, and return them to where they come from. And perhaps it's a giant step forward in controlling one of the worst aspects of the casino era.

In closing, because of where I lived, I saw prostitution year in and year out, long before the casino era. But it was not as flagrant and violent as it is today. So I think, Senator, you made a giant step forward, and I hope the Assembly and all the Senate passes your bill. Perhaps we will see a cleaner, better Atlantic City.

Thank you.

SENATOR GORMLEY: Thank you, Dolores.

I would like now to call on Paul Gallagher, the City Solicitor of Atlantic City, to go over the impetus behind the bill in terms of questions that arose to you, in terms of your providing advice to the police department, and the particular limitations that were placed upon the police department -- the complaints that came to you, if you would.

P A U L G A L L A G H E R, ESQ.: Thank you, Senator, and good morning, Senator Kosco, members of the public.

For the record, my name is Paul Gallagher. I am the City Solicitor for the City of Atlantic City, but perhaps in this context I should use my civil service title, which is Municipal Attorney, rather than the traditional title of City Solicitor.

I'm here today on behalf of Mayor Whelan, and I believe -- or I can rarely say this -- even the City Council of

Atlantic City to express our unanimous support of this pending legislation.

By way of background, prior to being with the City, I served a stint as a County Assistant Prosecutor. In that capacity, I worked closely with the Casino Hotel Investigation Unit of the City of Atlantic City, and prosecuted successfully a number of armed robberies.

The violence that Mrs. Cooper has addressed in her comments is relatively widespread. I remember after convicting one particular woman of the night, she acknowledged to me that she hadn't turned a trick in a year, and that she simply went out in the night and assaulted visitors. This is an old problem, and this bill does not eradicate this problem. But it is a wider problem than just what you see in the middle of the night when you drive down Pacific Avenue.

Mrs. Cooper has talked about AIDS. She talked about the fact that children are brought into this business. It is a widespread social problem, but I do think that we are taking the right steps with this legislation, and I want to express our support of it. In fact, when Mrs. Cooper had her bill pending in the Assembly -- a bill which, to my understanding, is the predecessor of this bill -- we took that and adopted it as a city ordinance. I provided the Committee with a copy of Ordinance No. 99 of 1991, which very closely parallels the legislation now pending.

Of course, I'm sure our police department and Officer Clarke -- Detective Clarke will speak to the fact that having a 2C violation to enforce would be much more effective than an ordinance violation. We are very glad to see that our ordinance has the potential now of being raised to a higher offense. One thing that is in our ordinance that is not in the legislation, which I would suggest perhaps would be very helpful, is Section 4, where we specifically make the burden of proof something less than beyond a reasonable doubt.

We have in our ordinance said that, "The burden of proof, as to the existence of a prior conviction, shall be by the preponderance of the evidence, and that the court shall, pursuant to the rules of evidence, take judicial notice of its own records and the records of the Superior Court of New Jersey." I make that recommendation because having an NCIC rap sheet introduced into evidence can be a very difficult matter, but if the court is given some discretion in accepting that by a burden of proof lower than beyond a reasonable doubt, I think that the teeth that are intended to be placed in this legislation will remain.

Detective Clarke will speak to some of the specifics as to the public place. We endorse that change. We wholeheartedly endorse the aspect of fingerprinting. Detectives McKenna and Madamba have come to me on a number of occasions and asked, "How do we do this? How can we start to do this?" I have always turned to them and said, "The only result is legislative." We're very glad to see the responsiveness of Senator Gormley and his Committee in addressing what is a problem not only in Atlantic City, but throughout the State.

There is a circuit that is traveled here. This is a stop on the circuit. People come here on the lam from other places, and people leave here on the lam to other places. By placing fingerprints and real identification means in a history that has application throughout the country, it will close the net on some very dangerous people, and will help law enforcement greatly.

Just briefly on the loitering aspect of this legislation: As I said, ours was adopted in part from the Seattle Municipal Code, and in part from Mrs. Cooper's then pending Assembly bill. I think that it has been an effective help to our officers on the street. As I said, it does not eradicate the problem, but it at least helps to keep the

hookers moving. It helps to make this a more difficult place to ply their trade, and it gives the police officers a means to make life less financially lucrative, because any prostitute who is not on the street is not making money, and is going to go elsewhere. As I said, we're not going to eradicate it, but we'd like it not only to keep moving up and down Pacific Avenue, but to move out of town.

One final thought: A Philadelphia Municipal ordinance was recently adopted. The city has investigated the possibility of adopting a similar municipal ordinance which provides for the impoundment of motor vehicles used in the procurement of prostitution. My research to this date indicates to me a similar ordinance would be unavailable to a New Jersey municipality due simply to the complete preemption of that area by the State forfeiture law. I would ask the Committee to take a look at what Philadelphia has done. I do have a copy of their ordinance in my office, and I'd be happy to provide it to the Senator. I don't know that a municipality in New Jersey can take that step, given the status of not only the forfeiture statute, but the cases which have been decided under it, which clearly preempt that and make that a State penalty. No municipal ordinance would really stand up if one were to be adopted.

Thank you.

SENATOR GORMLEY: Thank you.

I'd like to note for those present, we've been joined by Senator Brad Smith from Burlington County, and I certainly appreciate his attendance today at the hearing.

SENATOR SMITH: I've had a wonderful walking tour of Atlantic City trying to find this place.

SENATOR GORMLEY: You weren't doing any research for the bill or anything?

SENATOR SMITH: No, actually I wasn't.

SENATOR GORMLEY: Okay. Thank you.

Detective Clarke? What I would appreciate now-- If you could give us not just individual instances, but if you have any statistics.

I think this is an opportunity, now that we have other members of the Committee from other areas of the State -- that they begin to get a handle firsthand of the pressures that are brought to bear on the Atlantic City Police Department that are unique for a town of 37,000 people in terms of the volume of these incidents that occur if you have, generally, the person-hours that are spent dealing with these problems.

And a point the Solicitor brought up: Any instances of crossover offenses, whether they be assault, drugs, or whatever they might be, to give an overall impact, if you would -- and to our other two witnesses, feel free to interject to supplement the Detective's testimony.

I certainly appreciate your being here today, and the efforts of the police department for being the precipitating factor behind this legislation. So if you would, I would appreciate your testimony.

D E T E C T I V E R O B E R T J. C L A R K E: Senator Gormley, Senator Kosco, and Senator Smith, and all the guests, my name is Detective Clarke. I work in the Atlantic City Prostitution Section.

A little bit of background on the unit: We were formed on July 11, 1991 by Chief Nicholas Rifice due to two problems. One was a number of complaints received by visitors of harassment by the prostitutes, and from Ms. Cooper and other--

SENATOR GORMLEY: Excuse me for one second. Somebody's a little-- Just going to quiet-- There was a little noise in the hallway. Okay, go ahead.

DETECTIVE CLARKE: Okay, as I explained, we were formed for two reasons: One was a number of complaints received by visitors of harassment by the prostitutes --

getting on and off the jitneys, they were congregating around doing pickpockets. When we worked on midnight-day shift, we were pulling in between five and six people a night to sign complaints on prostitutes on the street. At that time--

SENATOR GORMLEY: As prostitution or as pickpockets, or a combination?

DETECTIVE CLARKE: Prostitutes that were pickpocketing. You would get off the jitney, and they would stop you and talk to you, "Hey, want a date?" While they're doing this, they would be touching you and they would pickpocket you. You would never even feel it.

SENATOR GORMLEY: Do they work in teams or by themselves?

DETECTIVE CLARKE: It would be two, three, four. They would surround you, you know. At the time we started, I remember our first night out, we counted between 70 to 80 girls out at night on the streets on both sides of Pacific Avenue.

SENATOR GORMLEY: When did this start?

DETECTIVE CLARKE: This is July of '91, when we first performed.

The second was a video that was received by the Mayor. I think Caesars Hotel filmed it. As a matter of fact, if you can look at the board, the officer talking to the prostitute, she was involved in a fight in front of Albrey's Restaurant at Kansas and Pacific. If you freeze-frame the video, you can count at least 15 hookers and about five or six pimps watching the fight, among other people. It was just like an arena. They were surrounded. These two girls--

SENATOR GORMLEY: Who was fighting?

DETECTIVE CLARKE: The two prostitutes -- the one up here in the picture, the female with the black pants and blond hair.

SENATOR GORMLEY: They were arguing over the proprietary interest of the corner?

DETECTIVE CLARKE: Yes.

SENATOR GORMLEY: Oh.

DETECTIVE CLARKE: They were fighting over that area. It was a long, drawn-out fight. I wish I had brought the video for viewing, but it was a very long fight, and I think she was injured in the fight.

SENATOR GORMLEY: What was the hour?

DETECTIVE CLARKE: About 2:00 in the morning.

SENATOR GORMLEY: Give us an idea, what are the prime hours, 10:00 to 2:00 or--

DETECTIVE CLARKE: When we first started in July, it was between -- as soon as it started getting dark. Right around dusk they would come out, and they would be out on the street. Now, at the present date, about 12:00 they'll start; 11:30-12:00 they'll come out. Right now, we have limited it down to maybe there are about 15 to 20 girls out on a given time.

But they stayed out until -- at the time, the casinos closed at 4:00 and 6:00 on the weekends. That was a casino break. That was the heaviest rush. After the casinos break, the prostitutes left. That was their tour of duty, supposedly, and they left. They were off the streets.

Now since casino gambling is 24-hours, they usually get off as soon as it starts getting daylight. They start to eventually leave the streets. In this business, it's supply and demand. As long as somebody is stopping to have action with a prostitute, they are going to be out there.

But after the video -- we were showing the video. Like I said, we were formed-- Since we've been formed July of 1991, we have made over 1400 arrests just for engaging in prostitution, which would cover the lewdness statute also where we actually catch the prostitute in the act of prostitution with the john -- that would be in a public place, like a parking lot, or on a street corner.

SENATOR GORMLEY: How many convictions out of the 1400 arrests?

DETECTIVE CLARKE: The majority of them were convictions. They usually plead guilty the following day, in and out, and they leave this area. They would go to another section of the circuit, the circuit which consists of the major cities.

SENATOR GORMLEY: Do you mean like New York, Philadelphia or--

DETECTIVE CLARKE: Depending on what circuit you're on, you start--

SENATOR GORMLEY: There are different circuits?

DETECTIVE CLARKE: Yes. Depending on what-- It's a complex issue. But depending--

SENATOR GORMLEY: It's educational. Go ahead.

DETECTIVE CLARKE: Say the Portland circuit: You would start from Portland, to Seattle, to Hawaii. Then from Hawaii you usually come to Las Vegas; Texas, depending on what conventions were in Texas; San Antonio; Houston; Dallas; New Orleans; again, in Florida, depending on what type of year it is. Then you would work your way up to Washington; Philadelphia; Atlantic City is a major stop; New York. Then you probably would venture up to Toronto, Canada; then over to Vancouver; and then you would start back on the circuit again.

SENATOR GORMLEY: So I guess this points up the need for the fingerprinting?

DETECTIVE CLARKE: Well, as I'll explain to you a little later, yes, fingerprinting is very-- It's one of our major tools.

SENATOR GORMLEY: Go ahead, I'm sorry.

DETECTIVE CLARKE: Like I said, I'm going to talk on three subjects: a changing of the public place in the ordinance; changing the ordinance, "loitering for the purpose of prostitution," into a State statute; and the fingerprinting.

On the basis for a proposed change to the law, the unit has been conducting sweeps of prostitutes and johns. During a court session, a defense attorney argued that a hotel or motel room, once the occupants enter the room and the door is closed, is no longer a public place, but a private place. The argument was upheld and the word hit the street like wildfire. Since that time, the street prostitutes and females working out of escort services will not discuss any price or sexual act until they are in the room and the door is closed.

This has put a major crimp in our investigations with the escort services. I'd like to say once, when we first formed our unit, if you looked in the "Hoot Magazine" or any of the Yellow Pages, there were only a couple of escort services. Now if you open it up, there are, I think, three or four pages dedicated to it.

SENATOR GORMLEY: Is that since the case?

DETECTIVE CLARKE: No. At this date, if you open up a "Hoot Magazine" now, I think there are three or four pages dedicated to prostitution. In the directory -- Yellow Pages -- I think there are about 20.

SENATOR GORMLEY: Escort services?

DETECTIVE CLARKE: Escort services working in this area. So that has dramatically risen since -- especially since this law has hit, too.

SENATOR GORMLEY: Okay.

DETECTIVE CLARKE: Basically, it is legal as long as you're in a closed door. Like I said, this has put a major crimp in our investigations into the escort services. Now, this is the reason for the deletion of the words and the definitions of "a public place" and "prostitution-free" in the engaging statute.

On the loitering law, as previously stated the unit conducts sweeps on a monthly basis, usually two or three sweeps a month. The problem we run into is manpower. Sweeps are

conducted by the utilization of officers from within ACPD on overtime, or through other loans of officers from other municipalities. We use basically every surrounding community. We even went to the steps of Mt. Holly to bring men in.

We cannot get the solicits from these particular prostitutes all the time because there are only three men in our unit along with our sergeant. So that's why we pull these men in, to get the local girls that have been here.

If you go down the street-- If I was to take you down tonight, I'd be able to tell you exactly every girl that's out there and her name, unless there are new girls in on the track. The local girls we cannot get -- basically, can't get them off the street. They are here to stay. You never will get them off, unless like I said, we bring men in from other areas to get solicits. But now these girls all know that they don't say nothing until they get into the room.

However, we can control their activities to a degree with the use of the loitering statute. We are well aware that the loitering statute has been found to be unconstitutional because they're vague or encompasses-- The Legislature has recently passed legislation for loitering for the purpose of possessing, sale, or intent to possess drugs, which is very specific in nature. The loitering statute proposed for the prostitutes is also very specific in nature, and we believe would pass a constitutional challenge.

Mr. Gallagher has -- like I said, we passed that. The way we work on the loitering is, we usually set up a surveillance of a known area in which the girls have been convicted of prostitution within a year. We usually get three contacts, or three dates for the -- on the specific girl or whatever, and that's when we will arrest them and charge them with the ordinance which I think is 99 of 1991.

Since the city ordinance has been passed for this same purpose, and although no challenges were made to this date, we feel that this too would stand a challenge. You might

question, then, "If we already have a city ordinance, why then a State statute?" The answer is simple: The ordinance is equivalent to a traffic ticket, an inconvenience for doing business in Atlantic City. Being made into a State statute, those municipalities that do not have the ordinances and have prostitution problems, such as Camden, Newark, and Paterson, now have more of a tool to combat this particular offense. In making it a disorderly persons offense, the penalties that can be carried -- a substantial fine, or incarceration. It is our belief that the way we send a message to the professional prostitute is by incarceration.

We explain with the pimps, if you take the prostitute off the streets, they can't make their money; therefore, hopefully it will send the pimps -- and a pimp usually carries a couple of girls. We get them out of the city by incarceration, heavy fines, or community service. During those periods when he or she is actively engaged in their profession, time off the street, loss of money, and fines would put them back on the circuit and out of New Jersey. Making this a State statute would take a more substantial bite out of this particular offense.

The third thing I would like to speak about is the fingerprinting. Charleton (phoenetic spelling) currently has fingerprinting. Individuals charged with engaging in prostitution or lewdness under the present guidelines are not printed. Since September 1991, the State has denied our request for fingerprinting. They have kicked them back for reasons saying the law no longer encompasses fingerprinting for prostitutes.

Since that -- I would like to show you something. This is a criminal history of one female which would probably go from your feet, past the wall -- about 96 feet long. This is one female with a criminal history record.

SENATOR GORMLEY: Is it all prostitution?

DETECTIVE CLARKE: Yes. Prostitution-involved crimes.

SENATOR GORMLEY: How many arrests, total?

DETECTIVE CLARKE: There are probably about 12 on each page and there are a hundred pages. This same girl, in Monroe Township in a mall, left her three kids and her clothes just in a car unattended. She has been missing. We don't know -- presumed to be dead or whatever. We don't know if she just left the kids to leave the pimp and take off. Now, if she's working in New Jersey and you do not have this flyer-- If she's arrested for prostitution, if she is still working, we have no way of finding out who she is or locating her.

SENATOR GORMLEY: Okay.

DETECTIVE CLARKE: And bring her back into custody for the abandonment of the children and other reasons.

Also, on the fingerprinting-- There is a lady in Texas, a Sharon Easter. She is with Intelligence. She does things that Mr. Gallagher was speaking about. Here we call them armed robberies or whatever. The police word is a Mickey Finn robbery. It's a drug-induced robbery through different drugs -- scopolamine, tracilon.

This drug, if it was to be used on you-- The prostitute would slip it into your drink, or however it would be given to you, through maybe a kiss. This drug is a very high dosage of this, and it would knock you out for approximately two days. When you wake up, you have no recollection of what happened. You're very vague on the description of the female. Mr. Gallagher has prosecuted a couple of these. They are very hard cases to try. Death has resulted in a couple from men having heart attacks or whatever.

The problem we have is, the only source to combat -- to investigate these is hopefully by fingerprints that the female will leave in the room. We've had a couple, one recently in the Taj Mahal where a male woke up, fell into a mirror, and cut himself up very severely. Like I said, these

cases are very hard to prosecute. One good thing is, inside the casinos we have good surveillance, so we usually can get a picture of the girl -- a vague picture, but we can possibly make an I.D.

