

12194

HOUSE

JUDICIARY

**HCR**

**15**



## HOUSE JUDICIARY COMMITTEE

STATE CAPITOL, ROOM 120  
(907) 465-4990

### COMMITTEE MEMBERS

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Chairman  
Room, 118  
(907) 465-3004

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Vice-Chairman  
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Room 204  
(907) 465-2095

Rep. Max Gruenberg  
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Rep. Lindsey Holmes  
Room 405  
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### MEMORANDUM

Date: January 29, 2008

To: Representative John Coghill  
Chairman House Rules Committee

From: Representative Jay Ramras  
Chairman House Judiciary Committee

Re: Referral file for HCR15

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Attached please find the following documents as part of the referral file for HCR15:

- Sponsor Statement
- CSHCR15(JUD) 25-LS1314\M
- Explanation of changes from version \A
- HCR15 25-LS1314\A
- Fiscal Note HJUD - 0
- HJUD Report
- Correspondence
- Articles

# Alaska State Legislature

Session: June-May  
State Capitol, Room 208  
Juneau, AK 99801-1182  
(907) 465-4859  
Fax (907) 465-3799



Interim: June-Dec  
16 West 4th Avenue, Suite 300  
Anchorage, AK 99501-2133  
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Fax (907) 269-0128

## John Harris Speaker of the House

### Sponsor Statement

*HCR 15 - "Urging the governor to direct the attorney general to file an amicus curiae brief with the United States Supreme Court in the case of Parker v. District of Columbia, supporting the individual right to keep and bear arms under the Second Amendment to the United States Constitution."*

It is in the best interest of the citizens of Alaska to have the state's attorney general file a "friend of the court" brief in support of the plaintiff in Parker v. District of Columbia, or, alternatively, to join with a number of states that will file a brief jointly.

The US Supreme Court agreed last November to hear the case, and expects to issue a ruling in June, following oral arguments in March. The question to be settled is whether the right to keep and bear arms, as laid out in the 2<sup>nd</sup> Amendment to the US Constitution, is an individual right of all Americans, or a collective right that can be restricted by state and local governments.

In my view, the vast majority of Alaskans would agree that the nation's founding fathers intended it to be the right of individuals. That is why it is included within the Bill of Rights, which were enacted to protect the inherent rights of individual citizens.

Alaskans clarified this question in 1994, when the voters, by a substantial margin, amended Article I, Section 19 of the state constitution to add language specifying that the individual right could not be denied or infringed by either the state or local government.

In light of the short timeframe in which to submit a friend of the court brief in this vitally important case, the Legislature should take expeditious action to pass HCR 15.

## MEMO

To: Rep. Jay Ramras, Chair  
House Judiciary Committee

From: John Manly  
Staff to Rep. John Harris

Date: January 24, 2008

Re: Explanation of changes in blank draft CS for HCR 15

The first change in the proposed CS is to replace the name of the case, "Parker v. District of Columbia" with "District of Columbia v. Heller" in three occurrences (title, first "WHEREAS" clause, and "RESOLVED" clause). This change in the name of the case was made at the federal level because Heller was the only one of the plaintiffs whose issue went forward to the Supreme Court.

The second change is to delete the "WHEREAS" clause on page 2, lines 21-24, pertaining to the crime rate in Alaska's largest metropolitan area and a position taken by its mayor relative to gun dealers. It became apparent after the resolution was drafted and introduced that the mayor had reversed his position supporting the mayor of New York, so that statement within the "WHEREAS" clause is no longer true.

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number \_\_\_\_\_  
 Bill Version:           HCR015e            
 ( ) Publish Date \_\_\_\_\_

Identifier (file name): \_\_\_\_\_ Dept. Affected           None            
 Title           Amicus Brief Regarding Right to Bear Arms           RDU \_\_\_\_\_  
 \_\_\_\_\_ Component \_\_\_\_\_  
 Sponsor           Representatives Harris, Stolze, Hawker, Chenault, Gatto            
 Requester           House Judiciary Committee           Component Number \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>		0.0	0.0	0.0	0.0	0.0	0.0	0.0

<b>CAPITAL EXPENDITURES</b>								
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<b>CHANGE IN REVENUES ( )</b>								
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
<b>TOTAL</b>		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost:           0.0          

**POSITIONS**

Full-time								
Part-time								
Temporary								

**ANALYSIS:** (Attach a separate page if necessary)

Prepared by           Jane Pierson, Committee Aide            
 Division           House Judiciary Committee            
 Approved by           Representative Ramras            
                             Chairman          

Phone           907-465-4990            
 Date/Time           1/28/08 3:35 PM            
 Date           1/28/2008

# HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: January 15, 2008

FURTHER REFERRALS:

Date of Committee Action: 1/29/08

The JUDICIARY Committee considered:

HCR 15

**HOUSE CONCURRENT RESOLUTION NO. 15 AMICUS BRIEF REGARDING RIGHT TO BEAR ARMS**  
 Urging the governor to direct the attorney general to file an amicus curiae brief with the United States Supreme Court in the case of Parker v. District of Columbia, supporting the individual right to keep and bear arms under the Second Amendment to the United States Constitution.

Recommends it be replaced with  HCS or  CS for HCR 15 ( JUD )  
 For Senate Bills with new title:  Technical Title  New Title: HCR \_\_\_\_\_  Same Title  New Title

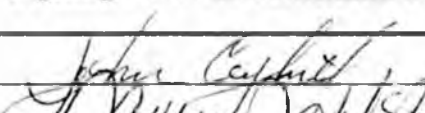
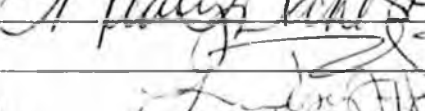


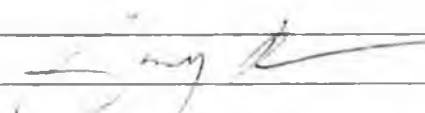

- attach amendments
- add new referral to \_\_\_\_\_ Committee
- Letter of Intent \_\_\_\_\_ Committee

List of  
 Abbrev  
 for  
 Depts.:

- ADM
- CEC
- COR
- CRT
- EED
- DEC
- DFG
- GOV
- ISS
- LWF
- LAW
- LEG
- MVA
- DNR
- DPS
- REV
- DOT
- UA

<u>NEW</u> FISCAL NOTES				
<small>*Assigned by Chief Clerk's Office</small>				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
JUD COM				Φ

<u>PREVIOUS</u> FISCAL NOTES				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Cahill	✓			
	D Samuels	X			
	SAMUELS	X			
	Samuels	x			
Chair: 	RAMRAS	✓			
Chair: 					

**Jane Pierson**

**From:** John Bitney  
**Sent:** Monday, January 28, 2008 11:23 AM  
**To:** Kelly, Russell T (GOV); Portia Babcock; John Manly  
**Cc:** Rowland, Mindy B (GOV); Jane Pierson  
**Subject:** RE: SCR 13, HCR 15

Thank you for notifying us. Russ  
This is great news

Our hope is that bringing this resolution forward can be a positive message and that the State of Alaska sends the strongest possible message about this court case. If there is any way we can strengthen the resolution to assist the Attorney General's office, please don't hesitate to let us know.

Thanks again

John W. Bitney  
Office of Rep. John Harris  
Speaker of the House  
907.465.3721

**From:** Kelly, Russell T (GOV) [mailto:russ.kelly@alaska.gov]  
**Sent:** Saturday, January 26, 2008 2:43 PM  
**To:** Portia Babcock; John Bitney  
**Cc:** Rowland, Mindy B (GOV)  
**Subject:** SCR 13, HCR 15  
**Importance:** High

Portia & John,  
Just want to convey some info regarding SCR 13, HCR 15 so we can all be on the same page. Please pass this along to the Senate President and Speaker of the House.

The Department of Law has already been working on the issue. After conferring with the Assistant Attorney General in Texas in November 2007, who had drafted the multi-state amicus brief in the court of appeals, we determined that a united group of states supporting the Second Amendment argument would have a stronger impact than separate states filing individual briefs. AG Colberg plans to be a signer on the multi-state amicus brief.

Texas plans to circulate the brief to other states on about February 4 with the final due to the Supreme Court on February 11.

If I can offer any further clarification, please call or e-mail.

Thanks,  
Russ

Russ Kelly  
Legislative Director  
Office of Governor Sarah Palin  
State of Alaska  
(907) 465-3999  
\*\*Please note my new e-mail address [russ.kelly@alaska.gov](mailto:russ.kelly@alaska.gov)

## COMMENTARY

# Second-Amendment Showdown

By MIKE COX

November 23, 2007; Page A13 Wall Street Journal

The Supreme Court has agreed to take up a case that will affect millions of Americans and could also have an impact on the 2008 elections. That case, *Parker v. D.C.*, should settle the decades-old argument whether the right "to keep and bear arms" of the Constitution's Second Amendment is an individual right -- that all Americans enjoy -- or only a collective right that states may regulate freely. Legal, historical and even empirical reasons all command a decision that recognizes the Second Amendment guarantee as an individual right.

The amendment reads: "A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed." If "the right of the people" to keep and bear arms was merely an incident of, or subordinate to, a governmental (i.e., a collective) purpose -- that of ensuring an efficient or "well regulated" militia -- it would be logical to conclude, as does the District of Columbia -- that government can outlaw the individual ownership of guns. But this collective interpretation is incorrect.

To analyze what "the right of the people" means, look elsewhere within the Bill of Rights for guidance. The First Amendment speaks of "the right of the people peaceably to assemble . . ." No one seriously argues that the right to assemble or associate with your fellow citizens is predicated on the number of citizens or the assent of a government. It is an individual right.

The Fourth Amendment says, "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated . . ." The "people" here does not refer to a collectivity, either.

The rights guaranteed in the Bill of Rights are individual. The Third and Fifth Amendments protect individual property owners; the Fourth, Fifth, Sixth and Eighth Amendments protect potential individual criminal defendants from unreasonable searches, involuntary incrimination, appearing in court without an attorney, excessive bail, and cruel and unusual punishments.

The Ninth Amendment protects individual rights not otherwise enumerated in the Bill of Rights. The 10th Amendment states, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people." Here, "the people" are separate from "the states"; thus, the Second Amendment must be about more than simply a "state" militia when it uses the term "the people."

Consider the grammar. The Second Amendment is about the right to "keep and bear arms." Before the conjunction "and" there is a right to "keep," meaning to possess. This word would be superfluous if the Second Amendment were only about bearing arms as part of the state militia. Reading these words to restrict the right to possess arms strains common rules of composition.

Colonial history and politics are also instructive. James Madison wrote the Bill of Rights to provide a political compromise between the Federalists, who favored a strong central government, and the Anti-Federalists, who feared a strong central government as an inherent danger to individual rights. In June 1789, then Rep. Madison introduced 12 amendments, a "bill of rights," to the Constitution to convince the remaining two of the original 13 colonies to ratify the document.

Madison's draft borrowed liberally from the English Bill of Rights of 1689 and Virginia's Declaration of Rights. Both granted individual rights, not collective rights. As a result, Madison proposed a bill of rights that reflected, as Stanford University historian Jack Rakove notes, his belief that the "greatest dangers to liberty would continue to arise within the states, rather than from a reconstituted national government." Accordingly, Mr. Rakove writes that "Madison justified all of these proposals (Bill of Rights) in terms of the protection they would extend to /individual /and minority rights."

One of the earliest scholars of the Constitution and the Bill of Rights, Supreme Court Justice Joseph Story, confirmed this focus on individuals in his famous "Commentaries on the Constitution of the United States" in 1833. "The right of the citizens to keep and bear arms," Story wrote, "has justly been considered, as the palladium of the liberties of republics, since it offers a strong moral check against the usurpation and arbitrary power of rulers . . ."

It is also important to consider the social context at the time of the drafting and adoption of the Bill of Rights. Our Founding Fathers lived in an era where there were arms in virtually every household. Most of America was rural or, even more accurately, frontier. The idea that in the 1780s the common man, living in the remote woods of the Allegheny Mountains of western Pennsylvania and Virginia, would depend on the indulgence of his individual state or colony -- not to mention the new federal government -- to possess and use arms in order to defend himself is ludicrous. From the Minutemen of Concord and Lexington to the irregulars at Yorktown, members of the militias marched into battle with privately-owned weapons.

Lastly, consider the empirical arguments. The three D.C. ordinances at issue are of the broadest possible nature. According to the statute, a person is not legally able to own a handgun in D.C. at all and may have a long-gun -- even in one's home -- only if it is kept unloaded and disassembled (or bound with a trigger lock). The statute was passed in 1976. What have been the results?

Illegal guns continue to be widely available in the district; criminals have easy access to guns while law-abiding citizens do not. Cathy L. Lanier, Acting Chief of Police.

Metropolitan Police Department, was quoted as follows: "Last year [2006], more than 2,600 illegal firearms were recovered in D.C., a 13% increase over 2005." Crime rose significantly after the gun ban went into effect. In the five years before the 1976 ban, the murder rate fell to 27 from 37 per 100,000. In the five years after it went into effect, the murder rate rose to 35. In fact, while murder rates have varied over time, during the 30 years since the ban, the murder rate has only once fallen below what it was in 1976.

This comports with my own personal experience. In almost 14 years as prosecutor and as head of the Homicide Unit of the Wayne County (Detroit) Prosecutor's Office, I never saw anyone charged with murder who had a license to legally carry a concealed weapon. Most people who want to possess guns are law-abiding and present no threat to others. Rather than the availability of weapons, my experience is that gun violence is driven by culture, police presence (or lack of same), and failures in the supervision of parolees and probationers.