Like I said, the fingerprinting is a major-- If the girl has been in Atlantic City before, or anywhere else, the fingerprints can be read, sent to the FBI, and then come back as a positive match. At least we have identity on the girl. We can send this information to Sharon Easter in Texas and, therefore, she can notify all the towns.

Also on the fingerprinting: It says there are previous -- where a Superior Court Judge can authorize a person to be fingerprinted by a court order. That order has limitations, and to be without the ability to have prostitutes fingerprinted reduces our investigation avenues. It also hampers our ability to track these individuals as they travel a circuit and are charged in various cities.

We were just up in New York yesterday for the "Montel Williams Show" on prostitution. We spoke with a detective from Portland, and he was just amazed that we did not fingerprint, that we're possibly the only city -- or now, I explained to him it's a State law. We're possibly the only State that does not fingerprint prostitutes.

I'd like to speak on what Mrs. Cooper spoke about with the johns, with the newspaper. We do sweeps with a female. We call them reversals. We put the female out, and if the press was to publish these, they would probably have to add a whole new section onto the paper with a majority of a list of names. I mean it just-- As a matter of fact, when we do our reversals, we usually have to break down because we have too many people. There will be people waiting in line in the parking lots to come back up and speak with this girl, just waiting in line to have a date with this female, or whatever. They'll watch the guys go in and come walking out in handcuffs. I mean, it's just astronomical, the business--

SENATOR GORMLEY: So you're advocating the publishing of the names also?

DETECTIVE CLARKE: I think that would be a great tool, especially in the paper. If they had it maybe once a month, I'm sure they would sell more papers than they're trying to do on the boardwalk now with the homeless. That Wednesday circular, people would want to pick it up and just read the names and addresses to see the people.

SENATOR GORMLEY: That would be a real fun day for some people, I'll tell you that.

DETECTIVE CLARKE: I'll tell you, the people that we have arrested -- and ties, my neighbor and probably your neighbor. It's amazing the people we do arrest for patronizing prostitution, or now it's called "engaging in prostitution." The same thing with the forfeit statute. We would have to probably buy another city tow lot just to house these vehicles for forfeiture reasons.

We were down in Miami -- or our Captain was down in Miami -- where they have this forfeiture law, and they had two detectives assigned just to inventory the cars while they were doing the case. They said then, again, they had to shut down the operations because the parking lot was just too full of vehicles and they had too many arrests. It takes us approximately about a half hour to do the paperwork on each case. There's just not that much time in a day. That's why we usually have to shut down the operations.

I want to thank you for your time and consideration.

SENATOR GORMLEY: Thank you.

Senator Kosco, do you have any questions?

SENATOR KOSCO: I have a question for Mr. Gallagher.

MR. GALLAGHER: Yes.

SENATOR KOSCO: You had talked about your ordinance in Section 4, which is: "The burden of proof as to the existence of any other prior conviction shall be by preponderance of

evidence, and the court shall, pursuant to the rules of evidence, take judicial notice of its own record, etc."

Now, there is a procedure proposed right now by the Attorney General's Office to change the rules of evidence, and the legislation in by Senator Dorsey, I think, to make some changes in the rules of evidence. Have you looked at that to see if that would have any effect on your legislation here?

MR. GALLAGHER: No, I have not, but I will review that.

SENATOR KOSCO: It might be something you want to look at, because if there is legislation in to change -- to make some changes in the rules of evidence, it might have an effect on it; I'm not sure. I don't have a copy of it with me.

The other question I had to the Detective: Are there any statistics that you have that will tell us that prior to 24-hour gambling, we had this many arrests; since 24-hour gambling, it has increased?

DETECTIVE CLARKE: I could research that and we do have our stats -- our monthly stats. I could go back to the time that the 24-hour gambling was-- I don't think the 24-hour gambling had any effect on the number of prostitutes on the street. I just think that at that time, they might stay out a little bit later. Usually the midnight/day patrol, once it starts getting a little light out and other people start coming to work -- the midnight shift is very good on, basically, quote "hurtling them out" off Pacific Avenue.

SENATOR KOSCO: When we deliberated an increase of the hours of the casino to 24-hours -- and I supported it, and I probably would continue to support it-- We don't think about some of the aftereffects that may happen. I'm just wondering if that--

DETECTIVE CLARKE: Personally, I don't think it has anything to do with it -- the casinos staying open. Like I said, they might stay out a little bit longer before the daylight saving time because they had their extra hour of

nighttime, but I don't think that the casino gambling has any effect on the number of prostitutes. I don't think, when we interview them, they come to town knowing casino gambling is 24-hours.

SENATOR KOSCO: Thank you.

SENATOR SMITH: No, no questions.

SENATOR GORMLEY: Before Assemblywoman Cooper wants to make a point -- before that, how many names would be published a month, do you think, if you did this?

DETECTIVE CLARKE: If we actually did a sweep every night for a month, I would say, like, again-- We could do it every night. I mean, we could set up on a corner every night, switch the corners, and pick up somebody different. Like I said, we have arrested everybody from judges down to homeless people.

SENATOR GORMLEY: All right, let's not get into names here.

DETECTIVE CLARKE: No Senators.

SENATOR GORMLEY: No Senators. Thank you very much. You can continue testifying. (laughter)

DETECTIVE CLARKE: It's whatever visitors are in the city that night. Usually around 10 -- we usually give the number around 10, and that happens in a couple of hours. Then we have to shut down and do our paperwork for the night. If we can--

SENATOR GORMLEY: So there would be about 300 names a month.

DETECTIVE CLARKE: Oh, yes.

SENATOR GORMLEY: When you do reversals, it could go through the ceiling?

DETECTIVE CLARKE: That is what I was talking about, reversals.

SENATOR GORMLEY: Okay.

DETECTIVE CLARKE: Yes.

SENATOR GORMLEY: I appreciate your testimony.

Assemblywoman Cooper, you have a point you wanted to make?

MS. COOPER: To implement Mr. Clarke's presentation, which of course was an excellent one, I just would like to read just a couple of sentences from an original newspaper article.

"Police nabbed 11 johns in a sting using two undercover officers. Included were a Greyhound bus driver, several married men, and two men found to be in possession of cocaine and marijuana. And speaking of a instance, one girl, Angela, came to the city from Portland, Oregon with her pimp. Many street walkers travel circuits between other cities and Atlantic City. And if they are arrested too many times, and it seems like they would face a jail sentence, they move on, police said."

A final comment about seasons focusing on gambling: I used to have to call the police department because the hookers were using my front porch -- the furniture on my porch, and leaving condoms all over my porch. So I would leave the porch (indisernable)-- Street walkers say that they can easily make \$1000 a evening on the weekends. Of the women that they interviewed, most of them came to the city for the money. "Atlantic City in the summer can be one of the most profitable areas in the country," they said.

SENATOR GORMLEY: Okay. Well, thank you very much for the testimony. I appreciate it.

I would like to call-- First of all, I would like to acknowledge the presence of the head of the Division of Gaming Enforcement, Alvin Shpeen.

I would like to call from the Attorney General's Office, Jane Groll.

J A N E G R O L L: Good morning, Senator.

SENATOR GORMLEY: Good morning.

MS. GROLL: I'm happy to be here to testify on behalf of the Attorney General in support of the Committee's effort to deal with this difficult problem. As always in these areas, there is quite a tension between regulating the business and personal aspects of activity in this. There was quite a change in that area in '91 when the bill was signed, and this change on the offer and acceptance is certainly consistent with the change that was already made in 1991.

With respect to the loitering offense, although there are many loitering offenses that have been challenged as unconstitutional, the Attorney General's belief is that this loitering offense is drafted and properly tailored to be limited by the purpose, and should not run into those difficulties as much, like the loitering for the purposes of distribution of drugs that was signed last year. With the one exception -- and the burden of proof issue has come up -- constitutional difficulties. We think challenges certainly would be likely, and if the burden of proof were to be switched--

SENATOR GORMLEY: On the record--

MS. GROLL: --better still, we think it on the element of prior conviction.

SENATOR GORMLEY: Okay.

MS. GROLL: Better still, we think, is eliminating that element of prior conviction. If we're to criminalize loitering for the purposes of prostitution-- It seems the way the bill is now, it is a necessary element of the offense. So a person who has not yet been convicted cannot be prosecuted for the offense. It may be the best of all worlds not to make a distinction on the basis of their status as a prior offender a necessary element.

SENATOR GORMLEY: Good suggestion.

MS. GROLL: Thank you.

With respect to the fingerprinting: With the AFIS system that the State Police has in place now, the Automatic Fingerprint Identification system -- excuse me for speaking in bureaucratese, by the initials -- that system and this bill make a tremendous amount of sense together. A fingerprint comparison that used to take -- it couldn't be done in many instances. When prints were found at the scene of the crime, if there was no suspect, they were very little use to the police because it would take approximately 30 years of an officer's time to do a comparison of all the data bank. The automated system now can do that kind of comparison of latents found at the scene in less than 30 minutes.

All of the things on record permit a useful use of the fingerprints that may be left by people whose fingerprints we acquire. This fingerprinting aspect is probably a very big solution, especially given the other serious crimes that are associated with prostitution that people have testified to this morning.

That's all I have to say.

SENATOR GORMLEY: I appreciate the testimony, and as I noted, an excellent suggestion.

I think the important point to be made, although we're taking testimony really from one municipality, is the unique relationship between the State and the Atlantic City Police Department, and the broad brush that is painted about Atlantic City that we are all under whenever there are problems.

Hopefully -- and I know there's a good working relationship -- but hopefully in this area and others we can engender even a higher level of cooperation, especially since the Division has the jurisdiction within the building. A number of people in the building-- Because eventually we're going to possibly get to the point where certain duties that have been assumed by the police department within the buildings, okay -- within the facilities-- There could be

potential expansion of the DGE prerogatives within those buildings to free the Atlantic City Police Department for matters outside the building. That's something I think we're going to see in the future because of the budgetary restraints that are on the city, and the need for additional assistance from the State.

Whatever can be done in a cooperative fashion, I think, has to be done. Because quite frankly, bad publicity for Atlantic City is simply bad publicity for New Jersey. This is one small step in the right direction.

I appreciate your comments.

MS. GROLL: Thank you very much.

SENATOR GORMLEY: I appreciate the testimony on the bill. The bill will be listed for full Committee vote on May 6, and anybody who has testified today can check with our Committee Aide, John Tumulty, with regard to the modifications that we have talked about.

The next topic is going to be on the issue of compulsive gaming.

SENATOR KOSCO: Can I just make a statement, please?

SENATOR GORMLEY: Sure.

SENATOR KOSCO: I'd just like to make one statement pertaining to Atlantic City specifically, because many people may think that legislators from the northern part of the State are not concerned with what goes on down here in Atlantic City.

I live in Bergen County. I've lived up in Bergen County all my life. I travel down here, and I remember Atlantic City from years ago when -- way, way, way prior to gambling coming in here. Our concern is the same as your concern, and whatever we can do -- and that is the reason why we're here from up there.

We are concerned that, as Senator Gormley said, the image of the State of New Jersey-- Atlantic City is the image of the State of New Jersey. Many people, when they come into

the State of New Jersey at this point, come down here. They don't see the rest of the State. They don't drive the length of the Parkway like I do. They don't see the Pinelands; they don't see all the scenery. They come down and say, "Gee, how come you call this place the Garden State?"

The same thing happens when they come into Newark Airport and they go from the Newark Airport to New York. They come into Newark Airport; they see the New Jersey Turnpike and they say, "How can anybody call this place the Garden State? All it is is oil tanks and gas lines; flames bursting up into the air, coming out of the gas tanks. That goes on 24-hours-a-day."

So the image that the people get who come into the State who don't have the opportunity to drive around the Highlands up north and the Pinelands down here in the southern part of the State, and see what you and I see, who travel up and down the State of New Jersey-- We want to impress these people, if you will, because we want them to continue to come back here. We want to impress them that New Jersey is concerned about all of New Jersey, including the Atlantic City area.

Our job and our goal is to try to make Atlantic City look as nice as we can, give everyone a reason for coming down here and continue to come back here. We're all concerned about what's happening down here in Atlantic City. We will continue to work together with all of the legislators to do whatever we can to make it prosper and to make it grow.

SENATOR GORMLEY: Thank you.

The issue of compulsive gaming comes up whenever we're dealing with a new form of gaming, expansion of gaming, or whatever. What I sincerely want to do is work towards a common solution in terms of-- Obviously, we're going to hear about the need for money in a variety of areas for compulsive gaming, and no one questions that something should be done in terms of a stable source.

My feeling is that we're going to have to work towards some form of change to the Constitution for this year that will provide the voters an opportunity to say that money that comes from a variety of forms of gaming -- a certain portion of that could be used towards the problem of compulsive gaming, but that's just my personal feeling. We don't have a particular amendment in right now to do that. But what we're trying to do is sincerely seek a consensus so that people who are concerned with this issue don't feel that they come in at the end of another topic on gaming, and that we give this the focus that we think people feel that it does deserve.

I'd like to call and ask for suggestions in terms of funding sources, or whatever, from the witnesses that are going to come up today. The first is Dr. Michael Frank, New Jersey Council on Compulsive Gaming; and Harry J. Russell, Vice President of Mental Health and Community Services, JFK Medical Center.

H A R R Y J . R U S S E L L: Good morning, Senator.

SENATOR GORMLEY: Good morning.

MR. RUSSELL: I appreciate this opportunity to meet with you this morning to consider, as you have already indicated, this very important issue of not only compulsive gambling, but from the point of view of someone in the treatment area, support of that type of program or service.

Perhaps I'm somewhat like you in the sense that, up until a few years ago, I was really not very knowledgeable in this area. I recall quite vividly-- By the way, I'm a mental health specialist and have had mental health programs throughout the State of New Jersey for a few years.

One of the places that I was operating in was the Mental Health Clinic in Perth Amboy, back in 1961. I recall some individuals who came to me expressing concern about Gamblers Anonymous, or as they had said, GA. I didn't know what that was, very honestly, in the field because it was a new

thing. It was some years later, however, that I was introduced further by members of GA to the serious nature of this addictive condition, as well as the problem as it relates to recognition by the psychiatric profession that this, indeed, is an addictive condition deserving of support.

All of which leads up to the fact that about 1984, we became the first outpatient treatment facility in the State of New Jersey with the assistance of a support grant from the Department of Health in the amount, specifically, of \$75,000.

SENATOR KOSCO: Seventy-five?

MR. RUSSELL: Yes, sir.

I would hastily add that that amount was never intended in a hospital setting such as I operate out of to cover the services rendered. I think we need to keep in mind a couple of things, not the least of which is, number one: This tends to be primarily a middle-class condition. It's important to keep in mind, because you've got to have money in order to bet. Secondarily to that is--

SENATOR KOSCO: Excuse me. Can I just ask you a question? What is your interpretation of middle-class?

MR. RUSSELL: Let's say someone employed.

SENATOR KOSCO: Pardon?

MR. RUSSELL: An employed person.

SENATOR KOSCO: That's middle-class? Salary range doesn't matter?

MR. RUSSELL: No. What we're seeing is BMWs. We're seeing those kinds of cars pull up. We're seeing people from Wall Street.

The heaviest kind of gambling that we've been exposed to is primarily from the casino, I understand that is still number one; secondarily, the race track; and only after that the lottery and so on. So they've got to have the money in order to begin this, but not unlike many other kinds of addictive behaviors, it becomes an uncontrollable condition.

If any of you are smokers or coffee drinkers and try to cut back on that, you know a bit of what I'm trying to emphasize here. So, like with some of the other addictive behaviors, this particular one has to hit bottom or a critical nature in terms of the individual's willingness to seek help.

Since over the last almost ten years now, we have been a part of JFK's gambling treatment program in assisting in the development of a few other programs, not the least of which is one you will hear from, I'm sure, a little later in this hearing in Atlantic City, as well as other places across our State.

When we opened up our facility, we began, surprisingly, to see not only people in need from the State of New Jersey, but outside as well. They came across our State lines both from Pennsylvania and New York on one side; on the east, Staten Island as well as Rockland County. Of course, with the creation of more programs such as ones in Philadelphia and the Staten Island one I referred to, the numbers from that point of view have been reduced from outside of the area.

SENATOR GORMLEY: What are the number of patients a year?

MR. RUSSELL: I beg your pardon?

SENATOR GORMLEY: Patient count a year?

MR. RUSSELL: I brought some material for you in that regard.

We started out in 1984 and we count -- rather than count patients, we count visits. In that year, we had 586. In 1990, we had 2327. It begins to give you an idea of how the visit numbers have increased over the period of time. The accessibility -- the awareness, if you will, that people have had of the seriousness of this condition, number one, and where they can get help.

SENATOR GORMLEY: Would you just describe -- this is on an average basis -- treatment? What is your definition of treatment? I think that would be interesting.

MR. RUSSELL: Treatment is handling similar to what I mentioned earlier of any of the addictive conditions. Specifically, there is a diagnostic evaluation rendered at the outset. There is a recommendation made by clinical staff whether this individual would benefit from individual and/or group therapy. We supplement this, by the way, with the GA program, which meets regularly at our facility; both a regular program which meets weekly and Saturday mornings, in addition to which we have in the last two years seen fit to open a youth or young adult program which meets on Monday night. The treatment that you refer to, sir, is rendered on a weekly basis, and as I say, depending on the particular individual's needs, may be expanded to include group therapy as well.