Not only does history demonstrate that the Second Amendment is an individual right, but experience demonstrates that the broad ban on gun ownership in the District of Columbia has led to precisely the opposite effect from what was intended. For legal and historical reasons, and for the safety of the residents of our nation's capital, the Supreme Court should affirm an individual right to keep and bear arms.

\* Mr. Cox is the attorney general of Michigan./\*

# WebMemo



Published by The Heritage Foundation

No. 1775  
January 18, 2008

## The Federal Government's Brief in the D.C. Gun Ban Case: A Glass That Is More Than Half Full

*Todd Gaziano and Andrew M. Grossman*

Although some thoughtful lovers of liberty have lamented the half-empty aspects of the U.S. Solicitor General's recently-filed brief in the D.C. gun ban case (*District of Columbia v. Heller*), the portion that is full is legally far more significant in securing Second Amendment rights in the arena that counts most: the Supreme Court. On careful analysis, the brief's departures from sound principle are internally inconsistent and otherwise not particularly effective. Americans should recognize the importance of the government's concessions to individual liberty and ignore its predictable, bureaucratic attempt to defend existing federal laws. That is what the High Court is most likely to do.

**Reason to Rejoice.** It is no minor event when the national government clearly and forcefully admits to the highest court in the land that Americans enjoy a constitutional right that has been hotly debated for years, especially when that constitutional right is a limit on the government's own power. That is what the Department of Justice's chief litigator did in a brief filed last week in the Supreme Court case testing the constitutionality of the Washington, D.C., gun ban.

D.C.'s gun ban may be the strictest in the country. The city has banned the registration, and thus the possession, of handguns by private citizens and forbidden its citizens from maintaining any long gun (ordinary rifles or shotguns) in a state of readiness for self-defense in their homes. As the D.C. Circuit Court put it, under the ban, not even a law-abiding citizen may own a weapon "that could be

readily accessible to be used effectively when necessary for self-defense in the home."<sup>1</sup>

The original plaintiffs in the case sought only to enforce the right to possess and maintain such working guns in their homes. Among them were an anti-drug activist who had received threats from drug gangs and a security guard who could lawfully use a gun at work protecting the federal judiciary but not at home. In response, D.C. government officials tried to assert their power to prosecute anyone who dared keep a gun in his or her home for self-defense.

If the Second Amendment gives individual Americans a right "to keep and bear arms" that "shall not be infringed," D.C.'s gun ban surely violates that right. Last March, the D.C. Circuit Court held that the Second Amendment does confer that *individual* right, and it then logically concluded that a near-complete ban like the District's was unconstitutional.<sup>2</sup>

**The Federal Government's Conflict.** No one knew exactly how the federal government would respond when the case was accepted by the Supreme Court. Though one influential office of the Bush Justice Department had earlier opined that the Second Amendment protects an individual right (rather than a mere militia power),<sup>3</sup> the govern-

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This paper, in its entirety, can be found at  
[www.heritage.org/Research/LegalIssues/wm1775.qm](http://www.heritage.org/Research/LegalIssues/wm1775.qm)

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ment, no matter what political party controls it, faces very strong incentives to protect its own power. In addition, the U.S. Justice Department has a traditional obligation to try to defend existing federal laws whenever a reasonable argument can be made to support them, and there are a number of federal gun laws that the department would feel duty-bound to preserve.

Those who understood the department's dual obligations—to defend the Constitution and also to preserve federal power and federal statutes where possible—knew that some attempt at baby-splitting was likely. Serious originalists are correct that the government's brief erred in the line it tried to draw and went unreasonably far in its attempt to preserve government power, but what the government concedes is far more important. And like the original solution proposed by King Solomon, the Solicitor General's solution so threatens the viability of the individual right that it will be quickly rejected by anyone who cherishes such rights.

**What the Solicitor General Concedes.** The Solicitor General's brief states the government's position in no uncertain terms. The Second Amendment, it says, "protects an individual right to possess firearms unrelated to militia operations."<sup>4</sup> As the brief explains, this right is apparent in the amendment's plain text, its location in the Bill of Rights, and historical practices at the time of its drafting.

Americans of all stripes know that this has been the central issue underlying the Second Amendment for decades. The competing school of thought was that the Second Amendment only protected "militia rights," which in turn were wholly subject to government regulation. The U.S. government sided with the decisive weight of recent scholarly research and the more recent court cases that have seriously examined the constitutional question. That trifecta (government, scholarly, and court

opinion) is going to be hard for the Supreme Court to ignore.

In the law and in everyday experience, statements by any party that are against that party's interests are treated as especially reliable and, in most instances, particularly powerful. Thus, the federal government's "admission against interest" that the Second Amendment protects an individual right is likely to have a striking impact in the Supreme Court chambers.

**Splitting the Baby.** Given the government's obligation to try to save as many federal gun statutes as possible, it is not surprising that the brief also urges the Supreme Court to limit the same individual right it asks the court to recognize. Because other liberties in the Bill of Rights, such as the right to speak freely, are subjected to "well-recognized exceptions"—shouting "fire" in a theater, for example—the brief reasons that the Second Amendment right to bear arms does not apply at all to certain individuals, broad classes of arms, and a wide variety of situations.<sup>5</sup> Under the Solicitor General's theory, the government would have broad discretion to carve out exceptions, with a very deferential judicial review.

In contrast to "statements *against* interest," positions that promote a party's interests in court are treated as mere "litigation positions" that are only as persuasive as the logic behind them. There are many reasons why the Solicitor General's baby splitting will be seen for what it is and rejected.

First, the Solicitor General's arguments about how much deference the courts should pay to the government's attempts to regulate or limit Second Amendment rights is out of line with established law and precedent. The executive branch is entitled to deference by the courts in its interpretations of the scope of federal statutes and regulations, partic-

1. *Parker v. District of Columbia*, 487 F.3d 370, 374 (D.C. Circuit 2007).

2. *Id.* at 395.

3. Memorandum from Office of Legal Counsel, U.S. Department of Justice, to the Attorney General on Whether the Second Amendment Secures an Individual Right, available at <http://www.usdoj.gov/olc/secondamendment2.pdf>.

4. Brief of the United States as amicus curiae in *District of Columbia v. Heller*, No. 07-290 (submitted January 2008), available at <http://www.scotusblog.com/wp/wp-content/uploads/2008/01/us-heller-brief-1-11-08.pdf>.

5. *Id.* at 20-21.

ularly when the statutes and regulations are authorized by some admitted power granted to the government.<sup>6</sup> But the government is entitled to no particular deference (and, in some cases, particular suspicion) when it interprets the contours of individuals' fundamental rights against the government. For obvious reasons, the government should not get much deference when it claims the power to limit our individual rights.

Indeed, any lawyer and any non-activist judge knows that once an individual right analogous to the right to free speech or the right to vote is recognized, an enormous body of settled law is applied to its protection. As the Supreme Court has held again and again, the government needs to have exceedingly good reasons to infringe on an individual right, and it may only do so in the most circumscribed ways. Laws that abridge analogous fundamental rights must stand up to "strict scrutiny," among courts' most challenging levels of review, and are upheld only when the government has compelling interests and acts solely to further those interests. This is very different from the kind of review that the government proposes.

In practice, the courts approve very few regulations under this exacting review. The exceptions to analogous individual liberties, such as the right of free speech protected by the First Amendment or the right to vote protected by the Fourteenth and Fifteenth Amendments, are exceedingly rare. Convicted felons may forfeit their right to vote, and under a similar analysis, convicted felons may forfeit their right to possess firearms. A reasonable voter registration law protects the law-abiding voter, and reasonable criminal background checks may be lawful to prevent felons from obtaining guns. But large classes of law-abiding citizens cannot be denied their right to vote, to speak freely, or to exercise their religious freedom based on some flimsy government "interest." Literacy tests and grandfather clauses are seen for what they are and are struck down if they unreasonably interfere with the right to vote.

In sum, the very narrow exceptions to the freedom of speech, the vote, and the practice of one's religion prove the opposite of what the Solicitor General cites them for.

Second, the substantive arguments the Solicitor General advances are terribly flimsy. One argument is that not all hand-held guns are "arms" subject to Second Amendment protection. The brief offers no support, in the constitutional text or elsewhere, for this proposition. Tanks are indeed not arms; cannons are not arms. But all guns are "arms" within the original meaning of the Second Amendment. Any reasonable judge understands that if the government can come up with an artificial definition for "arms," it can do likewise for "speech," "vote," "religion," etc. That there may be a few hard questions about what is a protected arm (and there likely will be) does not undermine the conclusion that common handguns, rifles, and shotguns are "arms" protected by the Second Amendment.

The Solicitor General's next argument is that the amendment refers to a "well regulated militia" and that early laws on militias (which were more like today's army than any present militia group) described the weapons that soldiers should wield.<sup>7</sup> Because Congress could regulate the weapons used by what was essentially the national army in 1792, argues the government, Congress today should be able to prescribe what guns American citizens are able to own. This is a non-sequitur. That the government can regulate the guns used by the military (or the militia when it is in government service) has nothing to do with the individual right to own personal weapons. The government can make rules for military conduct, but it does not follow that it can dictate religious codes that soldiers and civilians alike must follow.

Moreover, this strained argument regarding a "well regulated militia" flatly contradicts the Solicitor General's earlier and more straightforward contention that the "militia" clause "does not limit the substantive right that the [Second] Amendment secures."<sup>8</sup> If one of these contradictory positions is to be rejected, this is the one that will be jettisoned.

6 See, e.g., *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984).

7 Brief of the United States as amicus curiae in District of Columbia, *supra* note 4, at 22-23.

8 *Id.* at 14-19.

This part of the Solicitor General's brief probably will not receive much attention for another important reason. The federal statutes it is trying to preserve and the hypotheticals it raises just aren't at issue in the case before the Court. D.C.'s gun ban violates any reasonable conception of a right "to keep and bear arms." The High Court has no reason to decide the exact contours of the right in order to uphold the lower court decision. The lower court simply decided that the denial of a right to possess virtually any gun in a citizen's home is unconstitutional. Going beyond that narrow holding would be dicta, and responsible judges know they are not supposed to issue advisory opinions.

**Conclusion.** For constitutionalists and gun-rights advocates, the Solicitor General's brief is a big victory. It got the big question, the one that matters, right: Americans do have a right to keep and bear arms. Though the details of how the Solicitor General would like to apply that right are disappointing, the Supreme Court will likely accord that part of the brief the weight it is due: none.

—Todd Gaziano is Director of, and Andrew M. Grossman is Senior Legal Policy Analyst in, the Center for Legal and Judicial Studies at The Heritage Foundation.

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## A Little Gun History Lesson.

In 1929, the Soviet Union established gun control. From 1929 to 1953, about 20 million dissidents, unable to defend themselves, were rounded up and exterminated.

In 1911, Turkey established gun control. From 1915 to 1917, 1.5 million Armenians, unable to defend themselves, were rounded up and exterminated.

Germany established gun control in 1938 and from 1939 to 1945, a total of 13 million Jews and others who were unable to defend themselves were rounded up and exterminated.

China established gun control in 1935. From 1948 to 1952, 20 million political dissidents, unable to defend themselves, were rounded up and exterminated.

Guatemala established gun control in 1964. From 1964 to 1981, 100,000 Mayan Indians, unable to defend themselves, were rounded up and exterminated.

Uganda established gun control in 1970. From 1971 to 1979, 300,000 Christians, unable to defend themselves, were rounded up and exterminated.

Cambodia established gun control in 1956. From 1975 to 1977, one million 'educated' people, unable to defend themselves, were rounded up and exterminated.

Defenseless people rounded up and exterminated in the 20th Century because of gun control: 56 million.

It has now been 12 months since gun owners in Australia were forced by new law to surrender 640,381 personal firearms to be destroyed by their own government, a program costing Australia taxpayers more than \$500 million dollars. The first year results are now in:

Australia-wide, homicides are up 3.2 percent

Australia-wide, assaults are up 8.6 percent

Australia-wide, armed robberies are up 44 percent (yes, 44%)!

In the state of Victoria alone, homicides with firearms are now up 300 percent. Note that while the law-abiding citizens turned them in, the criminals did not, and criminals still possess their guns!

It will never happen here? I bet the Aussies said that too!

While figures over the previous 25 years showed a steady decrease in armed robbery with firearms, this has changed drastically upward in the past 12 months, since criminals now are guaranteed that their prey is unarmed.

There has also been a dramatic increase in break-ins and assaults of the ELDERLY. Australian politicians are at a loss to explain how public safety has decreased, after such monumental effort and expense was expended in successfully ridding Australian society of guns. The Australian experience and the other historical facts above prove it.

You won't see this data on the US evening news, or hear politicians disseminating this information.

Guns in the hands of honest citizens save lives and property and, yes, gun-control laws adversely affect only the law-abiding citizens.

Take note my fellow Americans, before it's too late!

The next time someone talks in favor of gun control, please remind him of this history lesson.

With Guns.....We Are "Citizens".  
Without Them.....We Are "Subjects".

During W.W.II the Japanese decided not to invade America because they knew most Americans were ARMED!

Note: Admiral Yamamoto who crafted the attack on Pearl Harbor had attended Harvard U 1919-1921 & was Naval Attaché to the U. S. 1925-28. Most of our Navy was destroyed at Pearl Harbor & our Army had been deprived of funding & was ill prepared to defend the country.

It was reported that when asked why Japan did not follow up the Pearl Harbor attack with an invasion of the U. S. Mainland, his reply was that he had lived in the U.S. & knew that almost all households had guns.

## Hawaii Reporter

Freedom to Report Real News

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### **U.S. Supreme Court Set To Decide Pure Gun Right Case**

By Dave Workman, 12/28/2007 9:12:12 AM

Within minutes of the announcement by the Supreme Court on Nov. 20 that it will hear the appeal in the case of District of Columbia v. Heller -- the case that could provide a landmark ruling that defines the Second Amendment as an individual right -- the Brady Campaign to Prevent Gun Violence sent out an urgent appeal for \$50,000 in contributions.

The money, said the Brady Campaign, would go directly to the Brady Gun Law Defense Fund, "to protect America's gun laws."

"If the Supreme Court does not reverse the federal appeals court decision," the appeal lamented, "gun laws everywhere could be at risk."

The collective ho-hum reaction from the firearms civil rights community to the alarmist appeal was pretty much, "So, what's your point?"

Gun rights leaders at the National Rifle Association (NRA) and Second Amendment Foundation (SAF) are encouraged that the Heller case -- renamed from Parker v. District of Columbia when only one of the original plaintiffs, Dick Heller, was given standing by the court -- will provide a watershed decision in the middle of the 2008 presidential and congressional campaign season. It will put gun rights at center stage and make the right to keep and bear arms perhaps the critical issue as the nation elects a new president and new Congress.

Both sides are nervous, but NRA Executive Vice President Wayne LaPierre and SAF founder Alan Gottlieb are, perhaps, considerably more confident of a favorable outcome than the gun control lobby.

LaPierre told Gun Week that he believes the high court ruling, due out next June after a scheduled March hearing and oral arguments, "will put the entire ruling political class in this country on the spot."

"The American public will not be denied this freedom," he stated. "Forty-four states have an individual right written into their state constitutions. If the Supreme Court, by some torturous measure, delivers some government right interpretation, we would immediately look to the states to call a constitutional convention."

"The Second Amendment is self-evident," LaPierre continued. "The American public knows it's about human worth, self-destiny and freedom."

He acknowledged that an affirmative ruling that upholds the individual right to keep and bear arms will not put the gun control lobby out of business, but added, "They certainly won't be able to argue that it's not an individual right under constitution anymore."

Gottlieb was equally confident of the eventual outcome.

"We are confident that the high court will rule that the Second Amendment affirms and protects an individual civil right to keep and bear arms," Gottlieb said. "Previous Supreme Court rulings dating back more than a century have consistently referred to the Second Amendment as protective of an individual right, but the case of District of Columbia v. Heller focuses on that issue, and we expect the court to settle the issue once and for all."

Gottlieb suggested that the Heller ruling might be very narrow in its scope, only holding that the Washington,

DC, gun ban is unconstitutional because it does not allow someone to have a working handgun in their home. Still, he said, such a ruling would be a "building block" upon which other gun rights cases can be mounted.

"An affirmative ruling by the Supreme Court will probably not be the death knell for the extremist citizen disarmament movement," Gottlieb said, "but it will properly cripple their campaign to destroy an important civil right, the one that protects all of our other rights. The insidious effort to strip American citizens of their firearms rights, while at the same time permanently harming public safety must end.

"The Washington, DC, gun ban has been a monumental failure and the crime statistics prove that," he observed. "For almost 70 years, gun banners have deliberately misinterpreted and misrepresented the high court's language in the U.S. v. Miller ruling in 1939. It is long past the time that this important issue be put to rest, and the Heller case will provide the court with that opportunity."

Attorney Alan Gura, one of the trio of lawyers representing the plaintiff, confirmed to Gun Week that he will present the arguments before the high court. It will be his first appearance before the nine-member panel, and he is looking forward to presenting his case.

"We're going to establish once and for all that the Second Amendment means what it says," Gura stated. "It is the beginning of the end for the collectivist nonsense."

He was alluding to the argument that the Second Amendment only protects a so-called "collectivist right" of the states to form militias. This interpretation has become popular with gun control activists who base their beliefs on the 1939 Supreme Court ruling in U.S. v. Miller.

Gottlieb's prediction about a narrow ruling could be well-founded, considering the narrow scope of the question the court agreed to consider. In announcing that it would accept the appeal, the court said:

"The petition for a writ of certiorari is granted limited to the following question: Whether the following provisions, D.C. Code §§ 7-2502.02(a)(4), 22-4504(a), and 7-2507.02, violate the Second Amendment rights of individuals who are not affiliated with any state-regulated militia, but who wish to keep handguns and other firearms for private use in their homes?"

However, experts and armchair analysts immediately began trying to determine whether the court already sent a signal of sorts how it will decide this case because this carefully-worded question appears to suggest that the court already considers the Second Amendment protective of an individual right. The question the justices will consider suggests further that they will only look at whether the District's handgun ban violates this individual right if someone is not part of a militia.

The March federal appeals court ruling that led to this constitutional confrontation was written by District of Columbia Appeals Court Senior Judge Laurence Silberman. In his ruling, which holds that the Amendment protects an individual right beyond service in a militia, Silberman noted that the right to keep and bear arms is subject to "reasonable" regulation. That might include licensing and/or registration, but could not include a ban.

But upholding an individual right interpretation is really what the gun rights community is looking for, as it would provide a launching pad for striking down similar bans in Chicago, IL, and several surrounding communities.

Gura has previously suggested to Gun Week that this would be the likely scenario if the District gun ban is struck down. It marks the first case in history in which a gun law has been declared unconstitutional on Second Amendment grounds by a federal court. The Silverman ruling sent a shock wave through the gun control lobby, causing something of a crisis for gun control activists who, while having long contended that they support private gun ownership, suddenly began loudly arguing that Silberman's ruling tried to undo the historic precedent established by the Miller ruling.

Gottlieb, LaPierre and others have consistently contended that the anti-gun lobby has deliberately misrepresented the 1939 Miller ruling for many years.

Perhaps the best summation on that subject came from Lawrence G. Keane, senior vice president and general counsel for the National Shooting Sports Foundation.

"The firearms industry looks forward to the Supreme Court putting to rest the specious argument that the Second Amendment is not an individual right," said Keane. "This intellectually bankrupt and feeble argument has been used by gun control advocates to justify laws and regulations that deny Americans their civil right to own and lawfully use firearms for protection, hunting, sports shooting and other lawful purposes."

*Dave Workman is the Senior Editor of GunWeek Magazine.*

*HawaiiReporter.com reports the real news, and prints all editorials submitted, even if they do not represent the viewpoint of the editors, as long as they are written clearly. Send editorials to <mailto:Malia@HawaiiReporter.com>*

Guest Editorials

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**HCR**

**21**



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### MEMORANDUM

Date: February 13, 2008

To: Representative John Coghill  
Chairman House Rules Committee

From: Representative Jay Ramras  
Chairman House Judiciary Committee

Re: Referral File for HCR 21

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Attached please find the following documents, which represent the referral file for HCR 21:

- HCR 21 (25-LS1424\A)
- Back-up
- Fiscal Note HJUD - 0
- HJUD Committee Report

National Crime Victims' Rights Week | April 13-19, 2008

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FOR MORE INFORMATION, PLEASE CONTACT:

## **WHAT IS THE ALASKA OFFICE OF VICTIMS' RIGHTS?**

In 2001 the Alaska legislature passed a law that created a new agency called the Alaska Office of Victims' Rights (OVR). Its purpose is to help victims of crime to obtain the rights they have under the Alaska constitution and statutes with regard to their contacts with criminal justice agencies in this state. The OVR was created in the nature of an Inspector General's office within the legislative, rather than the executive branch, as a way of avoiding conflicts within state government. It was also to ensure that the director and his staff would have the necessary independence to investigate criminal justice agencies and make appropriate recommendations, in their effort to help crime victims and their families. The law, which may be found in Alaska statute (AS) 24.65.010-.250, went into effect on July 1, 2002.

## **WHO IS THE VICTIMS' ADVOCATE?**

The Alaska Legislature has appointed longtime Anchorage prosecutor Stephen Branchflower to become Alaska's first Victims' Advocate and director of the Office of Victims' Rights.

## **HOW WAS THE VICTIMS' ADVOCATE SELECTED?**

A bipartisan legislative victims' advocate selection committee nominated Mr. Branchflower, who had served as a state prosecutor in Anchorage for 28 years. He was unanimously confirmed to the appointment in a joint meeting of the Alaska House and Senate on May 13, 2002. Mr. Branchflower's term of office is five years. He may be reappointed but may not serve for more than three terms. The legislature, by a concurrent resolution adopted by a roll call vote of two-thirds of the members of each house entered in the journal, may remove or suspend him from office, but only for neglect of duty, misconduct, or disability.

## **ARE YOU A CRIME "VICTIM"?**

The term "victim" has a very specific meaning in Alaska's law. The Alaska legislature has defined it very broadly in order to protect not only the person who was the actual and direct target of a crime committed by the person responsible for that act (who is referred to in the law as the "perpetrator"), but also that victim's immediate family. In order to obtain the services of the OVR you must fall within the broad legal definition of the term "victim" found in Alaska statute 12.55.185 (16), which is as follows:

“(16) "Victim" means  
(A) a person against whom an offense has been perpetrated;  
(B) one of the following, not the perpetrator, if the person specified in (A) of this paragraph is a minor, incompetent, or incapacitated:  
(i) an individual living in a spousal relationship with the person specified in (A) of this paragraph; or  
(ii) a parent, adult child, guardian, or custodian of the person;  
(C) one of the following, not the perpetrator, if the person specified in (A) of this paragraph is dead:  
(i) a person living in a spousal relationship with the deceased before the deceased died;  
(ii) an adult child, parent, brother, sister, grandparent, or grandchild of the deceased; or  
(iii) any other interested person, as may be designated by a person having authority in law to do so.”

### **CRIMINAL DEFENDANTS ARE NOT ELIGIBLE FOR OVR SERVICES**

It is the policy of the OVR to not accept complaints from criminal defendants for investigation regarding events that are connected with any prosecution they were involved with, or which occurred during a time they were a criminal defendant. As used in this policy, the term "criminal defendant" means any person who is charged with any crime or who has been convicted of any crime and a period of less than 3 years has elapsed between the date of the person's unconditional discharge by the court on the prior offense and the date of the alleged violation of the criminal defendant's victim's right.

### **WHAT ARE MY RIGHTS AS A CRIME VICTIM?**

As a crime victim you have both constitutional and statutory rights. Your constitutional rights are those contained in Alaska's constitution. Statutory rights are those created by the Alaska legislature.

- *Constitutional Rights*

Article 1 Section 24 of Alaska's constitution guarantees crime victims the following constitutional rights:

1. The right to be reasonably protected from the accused through the imposition of appropriate bail or conditions of release by the court;
2. The right to confer with the prosecution;

3. The right to be treated with dignity, respect, and fairness during all phases of the criminal and juvenile justice process;
4. The right to timely disposition of the case following the arrest of the accused;
5. The right to obtain information about and be allowed to be present at all criminal or juvenile proceedings where the accused has the right to be present;
6. The right to be allowed to be heard, upon request, at sentencing, before or after conviction or juvenile adjudication, and at any proceeding where the accused's release from custody is considered;
7. The right to restitution from the accused; and,
8. The right to be informed, upon request, of the accused's escape or release from custody before or after conviction or juvenile adjudication.

- *Statutory Rights*

In addition to the above constitutional rights, crime victims in Alaska also have numerous statutory rights. *Click here to see a comprehensive summary of your victim rights and the constitutional or statutory citations to all the above rights.*

### ***JURISDICTION AND DUTIES OF THE OVR***

- *Advocacy In Court On Behalf Of Victims*

To accomplish the goal of assisting you as a crime victim and of giving force to the above rights, the OVR is authorized to protect your rights and advocate on your behalf in state court in all felony offenses, all class A misdemeanors involving domestic violence and all misdemeanors involving crimes against the person. A felony offense is a crime where the possible sentence upon conviction is one or more years in jail and a substantial fine depending on the class of felony. Class A misdemeanors are those crimes punishable by up to one year in jail and up to a \$5,000 fine.

Additionally, OVR lawyers are permitted to address the sentencing judge on the victims' behalf when requested to do so by the victim and when the victim chooses not to personally make their victim impact statement to the judge.

- *Investigation Of Complaints By Victims*

If you are a victim of crime you have a right to file a written complaint with the OVR that you have been denied any of the rights established by Article 1 Section 24 of Alaska's constitution or the laws of this state as set forth above. The OVR is empowered to investigate your complaint and take appropriate action on your behalf regarding your contacts with criminal justice agencies. In conducting an investigation the OVR may:

- (1) Make inquiries and obtain information considered necessary from justice agencies;
- (2) Hold private hearings; and
- (3) Notwithstanding other provisions of law, have access at all times to records of justice agencies, including court records of criminal prosecutions and juvenile adjudications, necessary to ensure that the rights of crime victims are not being denied; with regard to court and prosecution records, the victims' advocate is entitled to obtain access to every record that any criminal defendant is entitled to access or receive. (AS 24.65.120).

Some examples of information and records available to the OVR are police reports, witness statements, lab reports, photos, taped statements, grand jury proceedings and exhibits, officers notes, scene diagrams, dispatch records, autopsy reports, pre-sentence reports, access to all physical evidence, and more. All information and/or records obtained during any investigation, including information and records subpoenaed by the OVR, are deemed confidential. *Click here to go to fill out an OVR complaint form.*

### ***CAN THE OVR OBTAIN INFORMATION FROM CRIMINAL JUSTICE AGENCIES AND OTHERS WHO REFUSE TO PROVIDE IT?***

A subpoena is a legal order requiring a person to appear at a specified time and place in order to provide documents, an object, or to answer questions under oath. It is a serious crime for a person to knowingly tell a lie when testifying. The director of the OVR is authorized by law to issue subpoenas to any person for any records or any object if he reasonably believes such items may provide information relating to a matter under investigation. He may also require the appearance of any person to give sworn testimony if he reasonably believes that person may have such information.