Are there any other questions I can respond to? I'll be happy to. As I said, I brought some material here for you.

SENATOR GORMLEY: Sure.

SENATOR KOSCO: The types of gamblers that you are dealing with, can you give us some kind of a range? It seems to me that the casinos are getting a bad rap, because according to statistics that we look at from 1985 until 1992, sports betting went from 16 percent to 47 percent; lottery went from 11 percent to 52 percent; horse racing went from 20 percent to 36 percent. These are the stats that come from-- I'm just reading them out of here.

Why do we continuously blame the casinos for the increase in gambling when the State is involved in horse racing and the State is involved in lottery? That seems to be-- From 11 percent to 52 percent, if the casinos were responsible for that kind of jump, you'd see legislators out there screaming to close down the casinos.

SENATOR GORMLEY: We still have a couple who do that anyway.

SENATOR KOSCO: So here we are, blaming the casinos and saying, "They have to do this. They have to do that, and

they have to do the other thing." The lottery has got the biggest increase, probably affecting most of the people who go down to the candy store and buy their tickets.

The other question that I have is: You said that most of your people are sort of wealthy people. Again, the stats that I'm looking at here, coming from the compulsive gambling groups, are that the average person is under the salary of \$37,000. I don't think that is middle income anymore. I know the president says that your middle income and you're very wealthy if your making \$37,000, but I don't think that is the case. According to these stats, only 8 percent of the people are professional people, so that sort of goes against the numbers that you're giving us.

MR. RUSSELL: Let me start with the second question first. When I said middle-class, I was trying to describe the kind of sophisticated person that is engaged in this kind of addictive behavior, okay. By the way, even though they're employed, as a result of their addictive behavior, they develop the kinds of debts that really put them into the serious condition of hitting bottom and them requiring -- and they're not covered, by the way, in terms of insurance, third-party health insurance now. So they're the ones that are coming forth.

In addition to that, the second point you raised about casinos versus-- I don't think we're prepared to put the blame for something like this on any of the above. As a treatment facility, we're primarily there to respond to a need that is expressed no matter where it is found. As far as the material that you are referring to now as to the breakdown, we're not as in touch with that.

SENATOR KOSCO: So there may be different types of people that you're dealing with?

MR. RUSSELL: Sure.

SENATOR KOSCO: For example, they say that the analysis released Tuesday shows the average caller to the Council's hot line -- the 1-800-Gambler -- was approximately 33 years old, with a average income of under \$37,000, and with over \$34,000 in gambling debts. That is how they are classifying that?

MR. RUSSELL: I would defer to that. By the way, we work very closely with the Council because part of their expertise is in responding to this. They have GA members who are peers, who are actually relating very vigorously. Then these people are referred to us for the treatment, as well as some of the other treatment resources in the area.

SENATOR KOSCO: Thank you.

SENATOR GORMLEY: Senator Smith?

SENATOR SMITH: Out of these people that you see for the gambling problems, how many of those people have multiple addictions like alcohol, drugs -- you know, not only gambling problems, but other problems?

MR. RUSSELL: It's interesting for you to bring that up because initially when we started to provide the treatment, it was primarily focused, as I mentioned earlier, on the addiction to the gambling. What we're discovering is an increased number of sensitivity from our point of view -- and the feel, by the way -- to substance abuse, and I would add, mostly alcohol rather than the other drugs. So we are beginning to-- There are some research studies that are taking place locally and across the nation touching on--

SENATOR SMITH: Was that a small percentage of the people you see, or is that 50 percent or better, would you say?

MR. RUSSELL: At this point, I would say it's somewhere around 20 to 25 percent.

SENATOR SMITH: That would have multiple addictions?

MR. RUSSELL: Right.

SENATOR SMITH: And the people that have built up gambling debts, does that come from gambling legitimately, or through any means that they can find to gamble?

MR. RUSSELL: I would say more the latter. They get in trouble. These are the people that are constantly on the phone. They cannot control the compulsion to make contacts for that bet. And the scary part for us most recently -- I mention the substance abuse piece -- is the involvement of our youth.

I recall a couple of years coming down here to the Education Association -- the Teachers Association -- to set up a booth in concert with the Council on this issue. We were trying to reach out to the teachers. It was interesting. As they walked by our booth, they made the wide circle -- the teachers did. We went out in front and engaged them, had them come in and said, "Look-- "Oh no, no. We're just down here because this is where the conference is. We're not gambling." I said, "That's not what we're about. We want to talk with you about the gambling involved with your kids." "Oh. Well, what do you mean?"

Then we began to talk with them about the sports betting; we began to talk with them about the slot machines, and some of the other activities that they're engaged in. "Oh, yes." Because they're cutting school; they're getting that bus frequently; and they weren't challenged when they came through the doors of some of the facilities here. That's when they began to ask us to make presentations to them about the serious nature of that.

By the way, that has increased considerably in the last several years. The Council has been especially active in that regard. We have a peer counselor on our staff who is a recovering person, and they do a great deal of this kind of activity as well. We are beginning to make a dent in this.

The problem we have, specifically in our facility, has to do with the financial support. The hospital setting, with all of its other problems in terms of health benefits,

reimbursement, and etc., have a great deal of difficulty justifying an outpatient program like this. We have been fortunate, as I say, in a sense that we've had a maintenance amount to assist us.

I want to hastily add too, though, that one of the experiences that we've had when working with this group of people-- Unlike some of the other mental health categories that I referred to earlier, they have a tendency to become reemployed sooner. And along with that reemployment, the aggressiveness, if you will, that's involved in that activity -- they are then able to stabilize themselves as far as their expenses, etc.

But up to that point, it is critical -- critical not only for the primary person who is engaged in this, but those around him: relatives, kids, job situations, etc. They get in tremendous debt, tremendous.

Yes, sir?

SENATOR SMITH: Let me ask you this, if I can follow up a second. The treatment that you provide, that's not like inpatient treatment, is it?

MR. RUSSELL: No, it is not.

SENATOR SMITH: It's all outpatient. It's not like you have to dry out for 28 days or anything like that?

MR. RUSSELL: No. Again, you're helping me to explain better too. One of the other little observations that I've made is that this group, unlike some of the others that we are both talking about in terms of mental health, tend to shift into an acceptance of therapy more aggressively than some of the others. It is almost, to me, after 10 years, as if they have shifted from one kind of commitment to another. They are faithful with their appointments; they are prompt; they are engaged. Once they accept the conditions and have confronted it, they move off. And we've been very, very pleased with the level of "success" -- success in quotes -- because, like any

other addiction, you can slip. But we found that this particular group has done an exceptional job of staying once they're engaged in commitment to their treatment.

SENATOR SMITH: Do you find any one group having more problems than others, like single men, or married men, or men versus woman? Is there any sort of a tendency for one group to have more problems in this area than others?

MR. RUSSELL: Sexually, I'm not aware of any propensity other than it tends to be more males at this time. Now, that may be because we haven't done enough research to really explore, like with the youth. That's just beginning to come into play, if you will.

My favorite is a patient -- a client who came to us -- a woman who knew not only where every bingo was conducted in the State of New Jersey during a week's period, but had something like 12 to 14 cards in front of her. I have difficulty with 2 or 3. But they are brilliant, bright, bright profiles.

SENATOR KOSCO: My mother can do seven.

MR. RUSSELL: Okay.

SENATOR KOSCO: And she is 83 years old.

MR. RUSSELL: Every night of the week they know where the action is, and they must go there. Everything else is secondary to that.

SENATOR SMITH: Thank you.

SENATOR KOSCO: One other question.

MR. RUSSELL: Yes.

SENATOR KOSCO: Talking about rehab: We're constantly talking about rehabilitation for all different kinds of problems. Let's take away the medical rehab for medical-- But we talked about rehab for convicted criminals. I'm talking about rehab for gamblers. Don't you think maybe the approach that we have been taking -- we should at some point admit that it is not working and change it?

I mean, let's say I'm a compulsive gambler. I'm sitting across the table from a person who now is all dressed up with a suit and tie and says, "I used to be a compulsive gambler, but now I've changed my ways." I sit there and I'm 20 years old, and the person that is trying to rehab me is, like, 40. And I say, "Hey, you know, I'm 20 years old. I've got 20 more years I can screw around gambling. Look at this guy. He's 40 years old now, and he is just getting over it. Maybe I can just go out, mess around for another 20 years, and then go back to a rehab. Because if he did it, I can do it."

Don't you think it might be a little more responsible to take someone who didn't have the problem; who is able to go into a casino like most of us; play a little bit of blackjack maybe, whatever, and then say, "Okay, that's enough. I've had some fun," and then go home?

Don't you think that it's time to change the rehab process? Instead of making martyrs out of people who were there-- We brought them back, and they now suddenly know all the answers. Whether you go into mental health, or whether you go into--

You know, we've got convicted murderers telling somebody else, "You shouldn't murder." It doesn't make any sense to me. We have gamblers telling other people, "Don't go and gamble." We have people who were drunk for 14 years telling somebody, "Don't drink. It's no good for you." Why don't we use people who didn't do it so they can convince people that you don't have to do it in order to survive?

MR. RUSSELL: You raise a very loaded question.

SENATOR KOSCO: I know.

MR. RUSSELL: I think in terms of the mental health side of the recent discussions taking place -- are inclined in your direction. Why don't we do more of that? I think in this particular area, though, where we're talking about addiction, we have greater difficulty talking logic. Because there is

something drawing you that is greater than reason, okay. If it was just a question of reason, we might have a more successful chance at it. So we are in the field getting to look more and more at that in terms of setting examples -- role models, as you say -- in terms of "Hey, look, don't follow me." We need a lot of help with that though, because the media is not supporting what you and I may have-- Well, I may be a few years older than you, but--

SENATOR KOSCO: Don't you think at some point you have to do like some of us guys do, ignore the media and just go and do what you think is the right thing?

MR. RUSSELL: That is beginning to happen, too.

SENATOR KOSCO: If you want to be politically correct all the time-- You know, it doesn't make any sense.

MR. RUSSELL: Sure, your right. You're absolutely right, Senator. It is beginning to happen more and more. Just this morning they announced that a group out in Long Island -- the kids are off of TV after they come out of school. They've sacrificed for a week, so it may be happening.

SENATOR KOSCO: Rehab has to start looking in that direction rather than -- because what they're doing is not working. It's not working in corrections; it's not working here; it's not working in the drug program; it's not working in the gamblers' program.

MR. RUSSELL: I believe it is, with all do respect, sir. I believe it is working in the gambling program in the sense, as I say, those people that we talked about who indeed embraced the fact that they have a problem, number one, and are able to hook up in GA with peers who are intense about their relationship with that person-- The experience that we have had thus far suggest to us that that particular group is staying straight longer and better than some of the ones in substance.

SENATOR KOSCO: I have known people with the problem on a personal basis. I have a friend -- a fellow who has been a friend of mine for over 30 years -- and he has gone into the GA program probably five times that I know of. In fact, the last time he went in he gave me 10 to 1 odds that he would make it. (laughter)

MR. RUSSELL: That's the frustration. That's the frustration we face.

SENATOR GORMLEY: One more question.

MR. RUSSELL: Yes, sir.

SENATOR SMITH: How is this treatment paid for? It is not covered by insurance. Is it just out-of-pocket for the people that have that problem?

MR. RUSSELL: Right now, the grant I referred to that we were receiving offsets -- is part of our agreement at the hospital. We will not refuse those folks the need for treatment as a result of that initial bulk helping us out. As I said earlier, too, once they embrace the treatment, they're back employed, and they work out with GA. That's part of their steps, as a matter of fact. That's why we work very closely with them. It is part of it, restitution of their debts. That's part of the therapy, by the way, in that climbing back to reality they have to go. So it works, but it is a team relationship.

SENATOR SMITH: So right now, you use what grant money there is to get you through?

MR. RUSSELL: Yes, exactly.

SENATOR SMITH: Where does that come from?

MR. RUSSELL: Well, up until last year, it was coming from the Department of Health through what we refer to sometimes as an "oops." It was shifted away from us the same amount, by the way, throughout. The Casino Commission came in at the eleventh hour to bail us out for a year.

SENATOR SMITH: Do you know how much money is distributed by the Department of Health, annually, for GA programs?

MR. RUSSELL: No, I'm not-- I understand that there was a fine, technically-- I'm forgetting what area came out of -- \$500,000 that went to the Council for their activity. They can speak more to that.

SENATOR GORMLEY: Those were fines by the Casino Control Commission.

MR. RUSSELL: Thank you.

SENATOR GORMLEY: Thank you very much.

Tom Carver?

T H O M A S D. C A R V E R: Good morning, gentlemen.

By the way, I don't want to contradict-- I'll just supplement what the last witness said. Actually, it was the Casino Association that donated the \$75,000, not the Commission. There probably would be an investigation, I guess, if the Commission volunteered to give away \$75,000.

If I may, I appreciate you taking me now, Senator. I would like to tell you, based on my experience here in Atlantic City, where we are -- where I think we are -- and maybe throw in an idea or two as to where we should go with respect to this problem.

I would also like to talk a tiny bit about underage gambling, because it has some interesting statistics which I think prove that with education, and with some concern, measurable improvement can be made. I think that these statistics which I will mention to you will bring that out.

In fact, this is maybe the first time, Senator, I have testified before your Committee that I don't have Arnie Wexler with me. I usually have him next to me when I testify. But Arnie and Ed Looney, his right-hand man who is here today, the people at JFK, myself, and others have been engaged in the discussion on this issue for many years.

I think we all agree on this side of the table that the State of New Jersey -- and I include all of us in this -- we the people of the State of New Jersey, who began this process in 1978 and have seen it grow to be a rather successful enterprise on behalf of the State certainly, and who benefit in many ways from this enterprise, have never addressed as a people the side issue of compulsive gambling and where it is.

I have heard statistics quoted, which I will be frank and open to tell you, I have some doubt about. I know they're offered in good faith by Mr. Wexler's group. I don't know if those statistics are accurate or not. I have some doubts about them, but that's really not the issue.

The issue is that this State, which is not certainly the leader in gambling, but it certainly has a vested interest in gambling -- Senator Kosco, as you had mentioned before -- has no treatment program; has no identification program; has no program which would allow all of us to understand, what is the depth of this problem? How serious is it? If it really comes down to one person suffering from it, I think in view of the way the State has this vested interest, that we should have some concern for that one person. And, obviously, it's not one person.

Mr. Wexler has stated it is at least 400,000 people, and, of course, he will cite to you by rote at this point, I guess, the numbers of family members, spouses, and children who are dependent sufferers in a sense, because of the person who has the malady.

I have always believed -- and I think I can represent on behalf of the 12 casinos in Atlantic City -- that we have a role to play here; that we as part of the State of New Jersey, not as the cause of the problem-- But there is clearly, obviously a nexus between people who have this malady and their ability to exercise the malady to gamble someplace, to bet on something. Whether it be the stock market or a slot machine, they gamble on something.

If we are here, we have a role to play in a sense that if we can agree that we need such a program in the State of New Jersey so that we can identify the problem and treat those who have it, and hopefully bring them into treatment-- Because ultimately it takes a responsible act on the part of an individual to admit they have such a problem, that we should play a financial role in it.

I don't know what the cost of such treatment would be. I have no idea. But we have not moved in that direction as a group. I think we would be less than responsible and less than ethical if we did not admit that we should play such a role or part of the overall.

What we have done in the industry in the last year in addition to donating the \$75,000 to JFK, which is not a magnanimous thing for us to do-- It was brought to our attention they were going to close it down last July for the rest of the year because they ran out of funding, so we were able to do that.

We have instituted a voluntary program in the industry that each casino takes part in. Any person, any individual who calls my office -- we being the clearinghouse for the industry -- and says, "I am a compulsive gambler. I want to be off your mailing list. I want no more solicitations. I don't want credit. I just want to cure myself." We send them an affidavit so they can identify whom they are and so we're satisfied that it's not a family member calling, but the person himself that has the problem.

Now, we do accept calls from family members, but we want the person with the problem to admit they have a problem. We take the affidavit, we send it to our houses, and from that point forward, that person is off the mailing list. The only way to get back on is to fill out a similar affidavit saying, "I no longer have this problem. I am so and so. I live at a

certain address, and I want to be back on your mailing list." We have not had many calls. Maybe the publicity on it hasn't been great enough, but the program is in existence.

The second thing is, we have advertised the 1-800-GAMBLER number on virtually everything that we have. If you run into -- if you come into Atlantic City and stay long enough at the traffic light on the corner of Atlantic and Missouri, which is the entrance from the Expressway, you will see on the Ceasars sign, "If you or a member of your family, or someone you know" -- words to that effect -- "call 1-800-GAMBLER." That's flashed on that sign.

If you call the houses, for example, if you call the executive offices, or even call for a person in a hotel room and you're put on hold, most of the time you hear during the music that's played, "If you have a problem, or one of the members of your family has a problem, call 1-800-GAMBLER.

That is, in my judgement, treating the result of the disease, but not the cause. I mean, those things are good, and obviously as a result of the publication of that number, the number of calls have gone up. But it does not address the issue as such. So, as far as the industry is concerned, if we get to the point where we have a comprehensive, coordinated approach to it, I assure you that we would play a role.

I'll tell you some good news, if I may. We do have a deep concern for underage gambling. Several of our houses are engaged in a voluntary program called Project 21, which was begun by Harrahs, that includes education. It includes going to the schools; it includes briefing teachers; it includes videos; and it also includes a very strong message that if in fact you're determined to come into these casinos and your underage, you're going to be arrested. It has had some effect.

In 1990, we turned away 223,000 kids who were underage. We escorted 31,300 off the floor; we arrested 552. That was in 1990.

In 1991, as the program began to spread throughout the town, the number that was turned away was down to 195,000; escorted off 21,800, which is roughly a 10,000 decrease; and we arrested 900 at that time. The purpose is not to arrest kids, but to make them understand that they have some responsibility not to try to break the law.

Last year in 1992, the number of turn-aways had decreased to 171,000; escorted off, 15,000; and arrested, 215. So the program, in our judgement, is having an effect.

I believe that if we turn our attention to compulsive gambling to education, and to advise people there is treatment available, I think people suffering from this malady will begin to take advantage of such treatment. I know it's a difficult issue and not an easy one to resolve, but I'm here to assure you that I believe that it is our responsibility to assist you in whatever way you come out on the issue.

If you have any questions, let me, if I may, just-- One thing I will say, I was listening very carefully to the prostitution issue. Unfortunately, that's something that also follows crowds.

One of the things I got a kick out of, there was an article in The Times yesterday. It featured the man who runs Cutchers, (phonetic spelling) I believe, up in the Catskills, and of course they're making a big push now to get casinos as a result of the United Tribe receiving their authorization. In the last statement in that article, which was a two-page article, was about prostitution and drugs. The answer that Mr. Parker, who runs Cutchers, gave is, "Of course, that's everywhere."

I don't know if it is or not, but I think Atlantic City and the casino industry sometimes do get a bad rap, Senator, only in the sense that the last two major conventions which were not of your party, in New York City-- They imported, from what I gather, people or ladies of the evening

from all over the country. Of course, that has nothing to do with gambling. So it's a problem that a lot of cities face. It's not unique to Atlantic City.

I am glad to see -- we are all very happy to see--

SENATOR GORMLEY: It was your party?

MR. CARVER: I'm independent, Senator, you know. Anyway, I appreciate you hearing me today. If I can be of any help to you, I will be very happy to.

SENATOR GORMLEY: Questions? (no response)

I think one of the points you bring up, it's awfully hard to pinpoint the cost.

MR. CARVER: It is. I have no idea what it would be. But I think there's uniform agreement among those who are involved in compulsive gambling that we probably need more treatment facilities available to do these things.

SENATOR GORMLEY: Thank you.

SENATOR KOSCO: Couldn't the cost be brought out by figuring out what the policy is first -- what the procedure is first -- to take one person, and what the procedure would be -- what it would cost to bring that person through that procedure?

MR. CARVER: Yes, I guess that is one way of doing it. I think maybe though, Senator, in addition to that, we need an analysis which would clearly indicate to us how serious this problem is. I don't know if it's as serious as we make it out to be. I'm not saying it isn't, but I see no concrete evidence, no empirical evidence which would give us confidence that it's as serious as--

There is not a time when I come to Trenton, or we discuss an issue relating to casinos, that this isn't a major area of topic. I'm not sure that it's necessary every time. But I do think we have a responsibility to take a serious look at it, and find out what we should be doing about it.

SENATOR GORMLEY: Thank you.

MR. CARVER: Thank you.

SENATOR GORMLEY: Ed Looney, Council on Compulsive Gaming.

UNIDENTIFIED SPEAKERS FROM AUDIENCE: Mr. Chairman, Frank Twiggs has got a quick engagement. Can he go first?

SENATOR GORMLEY: I'm sorry. Sure, no problem.

UNIDENTIFIED SPEAKER FROM AUDIENCE: I appreciate that. Thank you.

SENATOR GORMLEY: Fine.

Dr. Frank Twiggs and Harvey Fogel, from Atlantic Mental Health Center.

F R A N K T W I G G S Ph.D: Good morning. My name is Frank Twiggs. I'm a Doctor of Psychology, and I've been working in Atlantic City at the Atlantic Mental Health Center for the past nine years. The first gambler I treated was in 1984, when I started working here.

I would like to tell you briefly about the kind of gamblers that I'm seeing in Atlantic City. They're not the gamblers that the other people have presented. I would like to shift your focus a bit. I'm not sure that they qualify as compulsive gamblers, and I guess I'm not sure how I would classify these people.

Let me provide you with a brief sketch of three of these people: One young man comes to mind. He was 27-years-old at the time I knew him, driving a cab in tough economic times. His wife was pregnant with their first child. About a week before she delivered, he lost \$2,000 betting from the luxury of his living room on football games. He started chasing his loss by coming to the casinos, which were very accessible to him, and he proceeded to amass a debt of about \$10,000. This man had really never engaged in any kind of gambling of any sizable amount before that time. Needless to say, this put a tremendous stress on him, and especially his wife and their extended family.

He did not come in identifying himself as a compulsive gambler. He presented at the Mental Health Center, where he was showing signs of depression. Because of our trained staff, we also asked him questions about finances and found out that he had gotten into serious trouble because of his gambling. He did not present as a compulsive gambler. We did not diagnose him as a compulsive gambler.

The second person I'd like to talk about is a teenager, also a male. He comes in having just broken up with his girlfriend. She is threatening to kill herself; he is all upset. Again, there was gambling in the background. He had lost a lot of money, and had borrowed money from her. Both of them were in serious trouble.

The third I'd like to talk to you about is a long-term resident of Absecon Island, near Atlantic City. Her husband died rather suddenly a few years ago. She started gambling to pass away her time. She has no history of gambling, gentlemen, none. She started playing blackjack. If you know anything about compulsive gambling, usually people make higher bets, and bet more and more as they develop the disease of compulsive gambling. She instead went from blackjack to playing some videopoker type of game. She would search out for the machine that was the furthest away from all the lights and the action. As she described it, she didn't need the middleman anymore. She just wanted to be with her machine.

These are three people who-- She also was diagnosed as being obviously very lonely, isolated, having a grief reaction to the loss of her husband. But her problems were compounded by gambling.

I ask you, where do people like this find help? As far as I know, there is no research on this, gentlemen. Many of these people start off by seeing their family physicians, who probably prescribe a tranquilizer or something for them to

get them out of the way. Many others of them are appearing at our emergency rooms, and I do know some individuals who have done that.

At Atlantic Mental Health Center in the past year, we have treated a very small number of people, probably about 75 -- 74 to be precise. About half of those people were not identified -- did not identify themselves as having a gambling problem. That only showed up after we had asked them some questions.

The point I would like to make is that we are ignoring these people who are engaged in what I call "toxic gambling." There are other compulsive gamblers. They make the headlines, and some of them have very wonderful stories. But there are these other kinds of gambling problems that can occur to anyone -- to our neighbors, to our parents, to our kids. However, we do need specialized services for these people. They can't be treated with traditional medical medications, and sometimes not even with psychotherapy from a trained psychologist or social worker. It can happen to anyone.

We do have some ideas at the Atlantic Mental Health Center for what we do for treatment. We received a \$20,000 grant through the Council on Compulsive Gambling about five years ago -- it was actually in 1988, about five years ago -- to establish a program on compulsive gambling. Since that time, we have had no funding. We are surviving on the volunteerism of a few people, one of whom is with me. Actually, we pay Harvey for about two hours of work a week. He does the other hours of work as a volunteer. I estimate that we're probably squeezing in our budget about \$5000 to \$6000 to cover the minimal amount of service that we're providing. We desperately need more services.

The people are now being treated, I think, in an incorrect fashion by people who do not know enough about the problems that gambling can cause. To give you some ideas about the treatment, I would ask you to listen to Mr. Harvey Fogel.

H A R V E Y F O G E L: Thank you. Good morning. My name is Harvey Fogel. I am a Certified Compulsive Gambling Counselor, and I work at the No Dice Recovery Program of Atlantic Mental Health.

I wanted to add a few things to what Dr. Twiggs said, one of which I'd like to encompass a little and make you realize the type of people that I'm seeing in Atlantic County -- and I work only in Atlantic County.

They don't drive up in big cars or BMW's for my treatment, I can tell you. I'm not seeing the kind of sensationalism from these compulsive gamblers that you read in the newspaper. There are a lot of people out there that are suffering from this disease that aren't making the papers; that are minimal income people, \$15,000 to \$25,000 a year, and gambling \$10,000, \$12,000, to \$14,000 a year. They're existing barely, and it's a major problem. No one is addressing them. They need treatment. They don't have medical coverage.

Like Dr. Twiggs said, we're doing it mostly on a gratis basis, or a very small-- We turn no one away at the facility. We're the primary care facility in the Atlantic County area and we see, like Dr. Twiggs said, 74 to 80 people a year. I've seen-- In another facility where I work, I've seen another 10 or 12 people, and it's the same thing.

There is another population that we haven't been addressing. We're seeing a tremendous amount of compulsive gamblers who work in the casino. I'm seeing dealers on up to executives and on down to janitors, waiters, and whatever. There is no solution for them either in terms of finances. They come in for treatment. They may have an EAP that helps them for a couple of visits. What are we going to do with those people? As the gambling has been legalized for them, they're increasing, and I'm seeing more and more of them.

You know, remember that when we see these people -- and I don't want to get into figures again -- but we're talking about in the State of New Jersey approximately 400,000

compulsive gamblers. That's a figure that we can say is correct or not. It doesn't seem to-- Still, when you multiply that out by four or five other people that it affects, you're talking about a population of maybe two million people that need help in the State of New Jersey alone. We're working on a shoestring, and it doesn't seem to be working well.

You know, about four years ago -- three years ago -- at my own expense, I put in a -- I don't want to use the word hot line, because it's really not a hot line -- but I put in my own phone in my house to help in a referral system for Atlantic County only, for people needing treatment. Not a referral to compete with the 800 number, just for someone to say, "I need treatment. I need something other than GA, what can I do?" It's amazing the calls that I get. And as soon as they say, "I'm desperate. I need help. Where do I go?" I say, "You can go here; you can go there." And they say, "Is there a charge for that?" And I say, "Yes, there is a minimal charge depending on where you go." You never see the people.

There is no money out there for treatment, and these people are going back out. They don't seem to be coming in for treatment as soon as they hear that that they need finances.

So that's a little bit of the things I'm saying. We need money for the outpatient treatment facilities to maintain them.

Like Dr. Twiggs said, I do a lot. I do mostly volunteer work. I have a full-time job -- full-time position outside of the gambling field. I do volunteer work, and so does Dr. Twiggs. Sooner or later, these volunteer hours are going to fade away. As they do, are we going to start to drop our care for compulsive gamblers in this State? I think it's not a good policy, and I think this has to be addressed as soon as possible.

Thank you.

SENATOR GORMLEY: Questions?

SENATOR SMITH: I was interested in your comment that, apparently, a number of compulsive gamblers that work in the casinos-- I think we just passed legislation not too long ago that allows them to go and gamble in another casino other than the one that they work in. It sounds like we may have contributed to the problem in doing that. It also sounds like this is a fairly undefined kind of situation that's difficult to treat. If a person-- Let's assume you had all the funding you needed, would you really be able to help these people, and how would you do it?

MR. FOGEL: Are you talking about the specific casino -- the casino worker gambling?

SENATOR SMITH: No, anybody with a gambling problem that needs help. If you had all the money in the world to help these people, would you be able to do it? Would you be able to cure them?

DR. TWIGGS: I can address that. One of the facts that we learned early on in the game is that gamblers don't-- When they do get in trouble, it's usually massive trouble. Frequently it happens at 4:00 am, when the casinos used to close. Actually, it's helped to have 24-hour gambling. They sometimes now have their crisis during waking hours for the rest of us. It used to be always in the middle of the night. Frequently, they will be able to get themselves to a hotel room in Atlantic City or to the Rescue Mission, and will not be able to get anywhere else.

We need to have the capacity to do a very quick, acute style outreach: Go talk to the person wherever they happen to be if they're in the city, or if they're in the Rescue Mission, or even if they are going somewhere else in the State. We probably should have a system of centers throughout the State that can provide this quick emergency type of response.

Again, I wonder how much these people are utilizing other parts of the medical system and drawing very heavily on the already burdened financial system, because they are not

getting the treatment that they need. I think that's probably the first part of a response system that we need. After that, these people have to be very carefully evaluated to see what kind of ongoing treatment they need.

For some people that's enough. All they need is that emergency outreach. Other people who have a series of serious problems in addition to their gambling -- for example, suicidal ideation -- may have to be put into an inpatient facility for a short period of time. Others can be treated in a very intensive way on an outpatient basis.

That's what I would like to do. We don't have the resources to do that right now. I mean, if I'm not busy, I can talk to somebody who calls in an emergency on the phone, otherwise there is nobody else for them to talk to.

SENATOR SMITH: Do you see the same people again and again?

DR. TWIGGS: No, not at all. Well, we do-- As I mentioned before, I can tell you some laughable, horrific, and sad stories about the compulsive gamblers. They are the ones who we see, as Senator Kosco pointed out. They come back again and again. They'll give you odds on how they're going to fair this time.

We have one fellow right now who's trying an alternative form of treatment. He has actually-- We think he's gone to a monastery in northern Maine to escape the temptation of gambling. We'll see how he does. This is the fellow--

SENATOR GORMLEY: Someone else has gone there, too.

DR. TWIGGS: Oh, yes.

SENATOR SMITH: Don't let him take the collection.

DR. TWIGGS: He has a 60-year history. There are those folks, and they are very colorful, interesting, and very difficult to treat. I'm talking about the people who get into that serious trouble -- the cab drivers who are 27-years-old.

Those are the people that I worry about, because I don't know where they are going for treatment.

MR. FOGEL: Let me add one issue to-- Let me answer that question in my opinion. When you see a compulsive gambler who presents himself with a problem, or if you see a problem gambler who presents himself with a gambling problem, there are two aspects that I believe have to be treated. First, it has to be treated acutely, then it has to be treated long-term. It's easy to stop gambling. You just do it. It's hard to maintain that level, and I think that's what the Senator talked about -- people who keep going back.

Right now in the State of New Jersey, there isn't as great a network to treat this acute part of the illness. They have Gamblers Anonymous. They have long-term treatment in Gamblers Anonymous, but they don't have anyone to treat that acute phase of the gambling. Once we could get past that acute phase, we can refer out for the long-term treatment of compulsive gambling. I think that's what you were talking about when you said you don't see these people that keep going back to Gamblers Anonymous years after years of continual gambling. There is no one treating that acute problem.

So I think the answer to your question: We need something to get those people into acute treatment so it can go on to long-term recovery.

SENATOR GORMLEY: You know, what we're wrestling with is, as you can see, it's hard to get a handle on this -- how much and where, and how do you raise it ,which are really the usual budget questions.

Would it be fair to say that if you had to-- I would appreciate, you know, a "yes" or "no" if it's possible in this. What we're talking about is, depending on the nature of the program -- a targeted grant program, a source of money for targeted grants -- because there are a variety of different avenues with people who really want to give it the time if they

have some wherewithal, such as your program. So one of the things that we could look to are community-based types of programs in which, if we could devise a source of money to provide some funding, it would be, I guess, targeted grants to a variety of outreach programs around the State. Is that the type of funding mechanism you're talking about?

DR. TWIGGS: Yes. That's a start.

SENATOR GORMLEY: Well, we're at zero right now, so you have to--

Thank you very much for your testimony.

I'm sorry, a couple of questions?

SENATOR KOSCO: Do you think that one of the problems that we have is, if we did come up with a dollar amount that we were going to be able to provide and put out there to be used to help people who have a gambling problem-- The problem that we have is, we don't know which problem solver is going to solve the problem. We don't know whether taking this money and putting it over into the JFK Medical Center so that they can use it to influx it with other problems that they're working with and, "By the way, we found out that this person has a gambling problem," or to go into a program such as what you're talking about where you would spend the money a different way, or go into the GA program where they would spend the money a different way.

The problems we have as legislators are, if we come up with a billion dollars, what we would end up doing at this point the way we are right now-- We'd end up spreading that money so thin, it would solve absolutely no one's problem, except those people who are running the programs would have enough money to go to Las Vegas and gamble. Solving that problem of the people wouldn't be there. What we're trying to do is come up with an answer, okay. You come up with the answer, and then the money is the solution. But I'm not about to allocate one penny to be spread out through the whole State

of New Jersey to make a whole different group of different people who have different ideas of how to solve a problem happy. That would be the political thing to do. I'm not going to do that.

I'm not going to see that JFK gets \$75,000. I'm not going to see that you get \$50,000 or that this program here gets \$300,000 just to make you satisfied so I can walk away and say, "Boy, I've solved that problem." We did that with education for our children. We threw money into the cities that were having tremendous problems teaching kids and we said, "Okay, here big city, you can have \$1.5 million dollars," but the kids aren't better educated. So we don't want to do this with this kind of a program. We have to know what we're going to do. How much money do we need? What are we going to spend it on? What kind of a program are we going to spend it on, and not worry about whether five, six, or ten different entities get funded so that they feel good about it, and not solve the problem.

DR. TWIGGS: Senator, there already is an informal network of treating centers in New Jersey. As far as I understand, there really are only four places that someone can go and actually can get treatment in the State of New Jersey for compulsive gambling. I think the prototype and the program that many of us have looked at for guidance is the program at JFK. I mean, as soon as we started our program in Atlantic Mental Health in the city here, the first place we went was to JFK to watch what they did, to study their program, and we tried to duplicate it here.