### ***WHAT IF THE SUBPOENA IS IGNORED?***

If a person refuses to comply with a subpoena issued by the director, he may file a motion with the superior court requesting a judge to issue a court order directing obedience to the subpoena. If the person persists in not complying, the person may be held in contempt of court by the judge and could be fined or jailed until the subpoena is complied with.

### ***WHO MAY NOT BE REQUIRED TO PROVIDE INFORMATION?***

The law excludes certain persons who may not be subpoenaed by the director and they are:

1. A justice, judge, magistrate or law clerk or a person acting under their direction;
2. A member of a grand or trial jury;
3. The person accused or convicted of the crime that is the basis for the investigation;
4. A victim counselor concerning a matter made confidential by statute;
5. A criminal justice agency concerning records that lead to the disclosure of a confidential police informant.

### ***INFORMATION AND RECORDS OBTAINED BY THE OVR IS CONFIDENTIAL***

The OVR is required by law to keep secret all matters and information, as well as the identities of all complainants or witnesses coming before the OVR, except insofar as disclosures of such information may be necessary to enable the OVR to carry out its duties and to support its recommendations. However, the OVR may not disclose a confidential record obtained from a court of justice agency.

### ***PUBLICATION OF OVR FINDINGS FOLLOWING AN INVESTIGATION***

Within a reasonable time after an investigation is completed, and after the OVR reports their opinion and recommendations to a justice agency, the director of the OVR may present the opinion and recommendations to the governor, the legislature, a grand jury, the public, or any of these. The OVR must include with the opinion any reply made by the justice agency. Written consent from the complainant to release the OVR's report must be obtained prior to release of the

report. Click here to see reports regarding recent investigations conducted by the OVR.

### **CONDUCT OF THE OVR MUST NOT INTERFERE WITH THE CRIMINAL JUSTICE SYSTEM**

The OVR is required by law to ensure that their exercise of discretion does not interfere with any ongoing criminal investigation by a police agency or any criminal proceeding by the prosecutor's office. Additionally, the director must make sure OVR employees do not make public statements that lawyers are prohibited from making by the Alaska Rules of Professional Conduct. Finally, the OVR may not prevent or discourage a victim from providing evidence, testifying or cooperating in a criminal investigation or criminal proceeding.

### **THE OVR HAS VERY BROAD CIVIL IMMUNITY AND PROTECTION**

- *There Is Limited Judicial Review Of OVR's Actions*

The OVR Act provides that a proceeding or decision made by the director of the OVR or his staff may be reviewed in superior court *only* to determine if it is contrary to the provisions of the statutes that created the OVR. It also provides that the conclusions, thought processes, discussions, records, reports and recommendations of or information collected by the director or his staff is not admissible in a civil or criminal proceeding, and is not subject to questioning or disclosure by subpoena or discovery.

- *The OVR Has Immunity From Suit*

A civil lawsuit may not be brought against the director of the OVR, nor a member of his staff, for anything they do or say, or that they fail to do or say, in the performance of OVR's duties or responsibilities.

### **IT'S A CRIME TO HINDER THE OVR OR TO FAIL TO COMPLY WITH THEIR REQUESTS**

Alaska law provides "A person who knowingly hinders the lawful actions of the victims' advocate or the staff of the victims' advocate, or who knowingly refuses to comply with their lawful demands, is guilty of a misdemeanor and upon conviction may be punished by a fine of not more than \$1000." A misdemeanor is a crime.

## **HOW IS THE OVR FUNDED?**

The OVA is funded by money from convicts' forfeited permanent fund dividend checks. Alaska statute 43.23.005 is the law that determines a person's eligibility to receive a permanent fund dividend. A person is disqualified from receiving a PFD if during the dividend year they have either (1) been convicted of a felony, (2) spent time in jail for a felony conviction, or (3) jailed for their third misdemeanor conviction during the dividend year if they have ever been convicted of a felony at any time.

In dividend year 2002, 5276 persons lost their PFD checks by operation of this law, which is an amount that totaled slightly more than \$8 Million dollars. Those funds are placed into an account that (either in whole or in part) funds the OVR, the Violent Crimes Compensation Fund, the Department of Corrections, and the Council on Domestic Violence and Sexual Assault. It also funds grants to various non-profit victims' rights organizations for services to Alaskan victims of crime.

## **ANNUAL REPORT**

The director of the OVR is required to publish an annual report regarding the OVR's activities and to notify the legislature that the report is available.

## **HOW CAN I CONTACT THE ALASKA OFFICE OF VICTIMS' RIGHTS?**

The Office of Victims' Rights can be reached at the following address:

Alaska Office of Victims' Rights  
1007 West 3<sup>rd</sup> Ave. Suite 205  
Anchorage, Alaska 99501-1936

1-907-272-2620 Main telephone  
1-907-866-274-2620 Toll free in Alaska  
1-907-272-2640 Fax

You may also e-mail the office at:

[officeofvictimsrights@legis.state.ak.us](mailto:officeofvictimsrights@legis.state.ak.us)

# Crime Clock<sup>1</sup>

**Homicide** One person is murdered every 31 minutes.<sup>2</sup>

**Rape** One person is raped every 2.7 minutes.<sup>3</sup>

**Assault** One person is assaulted every 7.2 seconds.<sup>4</sup>

**Theft** One home is victimized by theft every 2.3 seconds.<sup>5</sup>

**Burglary** One home is burglarized every 9.1 seconds.<sup>6</sup>

**Domestic Violence** One woman is victimized by an intimate partner every 1.3 minutes. One man is victimized every 6.7 minutes.<sup>7</sup>

**Child Abuse and Neglect** One child is reported abused or neglected every 35 seconds.<sup>8</sup>

**Drunk Driving** One person is killed in an alcohol-related traffic crash every 29 minutes.<sup>9</sup>

**Identity Theft** One person becomes a victim of identity theft every 8.7 seconds.<sup>10</sup>

**Elder Abuse** One elderly person is victimized every 2.7 minutes.<sup>11</sup>

**Hate Crime** One hate crime is reported to the police every 73 minutes.<sup>12</sup>



NOTE: All calculations were conducted by the National Center for Victims of Crime utilizing the data from sources cited.

<sup>1</sup> Federal Bureau of Investigation, "Crime in the United States, 2005: Murder," (Washington, DC: Federal Bureau of Investigation, 2006), [http://www.fbi.gov/ucr/05cius/offenses/violent\\_crime/murder\\_homicide.html](http://www.fbi.gov/ucr/05cius/offenses/violent_crime/murder_homicide.html) (accessed August 27, 2007).

<sup>2</sup> Shannon M. Catalano, "Criminal victimization, 2005," (Washington, DC: Bureau of Justice Statistics, 2005), 3, <http://www.ojp.usdoj.gov/bjs/pub/pdf/v05.pdf> (accessed October 19, 2007).

<sup>3</sup> *Ibid.*, 7.

<sup>4</sup> *Ibid.*, 5.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*, 9.

<sup>7</sup> Children's Bureau, "Child Maltreatment, 2004," (Washington, DC: U.S. Department of Health and Human Services, 2005), 23, <http://www.aclihhs.gov/programs/cb/pubs/cm04/cm04.pdf> (accessed August 5, 2007).

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

<sup>1</sup> National Highway Traffic Safety Administration, "Traffic Safety Facts: Crash Stats 2006 Traffic Safety Annual Assessment - A Preview," (Washington, DC: U.S. Department of Transportation, 2007), [http://www.nhtsa.dot.gov/portal/nhtsa/StaticFile\\_downloader.jsp?file=staticfiles/DOT/NHTSA/NCSA/Content/Notes/2007/10791.pdf](http://www.nhtsa.dot.gov/portal/nhtsa/StaticFile_downloader.jsp?file=staticfiles/DOT/NHTSA/NCSA/Content/Notes/2007/10791.pdf) (accessed October 19, 2007).

<sup>2</sup> Council of Better Business Bureaus, Inc., "New Research Shows Identity Fraud Growth is Contained and Consumers Have More Control Than They Think," (Arlington, VA: Council of Better Business Bureaus, Inc., 2006), <https://secure.playsite.com/article/news/article.php?articleID=25> (accessed October 19, 2007).

<sup>3</sup> Easter et al., "The 2004 Survey of State Adult Protective Services Abuse of Adults 60 Years of Age and Older," (Washington, DC: National Center on Elder Abuse, 2006), 5, [http://www.elderabusecenter.org/pdf/2/4\\_06%20FINAL%2060+REPORT.pdf](http://www.elderabusecenter.org/pdf/2/4_06%20FINAL%2060+REPORT.pdf) (accessed October 19, 2007).

<sup>4</sup> Federal Bureau of Investigation, "Hate Crime Statistics, 2005," (Washington, DC: U.S. Department of Justice, 2006), 3, <http://www.fbi.gov/ucr/hc/05/decdownload/incidentsandoffenses.html> (accessed August 20, 2007).



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# CRIME VICTIMS' RIGHTS IN AMERICA

**"If we do not maintain justice, justice will not maintain us."**

*Francis Bacon, English philosopher and statesman (1561 – 1626)*

## 1965

- The first crime victim compensation program is established in California.
- By 1970, five additional compensation programs are created in New York, Hawaii, Massachusetts, Maryland, and the Virgin Islands.

## 1972

- The first three victim assistance programs are established:
  - > Aid for Victims of Crime in St. Louis, Missouri
  - > Bay Area Women Against Rape in San Francisco, California
  - > Rape Crisis Center in Washington, DC

## 1973

- The results of the first National Crime Victimization Survey are released. The survey, commissioned by the President's Commission on Law Enforcement and the Administration of Justice, asks U.S. household members about their exposure to crime. It is intended to complement what is known about crime from the FBI's annual compilation of crimes reported to law enforcement agencies.

## 1974

- The Law Enforcement Assistance Administration (LEAA) funds the first victim/witness programs in the Brooklyn and Milwaukee

District Attorneys' offices, plus seven others through a grant to the National District Attorneys Association, to establish model assistance programs for victims, encourage victim cooperation, and improve prosecution.

- The first law enforcement-based victim assistance programs are established in Fort Lauderdale, Florida, and Indianapolis, Indiana.
- Congress passes the Child Abuse Prevention and Treatment Act, which establishes the National Center on Child Abuse and Neglect. The new Center establishes an information clearinghouse and provides technical assistance and model programs.

## 1975

- The first "Victims' Rights Week" is organized by the Philadelphia District Attorney.
- Citizen activists from across the country unite to expand victim services and increase recognition of victims' rights through the formation of the National Organization for Victim Assistance (NOVA).

## 1976

- The National Organization for Women forms a task force to examine the problem of battering. It calls for research into the problem, along with money for battered women's shelters.
- The first national conference on

battered women is sponsored by the Milwaukee Task Force on Women in Milwaukee, Wisconsin.

- In Fresno County, California, Chief Probation Officer James Rowland creates the first victim impact statement to provide the judiciary with an objective inventory of victim injuries and losses at sentencing.
- The first hotline for battered women is started by Women's Advocates in St. Paul, Minnesota.
- Women's Advocates and Haven House in Pasadena, California, establish the first shelters for battered women.
- Nebraska and Wisconsin become the first states to abolish the marital rape exemption.

## 1977

- The National Association of Crime Victim Compensation Boards is established by the existing 22 state victim compensation programs to promote the creation of a nationwide network of compensation programs.
- Oregon becomes the first state to enact mandatory arrest in domestic violence cases.

## 1978

- The National Coalition Against Sexual Assault is formed to combat sexual violence and promote services for rape victims.
- The National Coalition Against Domestic Violence (NCADV) is

## AN HISTORICAL OVERVIEW

organized as a voice for the battered women's movement on a national level.

- Parents Of Murdered Children (POMC), a self-help support group, is founded in Cincinnati, Ohio.
- Minnesota becomes the first state to allow probable cause (warrantless) arrests in cases of domestic assault, regardless of whether a protection order has been issued.

### 1979

- Frank G. Carrington, considered by many to be "the father of the victims' rights movement," founds the Crime Victims' Legal Advocacy Institute, Inc., to promote the rights of crime victims in the civil and criminal justice systems. The nonprofit organization is renamed VALOR, the Victims' Assistance Legal Organization, in 1981.
- The Office on Domestic Violence is established in the U.S. Department of Health and Human Services but is later closed in 1981.
- The World Society of Victimology is formed to promote research relating to crime victims and victim assistance, advocate for victims' interests, and advance cooperation of international, regional, and local agencies concerned with crime victims' issues.

### 1980

- Mothers Against Drunk Driving (MADD) is founded after the death of 13-year-old Cari Lightner, who was killed by a repeat drunk-driving offender. The first two MADD chapters are established in Sacramento, California, and Annapolis, Maryland.

- Congress passes the Parental Kidnapping Prevention Act of 1980.
- Wisconsin passes the first "Crime Victims' Bill of Rights."
- The First National Day of Unity is established in October by NCADV to mourn battered women who have died, celebrate women who have survived the violence, and honor all who have worked to defeat domestic violence.
- The first Victim Impact Panel is sponsored by Remove Intoxicated Drivers (RID) in Oswego County, New York.

### 1981

- President Ronald Reagan proclaims the first "National Victims' Rights Week" in April.
- The abduction and murder of six-year-old Adam Walsh prompt a national campaign to raise public awareness about missing children and enact laws to better protect children.
- The Attorney General's Task Force on Violent Crime recommends that a separate national task force be created to examine victims' issues.

### 1982

- In a Rose Garden ceremony, President Reagan appoints members of the Task Force on Victims of Crime, which holds public hearings in six cities across the nation to focus attention on the needs of crime victims. The Task Force's Final Report offers 68 recommendations that become the framework for the advancement of new programs and policies. Its final recommendation, to amend

the Sixth Amendment of the U.S. Constitution to guarantee that "...the victim, in every criminal prosecution, shall have the right to be present and to be heard at all critical stages of judicial proceedings..." becomes a vital source of new energy to secure state victims' rights constitutional amendments.