What I'm telling you, Senators, we don't have the funding to do that. We did five years ago, but what we've been doing since that time is limping by trying to catch as catch can, treating the people that we can through volunteerism, etc. I think that these programs are already in place that deserve and need the funding to treat the people that are

already calling us, and that are already there. We are missing people right now because of we're just not available, etc. The program is not functioning in the way that I would like to see it function, simply because we don't have the funding.

SENATOR KOSCO: This one group that -- Mr. Wexler's group, according to the statistics, gets over \$500,000 a year. They say that's not State money, but it's money that the State would have collected on fines; that instead of the State collecting it, it goes to that group. So in essence, it's State money, because if the State didn't fine somebody, that \$500,000 wouldn't be there. So you've got \$500,000 going to this group. How do we know whether that's effective?

DR. TWIGGS: Well, Senator, again, I think that in my field -- in the treatment field -- and in the field of compulsive gambling there are unfortunately, I think, very crisp and clear lines drawn between moneys that are allocated for education and prevention, and other moneys that are allocated for treatment. They don't do a very good job of mixing those funding sources. They're two totally different types of funding.

So, as far as I understand it -- and I am a member of the Board of Directors of the Council of Compulsive Gambling -- in our mission statement there is no mention of treatment. In a sense, our mission from the Council's point of view is to educate and prevent gambling, and I applaud that. I commit myself and many of my other volunteer hours to that effort. I have spent times in the public schools giving the talks and all. That is not treatment.

SENATOR KOSCO: So we need to fund two different--

DR. TWIGGS: Two different types of activities.

SENATOR KOSCO: We have to fund education and prevention.

DR. TWIGGS: Which is one type of activity.

SENATOR KOSCO: And then we also have to fund treatment and rehab.

DR. TWIGGS: Treatment, a different kind of activity.

SENATOR KOSCO: I've got you.

DR. TWIGGS: The treatment people are the ones that-- We are sometimes dealing with the patients who we tend to say, "Well, it's their fault. You know, the kids in the high schools -- it's not their fault because they are too young."

SENATOR SMITH: Have you been able to get any funding through the State Health Department?

DR. TWIGGS: Not for compulsive gambling.

SENATOR SMITH: Not for treatment?

DR. TWIGGS: Not for treatment of compulsive gambling, nor for education. At my center--

SENATOR SMITH: There's just nothing available at this point in time?

DR. TWIGGS: There's nothing. Everything that we do is either we borrow from this little funding stream in order to pay for what we're doing, or ask people to do it for free. Sometimes that involves working on Saturdays, Sundays, and late into the evening. As Mr. Fogel pointed out, we do have a local hot line that's in his home that can ring -- his phone can ring at 2:00 in the morning. He doesn't-- I pay his salary. I only pay him for two hours a week. That's what we're operating under now.

SENATOR SMITH: Is there an answer to the question of what is it that makes a person a compulsive gambler?

DR. TWIGGS: Again, I would like to point out that a compulsive-- I believe that there's a disease of compulsive gambling. I think I take a controversial stand on this, and I do think that it's probably a pretty static number, 2 to 3 percent of the population, maybe less. I think that that

number of people is going -- there's going to be-- That number of compulsive gamblers, whether they exist in New Jersey or in Utah, it's something that's in the genes. I believe that.

I also believe, however, that the way you have access to lots of different types of gambling-- You have the possibility of people engaging in toxic gambling, either in a binge way, an episodic way, or in a one time life event kind of way. They get toxically involved in gambling, and those are some of the people that we have to pay attention to and treat.

SENATOR SMITH: Well, if it's in your genes, then what you're telling me is that there are some people you just can't do anything with.

DR. TWIGGS: Oh, sure you can. The treatment for compulsive gambling is pretty easy: Don't gamble. Don't gamble, you learn other--

SENATOR KOSCO: Just say, "no."

DR. TWIGGS: No, no, no, not just say, "no."

SENATOR KOSCO: It didn't work.

DR. TWIGGS: Well, what Mr. Fogel had mentioned before: to stop gambling takes a minute, to recover takes a lifetime. The treatment has to do with the recovery. It's like setting a broken bone. It only takes a minute to set the broken bone, then you've got to exercise the arm and engage in other kinds of therapies. That's what I think the treatment centers are trying to do for the truly compulsive gamblers.

SENATOR GORMLEY: Thank you very much.

DR. TWIGGS: Thank you.

SENATOR GORMLEY: The final two witnesses, Ed Looney and Jim Pappas.

EDWARD LOONEY: Mr. Chairman, I think you already have this, but these are the stats -- the end of year stats from the Council. There is some good information about who gambles and what percentage of the people.

Thank you for the opportunity to talk in front of this excellent Committee. I wish we had about five hours. I could really-- It would be one of the highlights of my year to just be able to talk about compulsive gambling and what I know about it.

I am first a recovering compulsive gambler. This is what they look like, Mr. Kosco, just in case you haven't seen a recovering compulsive gambler. I've been in the fellowship for about 25 years, and I haven't gambled since that time.

I'm also a Certified Gambling Counselor, which I work with the Council's -- with people at JFK for a five-year period of time. I did evaluations on compulsive gamblers. I've probably done between 800 to 900 compulsive gamblers -- in-depth evaluations on compulsive gamblers. Now I'm working with the Council as a Deputy Director.

The Council on Compulsive Gambling is not for or against gambling. We're not antigambling at all, neither is Gamblers Anonymous antigambling. What we are for is the treatment, understanding, and prevention of compulsive gambling, and that's basically what we try to do.

I can tell you that the social costs that are happening in this State are astounding. Much like the illness of compulsive gambling is hidden, there are also the ramifications of social costs that are also hidden.

I've happened to go to prison meetings for the last 22 years, involved with prison situations. There are 23,000 people incarcerated in the State of New Jersey. We happened to do a study in 1986. In two of those prison systems, 30 percent of the people that were asked questions -- 30 percent of them had done some kind of illegal activity due to gambling -- in order to get money to gamble. That's incredible.

I can tell you that we've gone to 30 high schools this year, and have spoken at prevention and education programs. There have been 14 police investigations on school premises due

to gambling problems in schools. If you're interested in drugs and alcohol like most of us are, we have one of the finest programs in the State of New Jersey on alcohol and drug addiction. Our kids get between eight to ten hours every year, from kindergarten right up to the twelfth grade. There's absolutely not one curriculum for compulsive gambling.

I could tell you when I went to school five years ago, when we did a study in four major high schools in the State of New Jersey, the number one form of gambling was card playing, not so anymore. The number one form of gambling right now is illegal betting on sports.

Organized crime is alive and well, and they are doing business in our schools. Ninety percent of the schools that I go to and speak -- and I've gone to 30 of them this year -- 90 percent have football tickets. I don't know if any of the Chairpeople up there had that when they were in school, but they're still in school. That is actually tied to organized crime.

I can tell you the young people, when they get in trouble what they do is, they break into houses. They steal from their parents; they take jewelry; they break and enter into cars. There's a lot of this activity going on right now. So we need, surely, a lot of money and a lot of prevention education programs in our school systems, number one.

I can tell you, insurance companies in the State of New Jersey are being ripped off tremendously, adding tremendous costs.

Compulsive gamblers that I interview -- and I think all the professionals agree -- 90 percent of them will do some kind of illegal activity in their desperate stages. We know a lot about compulsive gamblers.

We have to just differentiate between compulsive gambling and social gambling. Sixty-five to seventy percent of the people who gamble are what they call social gamblers. They

don't get into trouble. They enjoy gambling, and gambling makes them -- to them is entertainment.

There is another 15 percent which we call problem gamblers, who go over the line, that have significant problems, but they keep their families together. They don't do any illegal activity.

Then there is the other percent. We think anywhere between 3 and 5 percent of the people in New Jersey are what they call compulsive gamblers. These people are in the grip of an illness. It's been recognized since 1980 as a impulse disorder. It's an illness and it has stages. It has a winning stage; it has a losing stage; and it has a desperate stage.

I can tell you, every compulsive gambler goes through those different stages at different levels of their time. In that desperate stage what happens is, they do illegal activity. They write the bad checks; they do insurance scams; they do fraud; they do arson; they do anything in order to get money to gamble. So we don't see those costs.

Like last year, we can be very proud. About \$812 million dollars was brought into our coffers due to legal forms of gambling in our State. In those three forms of gambling -- just casinos, lottery, and race track -- almost \$6 billion was bet in our State, and 60 percent of that money in the casino industry is bet from outside our area. In other words, we import money, and many times we export problems.

That hot line that we have here has given us a lot of indications all over the country. People that are casino people come here for the tourist attraction. They gamble in the casinos in Atlantic City, and they go back after losing lots of money. I think the figures last year were \$3.2 billion was bet in our 12 casinos in one little town. We can say that very quickly because a billion dollars is a thousand million, and that's \$3.2 billion.

Notably, \$2 billion of that was bet on markers, which is incredible. That means people didn't have the cash when they came down here. They actually signed extensions of credit of some kind in the tune of \$2 billion. So we know that this is a vast business, and the fallout is some of the people that live within this 250-mile radius of New Jersey. That is very severe.

We see senior citizens, and we've done some studies on senior citizens, if people are concerned about them. They've raised their families, many times, and not gotten involved in gambling situations. All of a sudden, instead of going to New Hope, they want to go down to Atlantic City a little bit. They ride the buses, and most of them can handle it. But we find out-- The surveys tell us of 52 people on a bus, 49 go back with less money than they started with.

We can tell you about the State Police, who have told us about their records of the arguments that they have on buses, and fights that they have on buses -- never coming down to Atlantic City, always going back up again.

I can tell you that I've evaluated compulsive gamblers -- senior citizen compulsive gamblers -- and loneliness is a big part of it. Many times the men in their lives leave them well off, and what happens is they don't want to get involved with other men. They find trips to Atlantic City take away that loneliness, and what happens for some of them -- again 5 to 6 percent of the people -- they go over the line. They lose all their security. We see that, and it is a very helpless and hopeless type of thing. They call us; they're over 65-years old. They say, "My husband left me with money, and all of a sudden I see this tremendous amount of no security left. I'm embarrassed. I don't know what's going on." Very depressed people. They need treatment.

People don't have money sometimes to come in for treatment, as people were saying.

So I don't want to end it up. I just want to tell you there's a lot of things happening with compulsive gambling and what they do. The crime that is attached to it is a tremendous number. We don't even know what that number is. That is something that we should do.

What you're doing here, Senator, is a fabulous idea, to get money for two areas -- two-prong: prevention and education programs, and money for treatment programs. We talked about \$2 million being something to start now. We have five treatment programs in the State of New Jersey. Every county doesn't have it. There are only five counties that have help. The Council would love to see 21 counties have help.

If you are looking about alcohol and drug addiction in the State of New Jersey, \$75 million to \$100 million is gotten from grants, whether from State or Federal grants, to help with the problem of alcohol and chemical addiction -- \$75 million to \$100 million.

On the other hand, we look at compulsive gambling, there's not one penny. You know, that's insane. I mean, the Council gets money, and even that money is so unstable-- We get \$500,000 if the casinos are fined for wrongdoing. So I think we have to start to become serious about the problem.

Are we against gambling? Absolutely not. Should we have this business thriving? Absolutely, we should have a thriving business, and the Council believes that. We're interested in the people who have the fallout problems, so that we can help them with their problems. That's basically our thrust. That's what we're trying to do. So this is a fabulous situation. We'd love to see something like that, and we would support some kind of funding for both two-prong prevention and education programs, and treatment.

Thank you.

SENATOR KOSCO: Through you, Mr. Chairman. We understand what the problem is, and that is why we are here.

But from a legislative standpoint, we tried not to pick priorities, but where we are going to direct money to and how we can try to help people.

Now, you talked about a curriculum in school for gambling. I always thought that a curriculum in school that taught people self-esteem would take in a whole lot of categories, so you wouldn't have to zero in on gambling. You wouldn't have to zero in on different types of programs that the school systems are trying to put into place, when they're having a problem right now just teaching kids how to read, how to write, and how to add two and two. They don't teach bicycle safety in school. They should teach bicycle safety in school. They don't teach people how to do a lot of things in school that they probably should teach a long time before they start teaching kids about gambling.

It certainly has changed. I can remember when I was in grammar school pitching pennies against the wall. Maybe that's where it all started, I don't know. That was the big thing: You pitched pennies against the wall, and who made 28 cents and who made 32 cents? It was a form of gambling.

SENATOR GORMLEY: That's when a penny was a penny.

SENATOR KOSCO: That's when a penny was a penny.

The problem that we have is also -- just to take it a step further -- this is one of the biggest problems that we have right now, people addicted to credit cards. Now, you talk about the crime that is associated with it? Phony credit cards, stealing credit cards, credit card scams-- Are we going to set up a course in the schools to teach kids how to handle credit cards? Hell, no.

MR. LOONEY: Behind that credit card--

SENATOR KOSCO: Are we going to set up a credit cards anonymous program? Hell, no. Billions and billions and billions of dollars are lost in the State of New Jersey, and that's the reason why your credit card interest rate is 19 and

18 and 20 percent. Because you and I, who pay our bills, are paying for the deadbeats who don't pay their bills, and the banks certainly aren't going to take a hit. So that's why your interest rates are so high on credit cards.

You can go out -- and they have programs on television, if you watch certain programs on television -- they have a program where a person shows you how you can go out and get 30 credit cards with a \$5000 to \$10,000 limit on each credit card, and using your credit cards, go out and purchase real estate, and never make a payment as long as you have a buyer for that real estate within 30 days. Big rip-off, people are losing money. Some people are making money, but credit cards are a big rip-off. How the hell-- How do we decide which program we're going to spend all this money on?

MR. LOONEY: A lot of times it's the compulsive gambler that looks like a credit card person that's overextended himself. When we peel away that and we ask them what were they doing with that money, we find it's a compulsive gambler needing money. They do these kind of scams.

I think we have the problem. I think we should-- Tomorrow morning I'll be away. I'll be in a high school up in Springfield, New Jersey. The Union County Prosecutor's Office called us and we're doing four schools because of the gambling problem. They're teaching the legal aspects of gambling up there. In other words, if you are going to Atlantic City and you're underage and you get caught gambling, what are the ramifications? If you gamble with football tickets and start that at school, you could lose your car and you could lose things. They're interested in doing that part of it.

We're interested in also giving some background about it. If they have a family member-- If their dad is a compulsive gambler, or their mom is a compulsive gambler, they live in a dysfunctional family. They are growing up without the basic needs of having a good family direction. So they're

hurting and suffering too, just like the alcoholic -- the son that lives with the alcoholic -- and the drug addiction in the family, too. We need to teach that to kids, at least give them the opportunity educationwise.

We teach about AIDS, don't we? I mean, AIDS is a serious thing happening. Their cigarette smoking, they're teaching about that in school now, you know, about that type of thing.

SENATOR GORMLEY: Excuse me. I don't mean to cut you off, but what I would like to do is-- I think we got the general thrust, and I'd like to give Mr. Pappas a couple of minutes.

J A M E S P A P P A S: Thank you. To be perfectly honest, I was coming today prepared to read a statement given to me by Arnie Wexler, the Executive Director of the New Jersey Council. I don't want to be repetitious with a lot of the testimony that was given earlier, but I would like to highlight some of that for a few minutes and also make some observations, if I may.

I work at a psychiatric hospital in the City of Philadelphia that treats compulsive gambling -- pathological gambling, which is the clinical term -- and has been doing so on an inpatient basis and an outpatient basis since 1984.

As of yesterday, in-house in the inpatient unit -- the dual diagnosis unit -- which means-- In the State of New Jersey, it's called MICA, Mental Illness Chemical Abuse. In the State of Pennsylvania, it's dual diagnosis, which is a mental illness personality disorder coupled with an addictive behavior, be it gambling or substance abuse.

We do, as well, treat compulsive overspenders, and have been doing so successfully for the last two years, finding that the behavior patterns of the compulsive spenders almost parallel that of the compulsive gambler.

The compulsive gambler in treatment in the psychiatric field-- The similarities to their behavior patterns -- there are more similarities than differences to those of the substance abuser. That's why in 1979, the American Psychiatric Association recognized pathological gambling as a treatable addictive behavior illness. The American Psychological Association followed suit a few years later by identifying that behavior as an impulsive control disorder.

I, too, am a recovering gambler, and have been for well over 13-and-a-half years. I'm also from that middle-class field that was mentioned earlier. Prior to working in the treatment provider center, I was a Philadelphia policeman for 17 years. So I was interested in hearing not only the testimony given on this issue, but the earlier testimony dealing with prostitution. I can tell you from both sides -- from the beat 'em up, to the heal 'em up side of the field -- gambling incorporates all the criminal activities and the other behavior patterns that are of a negative nature.

It's not uncommon for those engaged in the prostitution field to supplement their income via gambling; for a cocaine, or a heavy narcotic abuser to finance their substance abuse through the activity of gambling. The cross-addiction that was mentioned earlier is certainly evident. I would use figures higher than those given by Harry Russell, to 30 percent.

Living in Philadelphia and working in Pennsylvania-- Living in Pennsylvania, and now living and working in New Jersey, actively involved not only with the New Jersey Council, but with the Certification Board--

The one Senator asked: Who are the caregivers? Who are the problem solvers? I feel that the New Jersey Council and the Certification Board of New Jersey can help you find those problem solvers. In other words, if money does ever come forth via the 21 counties, the Council or the Certification

Board could be an avenue to help you find those problems solvers, be it to continue to act as a referral agency -- as a triage agency -- but to continue the efforts of prevention and education.

The one gentleman I heard speak earlier from the Casino Association mentioned Project 21, which I think is a fabulous project. But he mentioned all these trainers that are going out there throughout the State doing the training. I consider myself -- because we do have an ego problem, as well as the compulsive gambler, even the recovering compulsive gambler -- a pioneer in this field. I don't know who these trainers are that he's talking about. It's not anyone involved with the New Jersey Council. So I don't know who these professionals are that are going out doing the training. Again, I'm not saying they're doing anything wrong. As the one Senator said: Who are the problem solvers?

If you would allow the New Jersey Council, the private treatment providers, the county funded, the Bay Service Agencies, they can help you find these problem solvers and make the recommendations. They're not looking-- The Council is not looking to get additional funds so they can be the treatment providers, but they certainly recognize that there's a problem.

I can remember-- I started at the facility where I'm working in 1987, and the very first patient I had was a very prominent political figure from Atlantic County.

That's all I have to add, gentlemen.

SENATOR GORMLEY: They keep bantering my name around.
(laughter)

I want to thank everybody for testifying today. I want to try to give it some focus. Let's go over the problems first:

This is the typical chicken and egg circumstance. "Well, if you don't have the money, how can they apply for the

grants? If they can't apply for the grants, how do you know who's out there? Who wants to serve and come forward unless there will be the incentive?"

Also, it's obvious that this should touch gaming. If there is going to be a constitutional amendment, it's going to take the help of those people on the Council, and those in treatment to explain it to others to get total support for this, because you don't want any misconceptions. If I had to give you my concept for today, which will be subject to change-- When Arnie hears about it, he'll tell me it's wrong and I'll have to amend it, but at least it's a concept. You would have to look at gaming in terms of what it grosses for New Jersey: \$600 million, \$700 million.

MR. LOONEY: Eight-hundred-twelve million.

SENATOR GORMLEY: Eight-hundred-twelve million, okay. Set a percentage of money from gaming. It would be miniscule -- 10, 20 cents on a hundred dollars, okay. That money is set aside for treatment or whatever. It has to be gaming out of the gross revenues, not designating any one particular area. And quite frankly, it cannot be discretionary, because all those interest groups who receive the vast majority of the money would say, "We are not going to let the Legislature have discretion. We dedicated this in the Constitution so that it could not be severely altered."

But those same constituent groups that benefit from gaming-- Your function would be to line them up as allies for this so that they would be supportive of a measure like this, so it's not subject to any misconception that you're trying to invade the vast majority of money. You would take that \$825 million, set a percentage that is miniscule in nature, but given your levels -- your instability of funding, treatments total lack of funding -- get together and line up all those groups so that-- Quite frankly, you are a part of the social service network of New Jersey. You pointed out, accurately,

all these problems cross-reference other social service problems; problems with certain members of the elderly community who are unable to lose this money or whatever. So this is done correctly, the entire social service network, even those with existing benefits, should be behind it.

So that's the concept I would look to. I appreciate you taking the time today. But you also know that in order to effectuate any change on a constitutional basis, the members of the community on either side of the coin, in terms of treatment or prevention, are going to have to sell the balance of the social service community that this is a miniscule portion coming back, to make sure that the portion of the social service agenda that is affected by legalized gaming -- so that the problem that emanates from a portion of legalize gaming -- because a lot of it comes from illegal gaming -- at least provides some money to offset the human problems that are faced.

So I'd appreciate the Council getting together with JFK, having a conversation over what we talked about -- a dollar amount that, quite frankly, can't be that high in relation to gaming dollars because it would never work and wouldn't sell. That's practical political science, but when you're at zero, any increase is substantial.

I would appreciate you getting that together, and getting a coalition together beyond those in the room -- a coalition of senior citizens groups and whatever, so that you have that coalition saying, "We'd like you to do this. This is across the board. We recognize this is something that enhances what this fund is about."

So that's my overview governmentally and politically, but you're going to have to make sure that if we do something -- if we do something -- that it is done in such a way that those people who receive existing benefits for gaming have no question that it is not discretionary, because if it were to

be, it would never pass, it wouldn't go up, and also that the moneys are going to be spent, as it was pointed out by my fellow Senators. The people have an idea how it's going to be spent, and it will have some effect.

So we'll work with you; I'll work with you. We'll see what we can put together over the next few weeks.

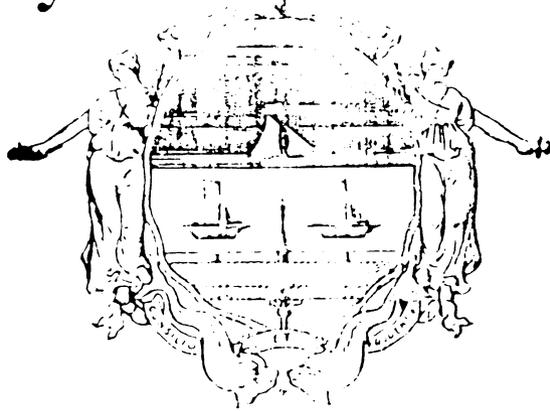
I appreciate everybody taking the time and being so patient today. Thank you very much for coming.

MR. PAPPAS: Thank you.

(HEARING CONCLUDED)

APPENDIX

City of Atlantic City



OFFICE OF BENJAMIN R. FITZGERALD, RMC
CITY CLERK

I, BENJAMIN R. FITZGERALD, City Clerk of the City of Atlantic City, in the County of Atlantic, State of New Jersey **Do hereby Certify**, that the foregoing is a true copy of AN ORDINANCE, AS TAKEN FROM THE ORIGINAL ON FILE IN THE OFFICE OF THE CITY CLERK, WHICH WAS PASSED ON FIRST READING BY THE COUNCIL OF THE CITY OF ATLANTIC CITY AT A MEETING HELD ON NOVEMBER 27, 1991, PUBLISHED AFTER FIRST READING ON NOVEMBER 29, 1991, FINALLY ADOPTED ON DECEMBER 11, 1991 APPROVED BY THE MAYOR ON DECEMBER 14, 1991 AND PUBLISHED AFTER APPROVAL DECEMBER 23, 1991.

In Testimony Whereof, I have hereunto set my hand and affixed the official seal of the City of Atlantic City, this 21ST day of APRIL 19 93


.....
City Clerk

Ordinance

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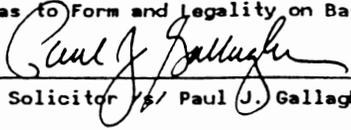
Ordinance No. 99

OF THE
CITY OF ATLANTIC CITY, N.J.

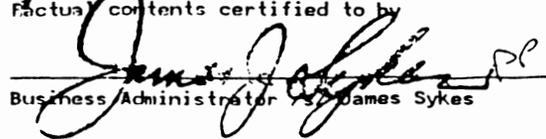
Date... 11/27/91
Date to Mayor 12-13-91

Approved as to Form and Legality on Basis of Facts Set Forth

Factual contents certified to by



City Solicitor Paul J. Gallagher



Business Administrator James Sykes

Prepared by the City Solicitor's Office

Council Member.....PASQUALE.....Presents the following Ordinance:

AN ORDINANCE creating the violation of loitering for the purpose of prostitution and supplementing Section 204 of The Code of The City of Atlantic City.

BE IT ORDAINED by the Council of The City of Atlantic City:

SECTION ONE: DEFINITIONS:

(a) "Known prostitute or procurer" means a person who within one (1) year previous to the date of arrest for violation of this section, has within the knowledge of police authority been convicted in the Superior Court of New Jersey or the Atlantic City Municipal Court of a violation of N.J.S.A. 2C:34-1 or N.J.S.A. 2C:14-4.

(b) "Public place" is an area generally visible to public view and includes streets, sidewalks, boardwalks, beaches, bridges, alleys, plazas, parks, driveways, parking lots, motor vehicles (whether moving or not) and buildings open to the general public including those which serve food or drink, or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

SECTION TWO: VIOLATIONS

A known prostitute or procurer is guilty of loitering for the purpose of prostitution when he or she remains in or wanders about in a public place and engages in conduct that, under the circumstances, manifests the requisite purpose of prostitution or promoting prostitution as defined in N.J.S.A. 2C:34-1.

SECTION THREE: PRESUMPTIONS

- (a) The requisite purpose is presumed where a known prostitute or procurer:
- (1) Repeatedly beckons to or stops pedestrians in a public place;
 - (2) Repeatedly attempts to stop, or repeatedly attempts to engage passersby in conversation; or
 - (3) Repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other bodily gesture; or
 - (4) Circles in an area in a motor vehicle and repeatedly beckons to, contacts or attempts to stop pedestrians.

2X

SECTION FOUR: BURDEN OF PROOF AS TO PRIOR CONVICTION

The burden of proof as to the existence of any prior conviction shall be by the preponderance of the evidence and the Court shall, pursuant to the Rules of Evidence, take judicial notice of its own records and the records of the Superior Court of New Jersey.

SECTION 5: PENALTIES

Any person violating the provisions of this Article, upon conviction thereof before the Municipal Judge or other officer having jurisdiction shall be subject to a fine of \$100 for a first offense, \$250 for a second offense, and \$500 for each third and subsequent offense. Upon conviction of a second or subsequent offense the Court shall impose a period of community service and may impose a period of incarceration not to exceed ninety (90) days for each offense.

SECTION SIX: SEVERABILITY

The provisions of this Ordinance are severable and should any part thereof be declared unlawful, the remaining provisions shall continue in full force and effect.

SECTION SEVEN: EFFECTIVE DATE

This Ordinance shall take effect immediately upon its final passages and publication as provided by law.

RECORD OF COUNCIL VOTE ON FINAL PASSAGE

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	MOT.	SEC.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	MOT.	SEC.
COLLETTE				/			MANCUSO	/					/
COURSEY	/			/	/		PALMENTIERI	/					
HUDGINS	/						PASQUALE	/					
KELLEY	/						RUSSO	/					
							PIERCE, PRESIDENT	/					

X-Indicates Vote NV-Not Voting AB-Absent MOT-Motion SEC-Second

Adopted on first reading at a meeting of the Council of the City of Atlantic City, N.J., on Nov. 27, 1991. Adopted on second and final reading after hearing on DECEMBER 11, 1991.

Approved By: [Signature] Mayor Date: 12/14/91 Reconsidered By Council: Over Ride Aye Nay City Clerk

3X

CITY OF ATLANTIC CITY

OFFICE OF THE CITY SOLICITOR
Room 707, City Hall
Atlantic City, New Jersey 08401
609-347-5540 Fax # 609-347-5210



Paul J. Gallagher
City Solicitor

TO: Councilman J. Pasquale
FROM: Paul J. Gallagher, City Solicitor
DATE: November 13, 1991
SUBJECT: Proposed Loitering Ordinances

A handwritten signature in cursive script that reads "Paul J. Gallagher".

I enclose two draft ordinances for your review and would ask that you take them to the Police Committee at your first opportunity. I like to place these on the Council agenda for its November 27, 1991 meeting for first reading.

The first ordinance creates a violation of loitering for purposes of prostitution. The second creates the violation of loitering for purposes of distribution of CDS. I have attached the model for both of these ordinances, which is a prostitution loitering ordinance from Seattle. I have also attached similar legislation which appears as a New York State Statute, as well as proposed legislation which is pending in the Assembly and the Senate in the State of New Jersey. Please note that all other similar regulatory schemes address the issue of prostitution, but not distribution of CDS. I can find no precedent for that proposed ordinance, but insofar as it is modeled on a tested ordinance prohibiting loitering for purposes of prostitution, it would similarly withstand constitutional challenge.

I have also attached copies of the State Statutes which are identified in both of the ordinances, those being specifically 2C:34-1 Prostitution and Promoting Prostitution; 2C:14-4, Lewdness; and 2C:35-2 and 2C:35-5(a), which represent the definition and the violation section of the Comprehensive Drug Act.

The proposed ordinance provides for certain presumptions, defines the burden of proof for the admission of evidence of a prior conviction, and establishes a gradation of penalties based on second or subsequent convictions.

I would appreciate your cooperation in presenting this matter to the Police Committee, your support as sponsor, and introduction at the November 27, 1991 Council meeting.

I should bring to your attention the efforts of Sgt. Madamba, Det. McKenna and Det. Mooney in urging the adoption of these ordinances. I appreciate their cooperation, their help and the information they provided me in the preparation and drafting of this legislation.

PJG/di

c: Mayor Whelan
Council President Pierce
Chief Rifice
Sgt. Madamba
Sgt. McKenna
Sgt. Mooney

CHAPTER 34

PUBLIC INDECENCY

Section

- 2C:34-1. Prostitution and related offenses.
2C:34-2. Obscenity for persons 18 years of age or older.
2C:34-3. Obscenity for persons under 18.
2C:34-4. Public communication of obscenity.
2C:34-5. Diseased person committing an act of sexual penetration.

Law Review Commentaries

Fulfillment and decrease of passion in criminal law. Stanley Ingber (1975) 28 Rutgers L.Rev. 861.

Highlights of new Code of Criminal Justice. Senator Martin L. Greenberg and John J. Tumulty (1979) 104 N.J.L.J. 121.

Intractable obscenity problem. Nicholas Caslell, Jr. and Thomas M. Russo III (Summer 1977) 2 Seton Hall Legis.J. 179; (Fall 1977) 3 Seton Hall Legis.J. 104.

Sin and the laws of New Jersey. A. J. Cornblatt (Fall 1970) 14 N.J. State Bar J. 20.

United States Supreme Court

Search, unauthorized exhibition of films with descriptive titles to indicate obscene nature although in law-

ful possession, see *Walter v. United States*, 1980, 100 S.Ct. 2395.

2C:34-1. Prostitution and related offenses

a. Prostitution. A person is guilty of prostitution, a petty disorderly persons offense, if he or she:

(1) Is an inmate of a house of prostitution or otherwise engages in sexual activity as a business; or

(2) Solicits another person in or within view of any public place for the purpose of being hired to engage in sexual activity. "Sexual activity" includes homosexual and other deviate sexual relations. A "house of prostitution" is any place where prostitution or promotion of prostitution is regularly carried on by one person under the control, management or supervision of another. An "inmate" is a person who engages in prostitution in or through the agency of a house of prostitution. "Public place" means any place to which the public or any substantial group thereof has access.

b. Promoting prostitution. A person who knowingly promotes prostitution of another commits an offense. The following acts shall, without limitation of the foregoing, constitute promoting prostitution:

(1) Owning, controlling, managing, supervising or otherwise keeping, alone or in association with others, a house of prostitution or a prostitution business;

(2) Procuring an inmate for a house of prostitution or a place in a house of prostitution for one who would be an inmate;

(3) Encouraging, inducing, or otherwise purposely causing another to become or remain a prostitute;

(4) Soliciting a person to patronize a prostitute;

(5) Procuring a prostitute for a patron;

(6) Transporting a person into or within this State with purpose to promote that person's engaging in prostitution, or procuring or paying for transportation with that purpose;

(7) Leasing or otherwise permitting a place controlled by the actor, alone or in association with others, to be regularly used for prostitution or the promotion of prostitution, or failure to make reasonable effort to abate such use by ejecting the tenant, notifying law enforcement authorities, or other legally available means; or

(8) Soliciting, receiving, or agreeing to receive any benefit for doing or agreeing to do anything forbidden by this subsection.

c. Grading of offenses under subsection b. An offense under subsection b. constitutes a crime of the third degree if:

(1) The offense falls within paragraph (1), (2) or (3) of that subsection;

(2) The actor compels another to engage in or promote prostitution;

(3) The actor promotes prostitution of a child under 16, whether or not he is aware of the child's age; or

(4) The actor promotes prostitution of the actor's spouse, child, ward or any person for whose care he is responsible.

Otherwise, the offense is a crime of the fourth degree.

d. Presumption from living off prostitutes. A person, other than the prostitute or the prostitute's minor child or other legal dependent incapable of self-support, who is supported in whole or substantial part by the proceeds of prostitution is presumed to be knowingly promoting prostitution in violation of subsection b.

e. Patronizing prostitutes. A person commits a petty disorderly persons offense if he hires a prostitute to engage in

Note 1

sexual activity with him, or if he enters or remains in a house of prostitution for the purpose of engaging in sexual activity or if he solicits or requests another person to engage in sexual activity with him for hire.

L.1978, c. 95, § 2C:34-1, eff. Sept. 1, 1979.

Historical Note

Source: N.J.S. 2A:133-1 to 2A:133-12; 2A:170-5.

Model Penal Code: 251.2.

Prior Laws: R.S. 2:158-1 to 2:158-12; 2:202-4.

L.1808, c. 235, § 117, p. 826, amended by L.1906, c. 65, § 1, p. 95 [C.S. p. 1784, § 117]; L.1921, c. 22, § 1, p. 43 [1924 Suppl. § 52-117].

L.1910, c. 10, §§ 1 to 7, pp. 24, 25 [C.S. pp. 1760, 1761, §§ 47a to 47g].

L.1922, c. 240, §§ 1, 2, pp. 410, 420 [1924 Suppl. §§ 52-51a, 52-51b].