- The Victim and Witness Protection Act of 1982 brings "fair treatment standards" to victims and witnesses in the federal criminal justice system.
- California becomes the first state to amend its constitution to address the interests of crime victims by establishing a constitutional right to victim restitution.
- The passage of the Missing Children's Act of 1982 helps guarantee that identifying information about missing children is promptly entered into the FBI National Crime Information Center (NCIC) computer system.
- Congress abolishes, through failure of appropriations, the Law Enforcement Assistance Administration; many grassroots and system-based victim assistance programs close.

### 1983

- The Office for Victims of Crime (OVC) is established by the U.S. Department of Justice within the Office of Justice Programs to implement recommendations from the President's Task Force on Victims of Crime. OVC establishes a national resource center, trains professionals, and develops model legislation to protect victims' rights.

## CRIME VICTIMS' RIGHTS IN AMERICA

- U.S. Attorney General William French Smith establishes a Task Force on Family Violence, which holds six public hearings across the United States.
  - U.S. Attorney General Smith issues the first *Attorney General Guidelines for Victim and Witness Assistance*, which outlines standards for federal victim and witness assistance and implementation of victims' rights contained in the federal Victim and Witness Protection Act of 1982.
  - In April, President Reagan honors crime victims in a White House Rose Garden ceremony.
  - The First National Conference of the Judiciary on Victims of Crime is held at the National Judicial College in Reno, Nevada, with support from the National Institute of Justice. Conferees develop recommendations for the judiciary on victims' rights and services.
  - President Reagan proclaims the first National Missing Children's Day in observance of the fourth anniversary of the disappearance of six-year-old Etan Patz.
  - Wisconsin passes the first Child Victim and Witness Bill of Rights.
  - The International Association of Chiefs of Police Board of Governors adopts a Crime Victims' Bill of Rights and establishes a Victims' Rights Committee to focus attention on the needs of crime victims by law enforcement officials nationwide.
- 1984
- The passage of the Victims of Crime Act (VOCA) establishes the Crime Victims Fund, made up of federal criminal fines, penalties, and bond forfeitures, to support state victim compensation and local victim service programs.
  - President Reagan signs the Justice Assistance Act, which establishes a financial assistance program for state and local government and funds 200 new victim service programs.
  - The National Center for Missing and Exploited Children is established as the national resource agency for missing children. The Center was mandated as part of the Missing Children's Assistance Act of 1982.
  - The Task Force on Family Violence presents its report to the U.S. Attorney General with recommendations for action, including improving the criminal justice system's response to battered women and establishing prevention and awareness activities, education and training, and data collection and reporting.
  - The National Minimum Drinking Age Act of 1984 is enacted, providing strong incentives to states to raise the minimum age for drinking to 21, saving thousands of young lives in years to come.
  - The Spiritual Dimension in Victim Services is founded to involve the faith community in violence prevention and victim assistance.
  - Congress passes the Family Violence Prevention and Services Act, which earmarks federal funding for programs serving victims of domestic violence.
  - Concerns of Police Survivors (COPS) is organized at the first police survivors' seminar held in Washington, DC, by 110 relatives of officers killed in the line of duty.
  - A victim/witness notification system is established within the Federal Bureau of Prisons.
  - Victim/witness coordinator positions are established in the U.S. Attorneys' Offices within the U.S. Department of Justice.
  - California State University, Fresno, initiates the first Victim Services Certificate Program offered for academic credit by a university.
  - OVC establishes the National Victims Resource Center, now named the Office for Victims of Crime Resource Center (OVCRC), to serve as a clearinghouse for OVC publications and other resource information.
- 1985
- The Crime Victims Fund deposits total \$68 million.
  - The National Victim Center (renamed the National Center for Victims of Crime in 1998) is founded in honor of attempted-murder victim Sunny von Bulow promote the rights and needs of crime victims and to educate Americans about the devastating effect of crime on our society.
  - The United Nations General Assembly adopts the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power that serves as the basis for victim service reform at national and local levels throughout the world.
  - President Reagan announces the Child Safety Partnership to enhance private sector efforts to promote child safety, clarify information about child victimization, and increase public awareness of child abuse.

## AN HISTORICAL OVERVIEW

- The U.S. Surgeon General issues a report identifying domestic violence as a major public health problem.

### 1986

- The Crime Victims Fund deposits total \$62 million.
- OVC awards the first grants to support state victim assistance and compensation programs.
- Two years after its passage, the Victims of Crime Act is amended by the Children's Justice Act to provide funds specifically for the investigation and prosecution of child abuse.
- Over 100 constitutional amendment activists meet in Washington, DC, at a forum sponsored by NOVA, and formally agree to seek a federal constitutional amendment.
- Rhode Island passes a victims' rights constitutional amendment granting victims the rights to restitution, to submit victim impact statements, and to be treated with dignity and respect.
- MADD's "Red Ribbon Campaign" enlists motorists to display a red ribbon on their automobiles, signaling a pledge to drive safely and soberly during the holidays. This national public awareness effort has since become an annual campaign.
- By year's end, 35 states have established victim compensation programs.

### 1987

- The Crime Victims Fund deposits total \$77 million.
- The National Victims' Constitutional Amendment Network and Steering Committee are formed at a meeting hosted by the National Center for Victims of Crime (formerly the National Victim Center). This initiative becomes instrumental in the passage of victims' rights amendments throughout the United States.
- Security on Campus, Inc., (SOC) is established by Howard and Connie Clery, following the tragic robbery, rape, and murder of their daughter, Jeanne, at Lehigh University in Pennsylvania. SOC raises national awareness about crime and victimization on our nation's campuses.
- The American Correctional Association establishes a Task Force on Victims of Crime.
- NCADV establishes the first national toll-free domestic violence hotline.
- October is officially designated as National Domestic Violence Awareness Month to honor battered women and those who serve them.
- In a 5-4 decision, the U.S. Supreme Court rules in *Booth v. Maryland* (482 U.S. 496) that victim impact statements are unconstitutional (in violation of the Eighth Amendment) when applied to the penalty phase of a capital trial because "only the defendant's personal responsibility and moral guilt" may be considered in capital sentencing. Significant dissenting opinions are offered.
- Victims and advocates in Florida, frustrated by five years of inaction by their legislature on a proposed

victims' rights constitutional amendment, begin a petition drive. Thousands of citizens sign petitions supporting constitutional protection for victims' rights. The Florida legislature reconsiders, and the constitutional amendment appears on the 1988 ballot.

### 1988

- The Crime Victims Fund deposits total \$93 million.
- OVC sets aside funds for the Victim Assistance in Indian Country grant program to provide direct services to Native Americans by establishing "on-reservation" victim assistance programs in Indian Country.
- The National Aging Resource Center on Elder Abuse is established by a cooperative agreement among the American Public Welfare Association, the National Association of State Units on Aging, and the University of Delaware. Renamed the National Center on Elder Abuse, it continues to provide information and statistics.
- *State v. Ciskie* is the first case to allow the use of expert testimony to explain the behavior and mental state of an adult rape victim. The testimony is used to show why a victim of repeated physical and sexual assaults by her intimate partner would not immediately call the police or take action. The jury convicts the defendant on four counts of rape.
- The Drunk Driving Prevention Act is passed, and all states raise the minimum drinking age to 21.
- Victims' rights constitutional amendments are introduced in Arizona, California, Connecticut,

## CRIME VICTIMS' RIGHTS IN AMERICA

Delaware, Michigan, South Carolina, and Washington. Florida's amendment is placed on the November ballot, where it passes with 90 percent of the vote. Michigan's amendment passes with over 80 percent of the vote.

- OVC sponsors the first "Indian Nations: Justice for Victims of Crime" conference in Rapid City, South Dakota.
- Amendments to the Victims of Crime Act legislatively establish the Office for Victims of Crime, elevate the position of Director by making Senate confirmation necessary for appointment, and encourage state compensation programs to cover victims of domestic violence, homicide, and drunk driving. In addition, VOCA amendments, at the behest of MADD and POMC, add a new "priority" category for funding victim assistance programs for "previously underserved victims of violent crime."
- OVC establishes a Federal Emergency Fund for victims in the federal criminal justice system.

### 1989

- The Crime Victims Fund deposits total \$133 million.
- In a 5-4 decision, the U.S. Supreme Court reaffirms in *South Carolina v. Gathers* its 1987 decision in *Booth v. Maryland* that victim impact evidence and arguments are unconstitutional when applied to the penalty phase of a capital trial. Again, significant dissenting opinions are offered.
- The legislatures in Texas and Washington pass victims' rights constitutional amendments. Both are ratified by voters.

### 1990

- The Crime Victims Fund deposits total \$146 million.
- Congress passes the Hate Crime Statistics Act, requiring the U.S. Attorney General to collect data on the incidence of certain crimes motivated by prejudice based on race, religion, sexual orientation, or ethnicity.
- The Student Right to Know and Campus Security Act, requiring institutions of higher education to disclose murder, rape, robbery, and other crimes on campus, is signed into law by President George H.W. Bush.
- Congress passes the Victims of Child Abuse Act, which features reforms to make the federal criminal justice system less traumatic for child victims and witnesses.
- The Victims' Rights and Restitution Act of 1990 incorporates a Bill of Rights for federal crime victims and codifies services that should be available to victims of crime.
- Congress passes legislation proposed by MADD to prevent drunk drivers and other offenders from filing bankruptcy to avoid paying criminal restitution or civil fines.
- The Arizona petition drive to place the victims' rights constitutional amendment on the ballot succeeds, and the amendment is ratified by voters.
- The first National Incidence Study on Missing, Abducted, Runaway and Thrownaway Children in America shows that more than one million children are abducted annually.

- The National Child Search Assistance Act requires law enforcement to enter reports of missing children and unidentified persons into the FBI's NCIC computer system.

### 1991

- The Crime Victims Fund deposits total \$128 million.
- U.S. Representative Ileana Ros-Lehtinen (R-FL) introduces the first Congressional Joint Resolution (H. J. RES. 247) to place victims' rights in the U.S. Constitution.
- California State University, Fresno, approves the first bachelor's degree program in victimology in the nation.
- The National Center for Victims of Crime releases *America Speaks Out*, the results of the first national public opinion poll to examine citizens' attitudes about violence and victimization.
- In a 7-2 decision in *Payne v. Tennessee* (501 U.S. 808), the U.S. Supreme Court reverses its earlier decisions in *Booth v. Maryland* (1987) and *South Carolina v. Gathers* (1989) and rules that testimony and prosecutorial arguments commenting on the murder victim's good character, as well as how the victim's death affected his or her survivors, do not violate the defendant's constitutional rights in a capital case.
- U.S. Attorney General William P. Barr issues new comprehensive guidelines that establish procedures for the federal criminal justice system to respond to the needs of crime victims. The 1991 *Attorney General Guidelines for Victim and Witness*

## AN HISTORICAL OVERVIEW

Assistance implement new protections of the Crime Control Act of 1990, integrating requirements of the Crime Victims' Bill of Rights, the Victims of Child Abuse Act, and the Victim and Witness Protection Act.

- The American Probation and Parole Association establishes a Victim Issues Committee to examine victims' issues and concerns related to community corrections.
- The New Jersey legislature passes a victims' rights constitutional amendment, which is ratified by voters in November.
- Colorado legislators introduce a victims' rights constitutional amendment on the first day of National Crime Victims' Rights Week. The bill is unanimously passed by both Houses to be placed on the ballot in 1992.
- In an 8-0 decision, the U.S. Supreme Court rules in *Simon & Schuster v. New York Crime Victims Board* that New York's notoriety-for-profit statute was overly broad and unconstitutional. Notoriety-for-profit statutes had been passed by many states by this time to prevent convicted criminals from profiting from the proceeds of depictions of their crimes in the media or publications.
- The Washington Secretary of State implements the nation's first Address Confidentiality Program, which provides victims of domestic violence, stalking, and sexual assault an alternative, confidential mailing address and secures the confidentiality of two normally public records—voter registration and motor vehicle records.
- By the end of 1991, seven states have incorporated victims' rights into their state constitutions.

### 1992

- The Crime Victims Fund deposits total \$221 million.
- The National Center for Victims of Crime releases *Rape in America: A Report to the Nation*, a groundbreaking study on forcible rape, including data on rape frequency, victims' reporting rate to police, the impact of rape on victims' mental health, and the effect of media disclosure of victim identities on reporting rape to law enforcement.
- The Association of Paroling Authorities International establishes a Victim Issues Committee to examine victims' needs, rights, and services in parole processes.
- Congress reauthorizes the Higher Education Bill, which includes the Campus Sexual Assault Victims' Bill of Rights.
- The Battered Women's Testimony Act, which urges states to accept expert testimony in criminal cases involving battered women, is passed by Congress and signed into law by President George H. W. Bush.
- In a unanimous decision, the U.S. Supreme Court—in *R.A.V. v. City of St. Paul*—strikes down a local hate crimes ordinance in Minnesota. The ordinance had prohibited the display of a symbol which one knew or had reason to know "arouses anger, alarm or resentment in others on the basis of race, color, creed, religion or gender," and was found to violate the First Amendment.
- Five states—Colorado, Kansas, Illinois, Missouri, and New Mexico—ratify victims' rights constitutional amendments.

- Twenty-eight states pass anti-stalking laws.
- Massachusetts passes a landmark bill creating a statewide computerized domestic violence registry and requires judges to check the registry when handling such cases.