L.1930, c. 205, § 1, p. 060.

Uniform Law: This section is similar to § 251.2 of the Model Penal Code, see 10 Uniform Laws Annotated, Master Edition.

Cross References

Premises used for prostitution on assignment, forfeiture of lease, see § 40:8-8. Venereal disease, examination of prostitute for, see § 20:4-32.

Law Review Commentaries

State preemption of municipal penal ordinances under Code of Criminal Justice. John C. Kennedy and

John P. McDonald (Summer 1978) 3 Seton Hall Legis.J. 181.

Library References

Prostitution ⇌ 1.

C.J.S. Prostitution § 1 et seq.

United States Code Annotated

Interstate transportation of woman or girl for immoral purpose, see 18 U.S.C.A. § 2421.

Notes of Decisions

Construction and application 1
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 In general 7
 Placing inmate in house of prostitution 8
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 Transporting for prostitution 10
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 Placing inmate in house of prostitution, evidence 8

Receiving proceeds from prostitution, evidence 9
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 Transporting for prostitution, evidence 10

I. Construction and application

The enactment of § 2A:170-5, (repealed; now this section and § 2C:14-4), which provided that a person practicing prostitution was a disorderly person did not in effect re-

8X

SEXUAL OFFENSES

2C:14-4

3. Sentence and punishment

New Jersey state prison regulation preventing state prison inmates who had been convicted of more than one "sex offense" from attaining "minimum custody status" and thus becoming eligible for certain benefits

such as work release and furlough programs was violative of equal protection insofar as neither statute nor regulation adequately defined "sex offense." *Huchan v. Fauver*, D.C., 480 F.Supp. 103 (1979).

2C:14-4. Lewdness

A person commits a disorderly persons offense if he does any flagrantly lewd and offensive act which he knows or reasonably expects is likely to be observed by other nonconsenting persons who would be affronted or alarmed. "Lewd acts" shall include the exposing of the genitals for the purpose of arousing or gratifying the sexual desire of the actor or of any other person.

L.1978, c. 95, § 2C:14-4, eff. Sept. 1, 1979.

Historical Note

Source: N.J.S. 2A:115-1; 2A:170-5. L.1030, c. 205, § 1, p. 906.

Prior Laws: R.S. 2:140-1, 2:202-4.

L.1808, c. 235, § 51, p. 808, amended by L.1006, c. 71, § 1, p. 101 [C.S. p. 1702, § 51].

Cross References

Domestic violence, see § 2C:25-1 et seq.

Indecent language in public place, see § 2C:33-2.

Treatment of sex offenders, see § 2C:47-1 et seq.

Law Review Commentaries

Collateral problems in obscenity regulation. Stephen J. Edelstein and Kenneth Mott (1976) 7 Seton Hall L. Rev. 643.

"Contemporary community standards" test of obscenity envisions a national, not a local standard. (1964) 18 Rutgers L.Rev. 1175.

Dissection of plays into speech and conduct components to judge obscenity. (1972) 4 Seton Hall L.Rev. 379.

Intractable obscenity problem. Nicholas Casiello, Jr. and Thomas M. Russo III (Summer 1977) 2 Seton Hall Legis.J. 179; (Fall 1977) 3 Seton Hall Legis.J. 104.

Obscenity and the law—an appraisal of the contemporary concept of obscenity. (1970) 1 Seton Hall L.Rev. 99.

Requirement of patent offensiveness and necessity of judicial determination of obscenity prior to postal censorship. (1902) 17 Rutgers L.Rev. 213.

The Supreme Court and obscenity: Mishkin and Gluzburg. Bernard F. Reiss and Alan Silber (1960) 21 Rutgers L.Rev. 43, 50.

United States Supreme Court

Community standards, see *Jenkins v. Georgia*, 1974, 94 S.Ct. 2750, 418 U.S. 153, 41 L.Ed.2d 642; *Hamling v.*

U. S., 1974, 94 S.Ct. 2887, 418 U.S. 87, 41 L.Ed.2d 500.

labeling; or compounding necessary to prepare the substance for that delivery.

"Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled dangerous substance or controlled substance analog. "Distributor" means a person who distributes.

"Drugs" means (a) substances recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (b) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (c) substances (other than food) intended to affect the structure or any function of the body of man or other animals; and (d) substances intended for use as a component of any article specified in subsections (a), (b) and (c) of this section, but does not include devices or their components, parts or accessories.

"Drug dependent person" means a person who is using a controlled dangerous substance or controlled substance analog and who is in a state of psychic or physical dependence, or both, arising from the use of that controlled dangerous substance or controlled substance analog on a continuous basis. Drug dependence is characterized by behavioral and other responses, including but not limited to a strong compulsion to take the substance on a recurring basis in order to experience its psychic effects, or to avoid the discomfort of its absence.

"Hashish" means the resin extracted from any part of the plant Genus Cannabis L. and any compound, manufacture, salt, derivative, mixture, or preparation of such resin.

"Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled dangerous substance or controlled substance analog, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled dangerous substance or controlled substance analog by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled dangerous substance (1) by a practitioner as an incident to his administering or dispensing of a controlled dangerous substance or controlled substance analog in the course of his professional practice, or (2) by a practitioner (or under his supervision) for the purpose of or as an incident to research, teaching, or chemical analysis and not for sale.

"Marihuana" means all parts of the plant Genus Cannabis L. whether growing or not; the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds, except those containing resin extracted from such plant; but shall not include the mature stalks of such plant, fibers produced from such stalks, oil or cake made from the seeds of such plant; any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- (a) Opium, coca leaves, and opiates;
- (b) A compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;

(c) A substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in subsections (a) and (b), except that the words "narcotic drug" as used in this act shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecogine.

"Opiate" means any dangerous substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does

include, unless specifically designated as controlled pursuant to the provisions of section 3, of P.L.1970, c. 226 (C. 24:21-3), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species Papaver somniferum L., except the seeds thereof.

"Person" means any corporation, association, partnership, trust, other institution or entity or one or more individuals.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, veterinarian, scientific investigator, laboratory, pharmacy, hospital or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled dangerous substance or controlled substance analog in the course of professional practice or research in this State.

(a) "Physician" means a physician authorized by law to practice medicine in this or any other state and any other person authorized by law to treat sick and injured human beings in this or any other state and

(b) "Veterinarian" means a veterinarian authorized by law to practice veterinary medicine in this State.

(c) "Dentist" means a dentist authorized by law to practice dentistry in this State.

(d) "Hospital" means any federal institution, or any institution for the care and treatment of the sick and injured, operated or approved by the appropriate State department as proper to be entrusted with the custody and professional use of controlled dangerous substances or controlled substance analogs.

(e) "Laboratory" means a laboratory to be entrusted with the custody of narcotic drugs and the use of controlled dangerous substances or controlled substance analogs for scientific, experimental and medical purposes and for purposes of instruction approved by the State Department of Health.

"Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled dangerous substance or controlled substance analog.

"Immediate precursor" means a substance which the State Department of Health has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled dangerous substance or controlled substance analog, the control of which is necessary to prevent, curtail, or limit such manufacture.

"Residential treatment facility" means any facility approved by any county probation department for the inpatient treatment and rehabilitation of drug dependent persons.

"Schedules I, II, III, IV, and V" are the schedules set forth in sections 5 through 8 of P.L.1970, c. 226 (C. 24:21-5 through 24:21-8) and in section 4 of P.L.1971, c. 3 (C. 24:21-8.1) and as modified by any regulations issued by the Commissioner of Health pursuant to his authority as provided in section 3 of P.L.1970, c. 226 (C. 24:21-3).

"State" means the State of New Jersey.

"Ultimate user" means a person who lawfully possesses a controlled dangerous substance or controlled substance analog for his own use or for the use of a member of his household or for administration to an animal owned by him or by a member of his household.

L.1987, c. 106, § 1, operative July 9, 1987.

Historical and Statutory Notes

1987 Legislation:

Effective and operative date of L.1987, c. 106, see Historical Note under § 20:35-1.

Last additions in text indicated by underline; deletions by strikeout.

Last additions in text indicated by underline; deletions by strikeout.

2C:35-2.1. Anabolic steroid, practitioner and immediate precursor defined

As used in this act: a. "Anabolic steroid" means a material compound, mixture, or preparation that contains an anabolic steroid or an immediate precursor that includes any of the following:

Chorionic gonadotrophin

Clostebol

Dehydrochlormethyltestosterone

Ethylestrenol

Fluoxymesterone

Mesterolone

Metenolone

Methandienone

Methandro stenolone

Methyltestosterone

Nandrolone decanoate

Nandrolone phenpropionate

Norethandrolone

Oxandrolone

Oxymesterone

Oxymetholone

Stanozolol

Testosterone propionate

Testosterone-like related compounds

b. "Practitioner" means a physician, dentist, veterinarian, scientific investigator, laboratory, pharmacy, hospital or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer an anabolic steroid or immediate precursor in the course of professional practice or research in this State.

c. "Immediate precursor" means a substance which the State Department of Health has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of an anabolic steroid, the control of which is necessary to prevent, curtail, or limit such manufacture.

L.1989, c. 335, § I, eff. Jan. 12, 1990.

Governors Reconsideration and Recommendation Statement

Assembly, Bill No. 4283—L.1989, c. 335

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I herewith return Assembly Bill No. 4283 with my objections for reconsideration.

This bill provides that in prosecutions for aggravated sexual assault, sexual assault, aggravated criminal sexual contact, criminal sexual contact, endangering the welfare of a child or any action alleging an abused or neglected child, the name, address and identity of a victim who is under the age of 18 at the time of the offense shall not appear on the indictment, complaint or any other public record. In place of the name of the child victim shall be the victim's initials or a fictitious name. The bill goes on, however, to allow the court to disclose this information if it determines, after a hearing, that good cause exists for such disclosure. Further, the bill

notes that nothing contained in it shall prohibit the court from imposing further restrictions with regard to the disclosure of the name, address and identity of the child victim which it deems necessary to prevent trauma and stigma. Finally, the bill provides that any person who prints, publishes, broadcasts or televises the name, address and identity of a child victim is guilty of a disorderly persons offense.

The stated purpose of this bill is to protect child victims of sexual assault and sexual abuse from the stigma and trauma which may accompany the publication of their names, addresses and identities. To accomplish this purpose, the provisions of this bill focus on keeping the victim's name out of the public record of the criminal prosecution. While I wholeheartedly support this aim and endorse the vast majority of this bill, there is one portion of the bill which is problematic. Subsection e provides that any person who publishes or broadcasts the name, address and identity of a child victim is guilty of a disorderly persons offense. This subsection effectively holds the print and broadcast media criminally liable for reporting the name and address of a sexual assault or abuse victim even if the source of the information is other than those specified in the bill; for example, if the information is from an eyewitness, the victim's parents or even the victim. This subsection, on its face, also would apply even if the victim suffered no trauma or stigma or if the importance to the public of publishing the name and identity of the alleged victim clearly outweighed the State's interest in protecting the privacy rights of the victim in a particular case. Because of the breadth and focus of this provision, I am convinced that it would, at the very least, be unconstitutional in many of its possible applications.

As the courts have made clear in cases interpreting the First Amendment, prohibitions on publication by the press of truthful information are highly suspect. Instead, the courts have suggested that the preferable course is to limit the dissemination of information regarding the names, address and identity of child victims of sexual assault and abuse by keeping the victim's identity out of the public record. This is not only preferable in protecting the constitutional rights involved, but as a matter of sound policy, as it strikes the proper balance between competing interests. We should never unnecessarily interfere with the press's freedom to print the truth when the State interest to be protected can be better addressed in a less-intrusive manner. It should be noted that the news media has acted responsibly in these matters in the past, and I have every reason to believe that reporters and publishers will continue to treat these cases with sensitivity and discretion.

Accordingly, a meaningful alternative to subsection e is to prohibit the purposeful disclosure, release or other dissemination of confidential documents bearing a child victim's name, address and identity delineated in subsection b of the present bill, that is, any report, statement, photograph, court document, indictment, complaint or any other public record which states the name, address or identity of a child victim. Any person who discloses, releases or otherwise disseminates to the public such information would be guilty of a disorderly persons offense. A similar path has been followed in preserving the privacy rights of victims of child abuse by prohibiting the release of child abuse reports and imposing a criminal sanction on those who purposely violate this prohibition. (See N.J.S.A. 9:6-8.10b.)

For the above reasons, I recommend that subsection e of Assembly Bill No. 4283 be deleted and that in its stead new language be added which prohibits the purposeful release of the name, address or identity of child victims of sexual assault and abuse.

Therefore, I herewith return Assembly Bill No. 4283 and recommend that it be amended as follows:

Text additions in text indicated by underline; deletions by strikes.

Respectfully,
/s/ Thomas H. Kean
GOVERNOR

Historical and Statutory Notes
1989 Legislation
Rules and regulations to effectuate purposes of
L.1989, c. 335, sec § 24:21-8.2.

Cross References
Change of definition of anabolic steroid by com-
missioner, sec § 24:21-8.2.

2C:35-3. Leader of narcotics trafficking network

A person is a leader of a narcotics trafficking network if he conspires with others as an organizer, supervisor, financier or manager, to engage for profit in a scheme or course of conduct to unlawfully manufacture, distribute, dispense, bring into or transport in this State methamphetamine, lysergic acid diethylamide, phencyclidine or any controlled dangerous substance classified in Schedule I or II, or any controlled substance analog thereof. Leader of narcotics trafficking network is a crime of the first degree and upon conviction thereof, except as may be provided by N.J.S. 2C:35-12, a person shall be sentenced to an ordinary term of life imprisonment during which the person must serve 25 years before being eligible for parole. Notwithstanding the provisions of subsection a. of N.J.S. 2C:43-3, the court may also impose a fine not to exceed \$500,000.00 or five times the street value of the controlled dangerous substance or controlled substance analog involved, whichever is greater.

Notwithstanding the provisions of N.J.S. 2C:1-8, a conviction of leader of narcotics trafficking network shall not merge with the conviction for any offense which is the object of the conspiracy. Nothing contained in this section shall prohibit the court from imposing an extended term pursuant to N.J.S. 2C:43-7; nor shall this section be construed in any way to preclude or limit the prosecution or conviction of any person for conspiracy under N.J.S. 2C:5-2, or any prosecution or conviction under N.J.S. 2C:35-4 (maintaining or operating a CDS production facility), N.J.S. 2C:35-5 (manufacturing, distributing or dispensing), N.J.S. 2C:35-6 (employing a juvenile in a drug distribution scheme), N.J.S. 2C:35-9 (strict liability for drug induced death), N.J.S. 2C:41-2 (racketeering activities) or subsection g. of N.J.S. 2C:5-2 (leader of organized crime).

It shall not be necessary in any prosecution under this section for the State to prove that any intended profit was actually realized. The trier of fact may infer that a particular scheme or course of conduct was undertaken for profit from all of the attendant circumstances, including but not limited to the number of persons involved in the scheme or course of conduct, the actor's net worth and his expenditures in relation to his legitimate sources of income, the amount or purity of the specified controlled dangerous substance or controlled substance analog involved, or the amount of cash or currency involved.

It shall not be a defense to a prosecution under this section that such controlled dangerous substance or controlled substance analog was brought into or transported in this State solely for ultimate distribution or dispensing in another jurisdiction; nor shall it be a defense that any profit was intended to be made in another jurisdiction. L.1987, c. 106, § 1, operative July 9, 1987.

Historical and Statutory Notes
1987 Legislation
Effective and operative date of L.1987, c. 106,
see Historical Note under § 2C:35-1.

Cross References
Extended term for conviction of violation of
this section after previous conviction for manufac-
turing, distributing or dispensing controlled dan-
gerous substance or analog, see § 2C:43-6.

2C:35-4. Maintaining or operating a controlled dangerous substance production facility

Except as authorized by P.L.1970, c. 226 (C. 24:21-1 et seq.), any person who knowingly maintains or operates any premises, place or facility used for the

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manufacture of methamphetamine, lysergic acid diethylamide, phencyclidine or any controlled dangerous substance classified as a narcotic drug in Schedule I or II, or the analog of any such substance, or any person who knowingly aids, promotes, finances or otherwise participates in the maintenance or operations of such premises, place or facility, is guilty of a crime of the first degree and shall, except as provided in N.J.S. 2C:35-12, be sentenced to a term of imprisonment which shall include the imposition of a minimum term which shall be fixed at, or between, one-third and one-half of the sentence imposed, during which the defendant shall be ineligible for parole. Notwithstanding the provisions of subsection a. of N.J.S. 2C:43-3, the court may also impose a fine not to exceed \$500,000.00 or five times the street value of all controlled dangerous substances or controlled substance analogs at any time manufactured or stored at such premises, place or facility, whichever is greater.

L.1987, c. 106, § 1, operative July 9, 1987. Amended by L.1988, c. 44, § 1, eff. June 28, 1988.

Historical and Statutory Notes

1987 Legislation
Effective and operative date of L.1987, c. 106,
see Historical Note under § 2C:35-1.

Cross References

Extended term for conviction of violation of
this section after previous conviction for manufac-
turing, distributing or dispensing controlled dan-
gerous substance or analog, see § 2C:43-6.

Notes of Decisions

Manufacture 1

"Diluting a bulk quantity of drugs and repackag-
ing those drugs into smaller units constituted the
"manufacture" of those substances within the
meaning of a this provision. State v. Miles, 231
NJ. Super. 27, 555 A.2d 1 (A.D.1989).