### 1993

- The Crime Victims Fund deposits total \$144 million.
- Wisconsin ratifies its victims' rights constitutional amendment, bringing the total number of states with these amendments to 14.
- Congress passes the International Parental Child Kidnapping Act, which makes unlawful removal of a child from outside the United States with the intent to obstruct the lawful exercise of parental rights a federal felony.
- President William J. Clinton signs the "Brady Bill," requiring a waiting period for the purchase of handguns.
- Congress passes the Child Sexual Abuse Registry Act, establishing a national repository for information about child sex offenders.
- Twenty-two states pass anti-stalking statutes, bringing the total number of states with anti-stalking laws to 50, plus the District of Columbia.

### 1994

- The Crime Victims Fund deposits total \$185 million.
- The American Correctional Association Victims Committee publishes the landmark *Report and Recommendations on Victims of Juvenile Crime*, which offers

## CRIME VICTIMS' RIGHTS IN AMERICA

guidelines for improving victims' rights and services within the juvenile justice system.

- Six additional states pass victims' rights constitutional amendments—the largest number ever in a single year—bringing the total number of states with amendments to 20. States with new amendments include Alabama, Alaska, Idaho, Maryland, Ohio, and Utah.
- President Clinton signs a comprehensive package of federal victims' rights legislation as part of the Violent Crime Control and Law Enforcement Act. The Act includes:
  - > The Violence Against Women Act (VAWA), which authorizes more than \$1 billion in funding for programs to combat violence against women.
  - > Enhanced VOCA funding provisions.
  - > Establishment of a National Child Sex Offender Registry.
  - > Enhanced sentences for drunk drivers with child passengers.
- Kentucky becomes the first state to institute automated telephone notification to crime victims of their offender's status, location, and release date.
- OVC establishes the Community Crisis Response program, using the NOVA model, to improve services to victims in communities that have experienced a crime resulting in multiple violent victimizations.

### 1995

- The Crime Victims Fund deposits total \$233 million.
- Legislature, in three states—Indiana, Nebraska, and North

Carolina—pass victims' rights constitutional amendments that will be placed on the ballot in 1996.

- The National Victims' Constitutional Amendment Network proposes the first draft of language for a federal victims' rights constitutional amendment.
- The first class graduates from the National Victim Assistance Academy (NVAA) in Washington, DC. Supported by OVC, NVAA provides an academically credited 45-hour curriculum on victimology, victims' rights, and other victim-related topics.
- *The Anatomy of Fraud: Report of a Nationwide Survey* by Richard Titus, Fred Heinzelmann, and John M. Boyle is published. The report is based on the first nationwide survey, conducted in 1991 by the National Institute of Justice, to determine the scope of fraud and its effects, with findings that an estimated \$40 billion is lost to fraud each year. One-third of the people surveyed reported that an attempt to defraud them had occurred in the previous year.
- The U.S. Department of Justice issues the revised *Attorney General Guidelines for Victim and Witness Assistance*. These guidelines increase the accountability of federal criminal justice officials, directing that performance appraisals and reports of best efforts include information on compliance with the *Attorney General Guidelines for Victim and Witness Assistance*.
- The Beijing World Conference on Women issues a landmark call for global action to end violence against women.

### 1996

- The Crime Victims Fund reaches an historic high with deposits over \$525 million.
- Federal victims' rights constitutional amendments are introduced in both houses of Congress with bipartisan support.
- Both presidential candidates and Attorney General Janet Reno endorse the concept of a federal victims' rights constitutional amendment.
- Eight states ratify the passage of victims' rights constitutional amendments—raising the total number of such state constitutional amendments to 29 nationwide.
- President Clinton reaffirms his support of federal constitutional rights for crime victims in a Rose Garden ceremony attended by members of Congress, criminal justice officials, and representatives of local, state, and national victims' rights organizations.
- The Community Notification Act, known as "Megan's Law," amends the Child Sexual Abuse Registry law to provide for notifying communities of the location of convicted sex offenders.
- President Clinton signs the Antiterrorism and Effective Death Penalty Act, providing \$1 million to strengthen antiterrorism efforts, make restitution mandatory in violent crime cases, and expand compensation and assistance for victims of terrorism both at home and abroad, including victims in the military.
- OVC uses its new authority under the Antiterrorism and Effective Death Penalty Act to provide

## AN HISTORICAL OVERVIEW

substantial financial assistance to the victims and survivors of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City.

- The Mandatory Victims' Restitution Act, enacted as Title II of the Antiterrorism and Effective Death Penalty Act, allows federal courts to award "public harm" restitution directly to state VOCA victim assistance programs. The Act makes restitution in federal cases mandatory, regardless of the defendant's ability to pay. It also requires federal courts to order restitution to victims of fraud.
- The VOCA definition of "crime victim" is expanded to include victims of financial crime, allowing this group to receive counseling, advocacy, and support services.
- The National Domestic Violence Hotline is established by Congress to provide crisis intervention information and referrals to victims of domestic violence and their friends and family.
- The Church Arson Prevention Act is signed in response to an increasing number of acts of arson against religious institutions around the country.
- The Drug-induced Rape Prevention Act is enacted to address the emerging issue of drug-facilitated rape and sexual assault.
- The Office of Juvenile Justice and Delinquency Prevention, within the U.S. Department of Justice, issues the *Juvenile Justice Action Plan*, which includes recommendations for victims' rights and services within the juvenile justice system for victims of juvenile offenders,

### 1997

- The Crime Victims Fund deposits total \$363 million.
- Congress passes the Victims' Rights Clarification Act of 1997 to clarify existing federal law allowing victims to attend a trial and to appear as "impact witnesses" during the sentencing phase of both capital and non-capital cases. President Clinton signs the Act, allowing the victims and survivors of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City to observe the trial and to provide input later at sentencing.
- A federal victims' rights constitutional amendment is reintroduced in the opening days of the 105<sup>th</sup> Congress with strong bipartisan support. The Senate and House Judiciary Committees conduct hearings on the proposed federal victims' rights constitutional amendment. While not endorsing specific language, Attorney General Janet Reno testifies at the Senate hearing in support of federal constitutional rights for crime victims.
- To fully recognize the sovereignty of Indian Nations, OVC for the first time provides victim assistance grants directly to tribes in Indian Country.
- Congress enacts a federal anti-stalking law as part of the National Defense Authorization Act for Fiscal Year 1997.
- Due to the large influx of VOCA funds in the previous fiscal year, OVC hosts a series of regional meetings with state VOCA administrators encouraging states to develop multiyear funding

strategies to help stabilize local program funding, expand outreach to previously underserved victims, and support the development and implementation of technologies to improve victims' rights and services.

- OVC continues its support of the victims and survivors of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City by funding additional advocates, crisis counseling, and travel expenses for the bombing victims to attend court proceedings. When the venue of the trial is changed to Denver, Colorado, OVC provides funding for a special closed-circuit broadcast to victims and survivors in Oklahoma City.
- OVC releases *New Directions from the Field: Victims' Rights and Services for the 21st Century*, which assesses the nation's progress in meeting the recommendations set forth in the *Final Report of the 1982 President's Task Force on Victims of Crime* and issues over 250 new recommendations from the field for the next millennium.

### 1998

- The Crime Victims Fund deposits total \$324 million.
- Senate Joint Resolution 44, a new bipartisan version of a federal victims' rights constitutional amendment, is introduced in the Senate by Senators Jon Kyl (R-AZ) and Dianne Feinstein (D-CA). The Senate Judiciary Committee subsequently approves SJR 44 by an 11-6 vote. No further action is taken on SJR 44 during the 105<sup>th</sup> Congress.

## CRIME VICTIMS' RIGHTS IN AMERICA

- Four new states pass state victims' rights constitutional amendments: Louisiana, Mississippi, Montana, and Tennessee. The Supreme Court of Oregon, however, overturns the Oregon state victims' rights amendment, originally passed in 1996, citing structural deficiencies.
- The Higher Education Amendments of 1998 is passed. Part E of this legislation, "Grants to Combat Violent Crimes Against Women on Campus," is authorized through the year 2003 and appropriates a total of \$10 million in grant funding to the Violence Against Women Grants Office for Fiscal Year 1999. Another primary aim of this legislation is to reduce binge drinking and illegal alcohol consumption on college campuses.
- Congress enacts the Child Protection and Sexual Predator Punishment Act of 1998, providing for numerous sentencing enhancements and other initiatives addressing sex crimes against children, including crimes facilitated by the use of interstate facilities and the Internet.
- Congress passes the Crime Victims with Disabilities Awareness Act, representing the first effort to systematically gather information about the extent of victimization of individuals with disabilities. This legislation directs the Attorney General to conduct a study on crimes against individuals with developmental disabilities. In addition, the Bureau of Justice Statistics must include statistics on the nature of crimes against individuals with developmental disabilities and victim characteristics in its annual National Crime Victimization Survey by 2000.
- The Identity Theft and Deterrence Act of 1998 is signed into law. This landmark federal legislation outlaws identity theft and directs the U.S. Sentencing Commission to consider various factors in determining penalties, including the number of victims and the value of losses to any individual victim. The Act further authorizes the Federal Trade Commission to log and acknowledge reports of identity theft, provide information to victims, and refer complaints to appropriate consumer reporting and law enforcement agencies.
- OVC provides funding to the U.S. Department of State to support the development of a Victim Assistance Specialist position to improve the quality and coordination of services provided to U.S. citizens who are victimized abroad.

### 1999

- The Crime Victims Fund deposits total \$985 million, the second highest level in the history of the Fund.
- The proposed federal victims' rights constitutional amendment (Senate Joint Resolution 3, identical to SJR 44) is introduced in the 106<sup>th</sup> Congress.
- The fifth National Victim Assistance Academy is held in June at five university locations across the United States, bringing the total number of Academy graduates to nearly 1,000.
- OVC issues the first grants to create State Victim Assistance Academies.
- The National Crime Victim Bar Association is formed by the National Center for Victims of

Crime to promote civil justice for victims of crime.

### 2000

- The Crime Victims Fund deposits total \$777 million.
- Congress passes a new national drunk driving limit of 0.08 blood alcohol concentration (BAC) with the strong support of MADD and other victim advocacy organizations, as well as leading highway safety, health, medical, law enforcement, and insurance groups. The new law, passed with strong bipartisan support, requires states to pass 0.08 "per se intoxication" laws or lose a portion of their annual federal highway funding.
- Congress reauthorizes the Violence Against Women Act of 2000, extending VAWA through 2005 and authorizing funding at \$3.3 billion over the five-year period. In addition to expanding federal stalking statutes to include stalking on the Internet, the Act authorizes:
  - > \$80 million a year for rape prevention and education grants;
  - > \$875 million over five years for battered women's shelters;
  - > \$25 million in 2001 for transitional housing programs; and
  - > \$25 million to address violence against older women and women with disabilities.
- The Internet Crime Complaint Center Web site, [www.ic3.gov](http://www.ic3.gov), is created by the U.S. Department of Justice, Federal Bureau of Investigation, and the National White

## AN HISTORICAL OVERVIEW

Collar Crime Center to combat Internet fraud by giving consumers a convenient way to report violations and by centralizing information about fraud crimes for law enforcement.

- Attorney General Janet Reno revises and reissues the *Attorney General Guidelines for Victim and Witness Assistance*, which mandates that every Department of Justice employee who comes into contact with crime victims receives at minimum one hour of training about victim rights laws and the guidelines.
- Victimization rates as reported in the National Crime Victimization Survey are the lowest recorded since the survey's creation in 1973.
- The Treasury Department conducts the National Summit on Identity Theft, which addresses prevention techniques, victims' experiences, and remediation in the government and private sector. The summit is the first national-level conference involving law enforcement, victims, industry representatives, and nonprofit organizations interested in the issue. At the summit, Treasury Secretary Lawrence Summers unveils four new initiatives to address identity theft.
- A federal victims' rights constitutional amendment is addressed for the first time by the full U.S. Senate. Following two-and-a-half days of debate, the measure (SJR 3) is withdrawn for further consideration by its cosponsors, Senators Kyl (R-AZ) and Feinstein (D-CA), when it becomes apparent that the measure will not receive the two-thirds majority vote necessary for approval.
- Congress passes and the President signs the Trafficking Victims Protection Act of 2000. This new law significantly strengthens criminal enforcement, prosecution, and penalties against traffickers; provides new protections to victims; and enables victims of severe forms of trafficking to seek benefits and services available to other crime victims.

### 2001

- The Crime Victims Fund deposits total \$544 million.
- The National Crime Victimization Survey results for 2000 are released, showing that victimization rates continue to drop, reaching a new low of 26 million victims.
- On September 11, 2001, two hijacked planes crash into the World Trade Center, another into the Pentagon, and a fourth into a field in Somerset County, Pennsylvania, killing 2,974 victims and injuring countless others in the worst terrorist attacks on American soil.
- Congress and the Administration of President George W. Bush respond to the terrorist acts of September 11 with a raft of new laws providing funding for victim assistance, tax relief for victims, and other accommodations and protections for victims. As part of the Air Transportation Safety and System Stabilization Act, a new federal victim compensation program is created specifically for the victims of September 11. The program includes many types of damages normally available only through civil actions, such as payment for pain and suffering, lifetime lost earnings, and loss of enjoyment of life. To receive compensation, claimants are required to waive their right to bring civil action for damages suffered as a result of the terrorist acts.
- Congress passes and President Bush signs the USA PATRIOT Act of 2001, a package of antiterrorism legislation that includes changes to the Victims of Crime Act (VOCA), including increasing the percentage of state compensation payments reimbursable by the federal government and allowing OVC to fund compliance and evaluation projects.
- OVC augments state victim compensation funding to aid victims of the September 11 terrorist attacks in New York, Virginia, and Pennsylvania; offers assistance to victims of the September 11 terrorist attack on the Pentagon through the Pentagon Family Assistance Center; and establishes a toll-free telephone number and secure Web site for victims and their immediate family members.
- The Child Abuse Prevention and Enforcement Act and Jennifer's Law increase the annual Crime Victims Fund set-aside for child abuse victims from \$10 million to a maximum of \$20 million, and allow the use of Byrne grant funds for the prevention of child abuse and neglect. Jennifer's Law authorizes \$2 million per year through Fiscal Year 2002 for states to apply for grants to cover costs associated with entering complete files of unidentified crime victims into the FBI's NCIC database.
- New regulations, policies, and procedures for victims of trafficking dramatically change the

## CRIME VICTIMS' RIGHTS IN AMERICA

response to this class of crime victims by agencies throughout the federal government, including the U.S. Department of State, the U.S. Department of Health and Human Services, and several U.S. Department of Justice agencies (the FBI, the Immigration and Naturalization Service, and U.S. Attorneys' Offices).