2C:35-5. Manufacturing, distributing or dispensing

a. Except as authorized by P.L.1970, c. 226 (C. 24:21-1 et seq.), it shall be unlawful for any person knowingly or purposely:

- (1) To manufacture, distribute or dispense, or to possess or have under his control with intent to manufacture, distribute or dispense, a controlled dangerous substance or controlled substance analog, or
- (2) To create, distribute, or possess or have under his control with intent to distribute, a counterfeit controlled dangerous substance.

b. Any person who violates subsection a. with respect to:

- (1) Heroin, or its analog, or coca leaves and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, or analogs, except that the substances shall not include decocainized coca leaves or extractions which do not contain cocaine or ecogine, in a quantity of five ounces or more including any adulterants or dilutants, provided there are included at least 3.5 grams of the pure free base drug, is guilty of a crime of the first degree. The defendant shall, except as provided in N.J.S. 2C:35-12, be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term which shall be fixed at, or between, one-third and one-half of the sentence imposed, during which the defendant shall be ineligible for parole. Notwithstanding the provisions of subsection a. of N.J.S. 2C:43-3, a fine of up to \$300,000.00 may be imposed;

(2) A substance referred to in paragraph (1) of this subsection, in a quantity of one-half ounce or more but less than five ounces, including any adulterants or dilutants, provided there are included at least 3.5 grams of the pure free base drug, is guilty of a crime of the second degree;

(3) A substance referred to in paragraph (1) of this subsection in a quantity less than one-half ounce including any adulterants or dilutants, or in a quantity of one-half ounce or more with there being included less than 3.5 grams of the pure free base drug or where the amount of the pure free base is undetermined, is guilty

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of a crime of the third degree except that, notwithstanding the provisions of subsection b. of N.J.S. 2C:43-3, a fine of up to \$50,000.00 may be imposed;

(4) A substance classified as a narcotic drug in Schedule I or II other than those specifically covered in this section, or the analog of any such substance, in a quantity of one ounce or more including any adulterants or dilutants, ~~provided there are included at least 3.5 grams of the pure free base drug~~, is guilty of a crime of the second degree;

(5) A substance classified as a narcotic drug in Schedule I or II other than those specifically covered in this section, or the analog of any such substance, in a quantity of less than one ounce including any adulterants or dilutants, ~~or in a quantity of one ounce or more with there being included less than 3.5 grams of the pure free base drug or where the amount of the pure free base drug is undetermined~~, is guilty of a crime of the third degree except that, notwithstanding the provisions of subsection b. of N.J.S. 2C:43-3, a fine of up to \$50,000.00 may be imposed;

(6) Lysergic acid diethylamide, or its analog, in a quantity of 100 milligrams or more including any adulterants or dilutants, or phencyclidine, or its analog, in a quantity of 10 grams or more including any adulterants or dilutants, is guilty of a crime of the first degree. Except as provided in 2C:35-12, the court shall impose a term of imprisonment which shall include the imposition of a minimum term, fixed at, or between, one-third and one-half of the sentence imposed by the court, during which the defendant shall be ineligible for parole. Notwithstanding the provisions of subsection a. of N.J.S. 2C:43-3, a fine of up to \$300,000.00 may be imposed;

(7) Lysergic acid diethylamide, or its analog, in a quantity of less than 100 milligrams including any adulterants or dilutants, or where the amount is undetermined, or phencyclidine, or its analog, in a quantity of less than 10 grams including any adulterants or dilutants, or where the amount is undetermined, is guilty of a crime of the second degree;

(8) Methamphetamine, or its analog, in a quantity of one ounce or more including any adulterants or dilutants, ~~provided there are included at least 3.5 grams of the pure free base drug~~, is guilty of a crime of the second degree;

(9) Methamphetamine, or its analog, in a quantity of less than one ounce including any adulterants or dilutants, or in a quantity of one ounce or more with there being included less than 3.5 grams of the pure free base drug or where the amount of the pure free base drug is undetermined, is guilty of a crime of the third degree except that, notwithstanding the provisions of subsection b. of N.J.S. 2C:43-3, a fine of up to \$50,000.00 may be imposed;

(10) Marijuana in a quantity of five pounds or more including any adulterants and dilutants, or hashish in a quantity of one pound or more including any adulterants and dilutants, is guilty of a crime of the second degree;

(11) Marijuana in a quantity of one ounce or more but less than five pounds including any adulterants and dilutants, or hashish in a quantity of five grams or more but less than one pound including any adulterants and dilutants, is guilty of a crime of the third degree except that, notwithstanding the provisions of subsection b. of N.J.S. 2C:43-3, a fine of up to \$15,000.00 may be imposed;

(12) Marijuana in a quantity of less than one ounce including any adulterants and dilutants, or hashish in a quantity of less than five grams including any adulterants and dilutants, is guilty of a crime of the fourth degree;

(13) Any other controlled dangerous substance classified in Schedule I, II, III or IV, or its analog, is guilty of a crime of the third degree, except that, notwithstanding the provisions of subsection b. of N.J.S. 2C:43-3, a fine of up to \$15,000.00 may be imposed; or

(14) Any Schedule V substance, or its analog, is guilty of a crime of the fourth degree except that, notwithstanding the provisions of subsection b. of N.J.S. 2C:43-3, a fine of up to \$15,000.00 may be imposed.

c. Where the degree of the offense for violation of this section depends on the quantity of the substance, the quantity involved shall be determined by the trier of fact. The indictment or accusation so provides, the quantity involved in individual acts of manufacturing, distribution, dispensing or possessing with intent to distribute may be aggregated in determining the grade of the offense, whether

distribution or dispensing is to the same person or several persons, provided that each individual act of manufacturing, distribution, dispensing or possession with intent to distribute was committed within the applicable statute of limitations.

L.1987, c. 106, § 1, operative July 9, 1987. Amended by L.1988, c. 44, § 2, eff. June 28, 1988.

Annotations under prior laws, see §§ 24:21-19, 24:21-30.

Historical and Statutory Notes

Prior Laws: C. 24:21-19, 24:21-20 (L.1970, c. 226, §§ 19, 20 amended by L.1971, c. 3, §§ 8, 9; L.1975, c. 31, § 1)

N.J.S. 2A:170-8, amended by L.1957, c. 109, p. 213, § 1; L.1964, c. 227, § 1.

C. 24:6C-3 (L.1966, c. 314, § 3).

R.S. 24:18-4, amended by L.1966, c. 313, § 3; R.S. 24:18-47, amended by L.1951, c. 56, p. 408,

§ 1; L.1952, c. 90, p. 424, § 1; L.1964, c. 293, § 1; L.1966, c. 313, § 29.

L.1933, c. 186, art. II, § 1, p. 400; L.1933, c. 186, art. IV, § 12, p. 411.

1987 Legislation

Effective and operative date of L.1987, c. 106, see Historical Note under § 2C:35-1.

Cross References

Extended term for conviction of violation of this section after previous conviction for manufacturing, distributing or dispensing controlled dangerous substance or analog, see § 2C:42-6.

Notes of Decisions

Evidence 5

Intent to distribute 1988A

Knowledge 4

Multiple convictions 3

Sentence and punishment 2

1. Intent

That juvenile intended to distribute the 60 grams of cocaine found in his possession near school yard where car was parked could be inferred from facts and circumstances surrounding possession. State in Interest of A.A.M., 228 N.J. Super. 9, 548 A.2d 524 (Ch.1988).

2. Sentence and punishment

Trial court's imposition of 20-year base term following conviction of defendant on charges of conspiracy to distribute five or more ounces of cocaine and possession of five or more ounces of cocaine with at least 3.5 grams of free base with intent to distribute was fully supported by record; fact that defendant was found with kilogram of cocaine in his possession suggested that defendant had access to large amounts of drugs and would distribute again in future if allowed to remain free and evidence supported finding that defendant was involved in organized crime finding of need for deterrence. State v. Varona, 242 N.J. Super. 474, 522 A.2d 524 (A.D.1990).

Co at five-year terms of imprisonment, including discretionary two-and-one-half-year pe-

riod of parole ineligibility for offense of third-degree possession of controlled dangerous substances with intent to distribute and mandatory three-year period of parole ineligibility for offense of third-degree possession of controlled dangerous substances with intent to distribute within 1,000 feet of school property were not excessive. State v. Baez, 238 N.J. Super. 93, 569 A.2d 268 (A.D. 1990) certification denied 121 N.J. 644, 583 A.2d 335.

Defendant convicted of first-degree possession with intent to distribute cocaine could be sentenced as second-degree offender. State v. Merritt, 230 N.J. Super. 211, 553 A.2d 70 (L.1988).

Defendant convicted of first-degree possession with intent to distribute cocaine, but sentenced as a second-degree offender, was subject to period of parole ineligibility in first-degree offender statute (N.J.S.A. 2C:35-5). State v. Merritt, 230 N.J. Super. 211, 553 A.2d 70 (L.1988).

3. Multiple convictions

Crimes enumerated in § 5 of Comprehensive Drug Reform Act of 1986 that would merge into 60-gram possession statute for most merger principles are those § 5 crimes which do not have minimum quantity of controlled dangerous substance as element and are of same or lower degree than § 7 offense and do not carry mandatory period of parole ineligibility; § 7 offense, which carries mandatory period of parole ineligibility, ordinarily would not merge "into" any of these § 5 crimes. State v. Gonzalez, 241 N.J. Super. 92, 574 A.2d 487 (A.D.1990).

Nonmerger provision of school drug offense, operating to preclude merger of possession with intent to distribute heroin and possession with intent to distribute heroin within 1,000 feet of school property, did not violate federal and state double jeopardy clauses, given clear intent of legislature to sanction multiple convictions and punishment upon simultaneous convictions for those offenses; there was no legislative intent supporting proposition that nonmerger provision permitted merger of offenses provided mandatory minimum of parole ineligibility was maintained, but rather legislative intent required entry of separate convictions. State v. Anaya, 238 N.J. Super. 31, 568 A.2d 1208 (A.D.1990).

Defendant's conviction of possession of a controlled dangerous substance with intent to distribute did not merge with conviction of possession of controlled dangerous substance with intent to distribute within 1,000 feet of a school in light of nonmerger provision of school zone distribution offense which furthered legislative goal of stopping drug traffic in school zone and thus did not violate federal or state constitutional rights despite overlapping elements of offenses. State v. Blow, 237 N.J. Super. 184, 567 A.2d 253 (A.D.

12A.10.010 Prostitution loitering.

A. As used in this section:

1. "Commit prostitution" means to engage in sexual conduct for money but does not include sexual conduct engaged in as part of any stage performance, play or other entertainment open to the public.

2. "Known prostitute or procurer" means a person who within one (1) year previous to the date of arrest for violation of this section, has within the knowledge of the arresting officer been convicted in Seattle Municipal Court of an offense involving prostitution.

3. "Public place" is an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the general public including those which serve food or drink, or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

4. "Sexual conduct" means conduct as defined in Section 12A.02.150 (24).

B. A person is guilty of prostitution loitering if he or she remains in a public place and intentionally solicits, induces, entices, or procures another to commit prostitution.

C. Among the circumstances which may be considered in determining whether the actor intends such prohibited conduct are that he or she:

1. Repeatedly beckons to, stops or attempts to stop, or engages passersby in conversation; or

2. Repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other bodily gesture; or

3. Circles an area in a motor vehicle repeatedly beckons to, contacts, or attempts to stop pedestrians; or

4. Is a known prostitute or procurer

5. Inquires whether a potential prostitute or procurer is a police officer, searches for articles that would identify a police officer, requests the touching or exposing of genital female breasts to prove that the person is not a police officer.

(Ord. 113843 § 1, 1988; Ord. 112467 § 1, 1987; Ord. 102843 § 12A.12.020, 1973.)

Cases: An ordinance prohibiting loitering, "under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to commit an act of prostitution" sufficiently describes overt conduct constituting criminal loitering and therefore not unconstitutionally vague. *Seattle v. Jones*, 79 Wn.2d 626, 488 P2d 750 (1971), aff'd 37 Wn.App. 431, 475 P2d 790 (1971).

Cases: Ordinance on prostitution loitering was not facially or overbroad, was not vague as applied to defendant, and did not create an unconstitutional presumption that performing the acts described in the ordinance made one guilty of soliciting. *v. VJW*, 37 Wn.App. 428, 680 P2d 1068 (1984).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. a. As used in this section, "public place" means any place to which the public has access including but not limited to a public street, sidewalk, bridge, alley, plaza, park, driveway, parking lot or transportation facility, vehicle used for public transportation, parking lot, public library, or the doorways and entrance ways to any building which fronts on any of the aforesaid places, or any other public building, structure or area.

b. A person commits a disorderly persons offense who, having been previously convicted of a violation of N.J.S. 2C:34-1 or N.J.S. 2C:14-4, remains in or wanders about in a public place and engages in conduct that, under the circumstances manifests the purpose of prostitution or promoting prostitution as defined in N.J.S. 2C:34-1.

c. The requisite purpose is presumed in the case if the person:

(1) Repeatedly beckons to or stops pedestrians in a public place;

(2) Repeatedly attempts to stop, or repeatedly attempts to engage passers-by in conversation;

(3) Repeatedly stops or attempts to stop motor vehicles.

2. This act shall take effect immediately.

STATEMENT

This bill create the offense of loitering for the purpose of prostitution. Under this bill, a person, having been previously convicted of the offense of prostitution under N.J.S. 2C:34-1 or lewdness under N.J.S. 2C:14-4, commits a disorderly persons offense if the person remains in or wanders about in a public place and engages in conduct which gives rise to probable cause to believe that the conduct is for the purpose of engaging in or promoting prostitution.

A disorderly persons offense is punishable by a fine not to exceed \$1,000, a term of imprisonment not to exceed six months, or both.

CRIMINAL JUSTICE

Creates the offense of loitering for the purpose of engaging in prostitution.

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... 240.30 of this article and has been convicted of the crime of aggravated harassment in the second degree for the commission of conduct proscribed by the provisions of subdivision three of section 240.30 or he has been previously convicted of the crime of aggravated harassment in the first degree within the preceding ten years.

§240.35 Loitering.

- 1. Loiters, remains or wanders about in a public place for the purpose of begging; or
- 2. Loiters or remains in a public place for the purpose of gambling with cards, dice or other gaming paraphernalia; or
- 3. Loiters or remains in a public place for the purpose of engaging or soliciting another person to engage in deviate sexual intercourse or other sexual behavior of a deviate nature; or
- 4. Being masked or in any manner disguised by unclean or unnatural attire or facial alteration, loiters, remains or congregates in a public place with other persons so masked or disguised, or knowingly permits or causes persons so masked or disguised to congregate in a public place; or
- 5. Being masked or in any manner disguised, loiters, remains or congregates in connection with a mass parade, party or large entertainment which is a public entertainment which has promulgated regulations in connection with such affairs, permission is not obtained from the police or other appropriate authorities; or
- 6. Loiters or remains in or about school grounds, a college or university building or grounds, not having any reason or relation to the school or college of the grounds, for a pupil or student, except for specific legitimate reasons for being there, and not having written permission from anyone authorized to grant the same; or
- 7. Loiters or remains in any transportation facility, unless specifically authorized to do so, for the purpose of soliciting or engaging in any business, trade or commercial transactions involving the sale of merchandise or services, or for the purpose of entertaining persons by singing, dancing or playing any musical instrument; or

§240.36 Loitering in the first degree.

A person is guilty of loitering in the first degree when he loiters or remains in any place with one or more persons for the purpose of unlawfully using or possessing a controlled substance, as defined in section 220.00 of this chapter.

Loitering in the first degree is a class B misdemeanor.
1. For the purposes of this section, "public place" means any

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street, sidewalk, bridge, alley or alleyway, plaza, public driveway, parking lot or transportation facility or the doorways and entrance ways to any building which fronts on any of the aforesaid places, or a motor vehicle in or on any such place.

2. Any person who remains or wanders about in a public place and repeatedly heckles to, or repeatedly stops, or repeatedly attempts to stop, or repeatedly attempts to engage passers-by in conversation, or repeatedly stops or attempts to stop motor vehicles, or repeatedly interferes with the free passage of other persons, for the purpose of prostitution, or of patronizing a prostitute as those terms are defined in article two hundred thirty of the penal law, shall be guilty of a violation, and is guilty of a class B misdemeanor if such person has previously been convicted of a violation of this section or of sections 240.00 or 240.05 of the penal law.

§240.40 Appearance in public under the influence of narcotics or a drug other than alcohol.

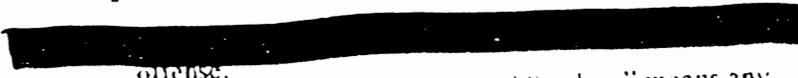
A person is guilty of appearance in public under the influence of narcotics or a drug other than alcohol when he appears in a public place under the influence of narcotics or a drug other than alcohol to the degree that he may endanger himself or other persons or property, or annoy persons in his vicinity.

§240.45 Criminal nuisance in the second degree.

A person is guilty of criminal nuisance in the second degree when:
1. His conduct either unlawful in itself or unreasonable under all the circumstances, he knowingly or recklessly creates or maintains a condition which endangers the safety or health of a considerable number of persons; or
2. He knowingly conducts or maintains any premises, place or resort where persons gather for purposes of engaging in unlawful conduct.

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