### 2002

- The Crime Victims Fund deposits total \$519 million.
- OVC releases final program guidelines and an accompanying application kit for the Antiterrorism and Emergency Assistance Program for Terrorism and Mass Violence Crimes, which provides funding to compensate and assist victims of terrorism and mass violence that occur within and outside the United States.
- The National Crime Victimization Survey continues to show a decline in crime victimization. Violent crime victimization dropped 10 percent from the previous year, and property crime dropped 6 percent.
- President Bush attends the presentation of the National Crime Victims' Rights Week awards and announces the Administration's support for the proposed Crime Victims' Rights Amendment to the U.S. Constitution.
- The National Association of VOCA Assistance Administrators (NAVAA) is established. With OVC support, NAVAA provides technical assistance and training to state VOCA assistance administrators.
- OVC makes available the first Helping Outreach Programs to

Expand grants to grassroots, nonprofit, community-based victim organizations and coalitions to improve outreach and services to victims of crime through the support of program development, networking, coalition building, and service delivery.

- Congress appropriates approximately \$20 million to fund services to trafficking victims, including shelter, medical and mental health care, legal assistance, interpretation, and advocacy.
- President Bush hosts the first White House Conference on Missing, Exploited, and Runaway Children and announces his strong support for the Hutchison-Feinstein National AMBER Alert Network Act of 2002, which would help develop, enhance, and coordinate AMBER (America's Missing: Broadcast Emergency Response). The Assistance Attorney General for the Office of Justice Programs is designated as the National AMBER Alert Coordinator at the Department of Justice.
- By the end of 2002, all 50 states, the District of Columbia, the U.S. Virgin Islands, Puerto Rico, and Guam have established crime victim compensation programs.
- *Our Vulnerable Teenagers: Their Victimization, Its Consequences, and Directions for Prevention and Intervention* is released by the National Council on Crime and Delinquency and the National Center for Victims of Crime. This landmark report documents the disproportionate representation of teenagers, ages 12 to 19, as victims of crime, and discusses promising prevention and intervention strategies.

### 2003

- The Crime Victims Fund deposits total \$361 million.
- The Senate Judiciary Committee passes the federal victims' rights constitutional amendment to ensure basic rights to victims nationwide.
- Congress makes the Office on Violence Against Women (formerly the Violence Against Women Office within the Office of Justice Programs) a permanent, independent office within the U.S. Department of Justice.
- Congress passes and President Bush signs the PROTECT Act of 2003—also known as the "Amber Alert" law—which creates a national AMBER network to facilitate rapid law enforcement and community response to kidnapped or abducted children.
- The American Society of Victimology (ASV) is established at the first American Symposium on Victimology held in Kansas City, Kansas. The ASV serves as a forum for academicians and practitioners on all topics related to victimology in partnership with the World Society of Victimology.
- The Prison Rape Elimination Act of 2003 is enacted to track and address the issue of rape in correctional institutions and develop national standards aimed at reducing prison rape.
- Congress establishes January as National Stalking Awareness Month.
- The National Domestic Violence Hotline, operated by the Texas Council on Family Violence, receives its one millionth call.

## AN HISTORICAL OVERVIEW

- The United States Postal Service releases the Stop Family Violence postage stamp to raise money for domestic violence prevention programs.
- Congress appropriates \$22 million for the U.S. Department of Defense's Family Advocacy Program, \$900,000 of which is for the National Domestic Violence Hotline Awareness, Intervention, and Prevention Campaign in the military services.
- The Fair and Accurate Credit Transactions Act of 2003 is enacted to provide new protections against identity theft and help victims of identity theft recover their financial losses.
- Congress passes and President Bush signs the Trafficking Victims Protection Reauthorization Act. Along with reauthorizing programs created under the first TVPA, this legislation strengthens prevention efforts, supports prosecution of offenders, simplifies the process by which victims are certified eligible for benefits, and allows benefits and services to be available for victims' family members who are legally allowed to come to the United States. The legislation also creates a civil cause of action for victims of forced labor or forced prostitution.

### 2004

- The Crime Victims Fund deposits total \$834 million, the third highest level in the history of the Fund.
- The U.S. Department of Defense Task Force on Care for Victims of Sexual Assault releases its report and recommendations for preventing sexual assault in the military and providing a sensitive response

to victims. The recommendations include establishing a single office within the U.S. Department of Defense to handle sexual assault matters, launching an information campaign to inform personnel about services available to victims, and convening a summit to update the definition of sexual assault and address victim privacy concerns within the military context.

- The Identity Theft Penalty Enhancement Act is enacted, defining aggravated identity theft as stealing another person's identity in connection with the commission of other specified felonies. The legislation also prohibits the court from ordering an offender's sentence for identity theft to run concurrently with a sentence imposed on the same offender for any other crime.
- Congress passes and President Bush signs the Justice for All Act of 2004, which includes the Scott Campbell, Stephanie Roper, Wendy Preston, Louarna Gillis, and Nila Lynn Crime Victims' Rights Act, providing substantive rights for crime victims. For the first time, the law provides mechanisms at the federal level to enforce the rights of crime victims, giving victims and prosecutors legal standing to assert victims' rights, authorizing the filing of writs of mandamus to assert a victim's right, and requiring the Attorney General to establish a victims' rights compliance program within the Department of Justice. The legislation authorizes \$155 million in funding over the next five years for victim assistance programs at the federal and state level. This omnibus crime legislation also provides funding for DNA testing,

crime labs, sexual assault forensic examiners, and programs for post-conviction DNA testing.

- President Bush hosts the first national training conference on human trafficking, which brings together trafficking response teams of federal, state, and local law enforcement personnel, prosecutors, and victim service providers from at least 21 cities with a known concentration of trafficking victims. The conference emphasizes the importance of combating trafficking using a victim-centered approach.
- The National Center for Victims of Crime releases *Repairing the Harm: A New Vision for Crime Victim Compensation in America*, a landmark report that examines compensation data from all 50 states, the September 11th Victim Compensation Fund, and compensation programs in other countries. The report also provides a framework for strengthening victim compensation in the United States.

### 2005

- The Crime Victims Fund deposits total \$668 million.
- The U.S. Department of Justice establishes an online national sex offender registry that provides real-time access to public sex offender data nationwide with a single Internet search.
- OVC and the Bureau of Justice Assistance initiate a landmark program to establish teams of law enforcement task forces and victim services to respond to human trafficking. The primary goals of this program are to develop sustainable programs to combat

## CRIME VICTIMS' RIGHTS IN AMERICA

human trafficking through proactive law enforcement and prosecution at all levels of government, to coordinate U.S. Attorneys' Offices' efforts, to collaborate with victim service providers, and to increase the identification and rescue of trafficking victims.

- The U.S. House of Representatives establishes the first congressional Victims' Rights Caucus, chaired by Congressman Ted Poe (R-TX). The mission of the Caucus is to elevate crime victim issues in Congress in a bipartisan manner, without infringing on the rights of the accused, and advocate for crime victims' interests before the Administration and within Congress.
- The Department of Justice announces more than \$84 million in DNA grants nationwide as part of President Bush's Advancing Justice Through DNA Technology initiative. The initiative is designed to improve the nation's capacity to use DNA evidence by eliminating casework and convicted offender backlogs, funding research and development, improving crime lab capacity, providing training for all stakeholders in the criminal justice system, and conducting testing to identify missing persons.
- Attorney General Alberto Gonzalez issues updated *Attorney General Guidelines for Victim and Witness Assistance*. The guidelines incorporate provisions for crime victims' rights and remedies, including those in the Justice for All Act, which had been entered since the publication of the last edition. The guidelines also address victim and witness assistance in human trafficking and identity theft cases.
- The National Association of VOCA Assistance Administrators releases the *Crime Victims Fund Report*, which highlights the Crime Victims Fund's contribution to the federal government's efforts to assist victims, analyzes the sources of deposits into the Fund, examines the issues involved in administering the Fund, and explores future challenges to the Fund's capacity to meet victims' needs.
- The American Bar Association releases *Elder Abuse Fatality Review Teams: A Replication Manual*, developed by the ABA Commission on Law and Aging and funded by OVC. This groundbreaking manual provides guidance to communities on establishing elder abuse fatality review teams that review deaths caused by or related to elder abuse.
- The U.S. Department of Justice issues its Final Rule implementing the victims' rights compliance provisions of the Crime Victims Rights' Act portion of the Justice for All Act. The rule establishes the office of the Victims' Rights Ombudsman within the Executive Office for United States Attorneys (EOUSA) to receive and investigate complaints relating to the provision or violation of the rights of crime victims. The rule establishes procedures for filing complaints, investigating complaints, and imposing disciplinary sanctions against employees when warranted.
- The U.S. Department of Defense announces a new sexual assault policy. The policy creates a military-wide definition of sexual assault, sets a baseline standard for prevention and response training for the armed services,

and requires all military installations to have a sexual assault response coordinator with a staff of victim advocates. The policy also requires the establishment of a senior level of command to handle sexual assault cases and review any administrative discharges of sexual assault victims.

### 2006

- The Crime Victims Fund deposits total \$650 million.
- Congress passes and President Bush signs the Violence Against Women and Department of Justice Reauthorization Act of 2005. This extension of the Violence Against Women Act includes provisions for early intervention, prevention, and health care, and promotes a national commitment to keep women and children safe from fear and abuse.
- Congress passes and President Bush signs the Trafficking Victims Protection Reauthorization Act of 2005. This law expands the Trafficking Victims Protection Act of 2000 by enhancing efforts to fight domestic trafficking in persons.
- During the National Crime Victims' Rights Week ceremony, OVC awards the first Ronald Wilson Reagan Public Policy Awards to honor outstanding individuals whose leadership, vision, and innovation have led to significant changes in public policy and practice that benefit crime victims.
- President Bush signs the Adam Walsh Child Protection and Safety Act of 2006. Along with increasing supervision of sex offenders, this wide-ranging legislation also extends the federal Crime Victims'

## AN HISTORICAL OVERVIEW

Rights Act. A federal habeas corpus proceeding arising out of state convictions, eliminates the statute of limitations for federal prosecution of certain sexual offenses and child abduction, as well as extends the civil remedy for child sex crime victims to persons victimized as children, even if their injuries did not surface until the person became an adult.

- Attorney General Alberto Gonzales launches Project Safe Childhood, aimed at eliminating Internet-based child sexual exploitation. This nationwide project creates locally designed partnerships of federal, state, local, and tribal law enforcement agencies together with community leaders to develop a coordinated strategy to prevent, investigate, and prosecute sexual predators, abusers, and pornographers who target children. All U.S. Attorneys are charged with taking the lead in designing a strategic plan for their community.
- The United States Court of Appeals for the Ninth Circuit decides *Kenna v. U.S. District Court for the Central District of California*, in which the court considered whether the Crime Victims' Rights Act portion of the Justice for All Act gave victims the right to speak at sentencing hearings. The case involved a father and son who swindled dozens of victims. The defendants pled guilty to wire fraud and money laundering. More than 60 victims submitted victim impact statements. At the father's sentencing hearing, several victims spoke about the effects of the crimes, but at the son's sentencing the judge refused to allow the victims to speak. The court held that the district judge had made a

mistake, and made three important points: (1) in passing the Crime Victims' Rights Act, it was the intent of Congress to allow victims to speak at sentencing hearings, not just to submit victim impact statements; (2) victims have a right to speak even if there is more than one criminal sentencing; and (3) the remedy for a crime victim denied the right to speak at a sentencing hearing is to have the sentence vacated and a new sentencing hearing held in which the victims are allowed to speak.

- The Department of Justice issues its final rule implementing the new International Terrorism Victim Expense Reimbursement Program (ITVERP). This new federally-administered program extends crime victim compensation to American victims of terrorism abroad, reimbursing them for direct, out-of-pocket expenses resulting from an act of terror.
- President Bush signs the Older Americans Act Reauthorization (OAA), which includes a number of victim-related provisions. It requires the Assistant Secretary on Aging at the U.S. Department of Health and Human Services to designate an individual to develop a long-term plan for a national response to elder abuse prevention, intervention, and treatment activities. The new law improves access to programs and services under OAA by addressing the needs of older individuals with limited English proficiency; promotes multidisciplinary responses to elder abuse, neglect, and exploitation by states and Indian tribes; and preserves the long-term care ombudsman program.

## 2007

- For the first time ever, the Crime Victims Fund deposits surpass a billion dollars, totaling \$1.02 billion.
- Attorney General Alberto Gonzales and Federal Trade Commission Chairman Deborah Platt Majoras release the President's Identity Theft Task Force strategic plan to combat identity theft. Task Force recommendations include reducing the unnecessary use of Social Security Numbers by federal agencies; establishing national standards requiring private entities to safeguard the personal data they compile and to notify consumers of any breach that poses a significant risk of identity theft; implementing a consumer awareness campaign; and creating a National Identity Theft Law Enforcement Center to coordinate law enforcement efforts and information to improve the investigation and prosecution of identity thieves.
- OVC announces the first payments of the ITVERP program to U.S. victims of international acts of terrorism. Applications have been processed and reimbursement payments made to victims of the 1998 U.S. Embassy bombings, in Nairobi, Kenya, and Dar es Salaam, Tanzania; the October 2002 Bali, Indonesia, night club bombing; the May 2003 bombing of expatriate housing in Riyadh, Saudi Arabia; and the 2003 airport bombing in Davao City, Philippines.
- House and Senate Resolutions establishing September 25 as the National Day of Remembrance for Murder Victims coincide with the first annual national event held on Capitol Hill. ■

# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HCR 21A  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: None  
 Title Supporting the National Crime Victims' Week RDU \_\_\_\_\_  
 Component \_\_\_\_\_  
 Sponsor Representative Stoltze Component No. \_\_\_\_\_  
 Requester House Judiciary Committee

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

Prepared by: Jane Pierson, Committee Aide  
 Division: House Judiciary Committee  
 Approved by: Representative Ramras  
 Agency: Chairman

Phone (907) 465-4990  
 Date/Time 1/28/08 4:20 PM  
 Date 2/13/2008





# RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original documents after microfilm reproductions have been made.

*Stan Hubbard*

Signature of Camera Operator

*6-4-2009*

Date

HJR

2

**Alaska State Legislature**  
House of Representatives

Alaska State Capitol  
Juneau, Alaska 99801-1182  
1-907-465-3438 (phone)  
1-888-478-3438 (toll free)  
1-907-465-4565 (fax)



Interim Address  
716 West Fourth Avenue  
Anchorage, Alaska 99501-2133  
(phone) 1-907-269-0100  
(fax) 1-907-269-0105

Representative Harry Crawford  
District 21

**SPONSOR STATEMENT: HOUSE JOINT RESOLUTION 2**

While some Alaskans may consider gambling to be a harmless pastime, many underestimate the costs in dollars and human suffering associated with it. House Joint Resolution 2 would amend Alaska's Constitution to require an affirmative vote of the people before any form of gambling for profit may be authorized in Alaska.

Studies show that about 2.5 million Americans are pathological gamblers, and another 3 million are problem gamblers. These compulsive gamblers have high rates of suicide, depression, mania, alcohol and drug abuse, and arrest rates. According to the American Insurance Institute, gambling is the main cause of white collar crime, and is the third leading cause of individual bankruptcy in America.

Though the human suffering caused by compulsive gambling may be borne by a minority of the population, the overall economic and social costs are shared by all. Before expanding gambling in our state, it is imperative that the voice of Alaskans be heard. I respectfully ask for your support of HJR 2.

25-LS0257K  
Luckhaupt  
5/11/07

**CS FOR HOUSE JOINT RESOLUTION NO. 2(JUD)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FIFTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVES CRAWFORD AND DAHLSTROM, Lynn**

**A RESOLUTION**

1 **Proposing an amendment to the Constitution of the State of Alaska requiring an**  
2 **affirmative vote of the people before any form of gambling for profit may be authorized**  
3 **in Alaska and setting other requirements.**

4 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 **\* Section 1.** Article XII, Constitution of the State of Alaska, is amended by adding a new  
6 section to read:

7 **Section 15. For-Profit Gambling.** Any form of gaming or gambling for profit  
8 is prohibited in the State unless that form of gaming or gambling has been authorized  
9 by law, ratified by a majority vote of the qualified voters of the State who vote on the  
10 question at the next general election, and approved by the municipality where the  
11 gaming or gambling may occur. This section does not restrict the authorization of  
12 charitable gaming conducted by charitable organizations if all profits of that gaming  
13 inure to the charitable organization and those profits are expended for charitable  
14 purposes.

15 **\* Sec. 2.** The amendment proposed by this resolution shall be placed before the voters of the

1 state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State  
2 of Alaska, and the election laws of the state.

**HOUSE COMMITTEE REPORT**

(7)

Date Referred to Committee: May 3, 2007

FURTHER REFERRALS: Finance

Date of Committee Action: May 11, 2007

The JUDICIARY Committee considered:

HJR 2

HOUSE JOINT RESOLUTION NO. 2

CONST.AM:NO GAMING WITHOUT VOTER APPROVAL

Proposing an amendment to the Constitution of the State of Alaska requiring an affirmative vote of the people before any form of gambling for profit may be authorized in Alaska.

Recommends it be replaced with  HCS or  CS for HJR 2 (JWD)  
 For Senate Bills with new title:  Technical Title  New Title: HCR \_\_\_\_\_ |  Same Title  New Title

- attach amendments
- add new referral to \_\_\_\_\_ Committee
- Letter of Intent \_\_\_\_\_ Committee

List of Abbrev for Depts.:  
 ADM  
 CED  
 COR  
 CRT  
 EED  
 DEC  
 DFG  
 GOV  
 HSS  
 LWF  
 LAW  
 LEG  
 MVA  
 DNR  
 DPS  
 REV  
 DOT  
 UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
006		✓		

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
HSTA				✓

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Brianley			✓	
	Cochitt	X		✓	
	SAMUELS	X			X
	Holmes				X
Chair:	RAWLINS	X			
Chair:					

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

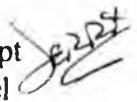
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

May 11, 2007

**SUBJECT:** CSHJR 2(JUD) (Work Order No. 25-LS0257M)

**TO:** Representative Jay Ramras  
Chair of the House Judiciary Committee  
Attn: Jane Pierson

**FROM:** Gerald P. Luckhaupt   
Legislative Counsel

Enclosed is the CS(JUD) you requested. I have one comment. The addition of the word "any" on line 10 may lead to some unintended consequences. For example, if the legislature passes a law allowing for profit gambling in any municipality with a population of 1,000 or more, this decision is ratified by the voters, and Ketchikan approves the gambling, then the gambling will be legal in every other municipality with a population over 1,000 even if the other municipalities do not approve the gambling. This will be so because it has been approved by "any" of the municipalities where the gambling may occur. If this was not intended and the approval of "each" municipality where the gambling would occur (before gambling may occur in that municipality) was intended, then "any" should be replaced by "each" or "the".

GPL:lmb  
07-124.lmb

Enclosure

25-LS0257E  
Luckhaupt  
5/9/07

**CS FOR HOUSE JOINT RESOLUTION NO. 2( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FIFTH LEGISLATURE - FIRST SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVES CRAWFORD AND DAHLSTROM, Lynn**

*MOVED*

**A RESOLUTION**

1 **Proposing an amendment to the Constitution of the State of Alaska requiring an**  
2 **affirmative vote of the people before any form of gambling for profit may be authorized**  
3 **in Alaska and setting other requirements.**

4 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 \* **Section 1.** Article XII, Constitution of the State of Alaska, is amended by adding a new  
6 section to read:

7 **Section 15. For-Profit Gambling.** Any form of gaming or gambling for profit  
8 is prohibited in the State unless that form of gaming or gambling has been authorized  
9 by law, ratified by a sixty percent majority vote of the qualified voters of the State  
10 who vote on the question at the next general election, and approved by ~~the~~ *any*  
11 municipality, if any, where the gaming or gambling ~~will~~ *MAY* occur. This section does not  
12 restrict the authorization of charitable gaming conducted by charitable organizations if  
13 all profits of that gaming inure to the charitable organization and those profits are only  
14 expended for charitable purposes.

15 \* **Sec. 2.** The amendment proposed by this resolution shall be placed before the voters of the

1 state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State  
2 of Alaska, and the election laws of the state.

ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY COMMITTEE

Representative Jay Ramras  
Chairman

(907) 465-3004

Fax: (907) 465-2070

Representative Jay Ramras@legis.state.ak.us

1292 Sadler Way, Suite 324

Fairbanks, AK 99701



**Committee Members:**

Representative Nancy Dahlstrom,

Vice-Chairman

Representative John Coghill

Representative Bob Lynn

Representative Ralph Samuels

Representative Max Gruenberg

State Capitol, Juneau, Alaska 99801

TO: Legislative Legal Services

2029

DATE: May 10, 2007

FROM: Barbara Cotting/ for Jane Pierson

hcc

Please make changes indicated on the following bills and send us "finals" on both.

SB145, page 2 line 1, insert "moving" as indicated.

HJR 2, Page 1,

Line 9 delete "sixty percent"

Line 10 delete "the" and insert "any"

Line 11 delete "if any"

Line 11 delete "will" and insert "may"

Line 13 delete "only"

# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: HJR002-OOG-DOE-5-3-07  
 Bill Version: HJR 2  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: OOG  
 Title Constitutional Amendment requiring an RDU Elections  
affirmative vote of the people before any form or gambling... Component Elections  
 Sponsor Representatives Crawford, Dahlstrom, Lynn  
 Requester House Judiciary Committee Component No. 21

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual		1.5				
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>1.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		1.5				
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>1.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

If this amendment appears on the 2008 ballot, the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58, is \$1.5. Should the addition of this question require the printing of an 8-1/2 by 18-inch ballot, the cost will increase to \$22 0.

Prepared by: Gail Fenunial, Asst. Admin. Director Phone 465-3885  
 Division: Division of Administrative Services Date/Time 5/3/2007, 12:27pm  
 Approved by: Whitney Brewster, Director Date 5/3/2007  
 Agency: Office of the Lt. Governor, Division of Elections



DOING  
THE MOST  
GOOD™

*Office of the Divisional Commander*

January 29, 2007

The Honorable Nancy Dahlstrom  
The Honorable Harry Crawford  
Alaska House of Representatives  
State Capitol, Juneau, AK 99801-1182

**RE: Proposed Gambling Constitutional Amendment**

I recently learned of your intent to sponsor a constitutional amendment this legislative session to prohibit for-profit gambling in Alaska and wanted to express my appreciation for your leadership in addressing this important issue.


In other areas of the country where legalized gambling is welcomed, The Salvation Army has seen firsthand the impact and destruction caused in the lives of many who chase after the promise of riches and end up caught in the snare of addictive lifestyles. In Las Vegas, for instance, The Salvation Army recently expanded its Adult Rehabilitation Program for substance abusing adults to treat individuals with gambling addictions. In the short time the program has been open, they have documented that close to fifty percent of those who experience alcohol/drug addictions are also addicted to (or at significantly higher risk) for co-addictive behaviors, including gambling.

In Alaska, where we have some of the highest rates of substance abuse per capita in the nation, it is encouraging to know we have legislators like yourselves, ready to step forward and tackle these tough issues.

Thank you again, for your leadership. Know that I continue to pray God's blessing upon you as you serve the people of Alaska.

God bless you.

Sincerely,

  
Douglas Tollerud, Major  
Divisional Commander  
Alaska Division

Testimony for HJR2  
By Pamela Samash  
HC 66 Box 29715  
Nenana, AK 99760  
907-832-1850

Dear Representatives,

Thank you for taking the time to read my testimony today.

This letter is in regards to gambling and my family's experience.

My mother became addicted to gambling. She had always been against gambling before and had no addictions to anything but smoking. She worked for what she had, believed in God, raised us kids as best as she knew how.

What opened the door for her she shared with me was she became depressed because her mother passed away. She was also feeling rejected by people who were near and dear to her. My step dad took her to a casino to "lift her spirits" and get her mind off her troubles.

At first it was all for fun and in control. It took a few years to become addicted for her, but it happened none the less. Addiction to gambling is

very real and this is why it's so dangerous to bring to Alaska.

Once she was addicted, she had to gamble and get the money anyway she could. I asked her, "what made it so addicting?"

She replied, "it was always bright and friendly, good food, free drinks, great service, driven to get back the money lost from the last gambling experience, and to basically get away from the world."

My mom and step dad exhausted the payday loan stores, wrote bad checks and eventually towards the end, stole from their job.

I was visiting my sister when we got the call from my mom. Her boss found out about the theft, my mom was terminated and evicted from where she was living. She was also facing possible jail time. Everyone including us who love my parents had to scramble to raise money to quickly pay her boss to keep her out of jail. We had to get her stuff and get her out that day from where she lived. It was horrible. Here my mom at 48 yrs. old was losing everything she had worked for because of a gambling addiction. That was just the beginning. They had to pay back the payday loan stores, the banks, the casinos and all the people that loaned them money. The total bill was \$27,000. They couldn't find work so they had to settle for odd jobs and sometimes working in

dangerous conditions or areas. They stayed at weekly motels and lived on McDonald's dollar meals. Every day was a complete struggle. Every minute of every day to rebuild their life. They finally filed bankruptcy, but they have to pay that back as well.

All this took place about 3 yrs. ago and they are still rebuilding from it all. The good news is that my mom is totally free from gambling addiction. She wanted me to write this to you because she didn't want anyone else to go through what she's been through.

During her gambling experiences she met many other people who also were addicted to gambling and so my mom shared with me some of the effects and tragedies of their lives. Here is a list of what she saw:

1. Children pay the highest price. Many times people divorce because of gambling or they leave for days at a time leaving the children to fend for themselves or with a caretaker who is not very responsible. The children are vulnerable to molesting, rape, abuse, poor eating habits, poor school grades or no attendance at all, kidnapping and sometimes even death. The parents simply aren't there to protect and take care of them.
2. Divorce is really common with gamblers. If a spouse becomes addicted, they may and many times do drain the savings account, and also

sometimes bounce checks or they're late on paying bills, mortgage or rent. It's very stressful on marriage to say the least.

3. My mom met people who were stealing to gamble occasionally. But what's really sad is when she met a small business owner who had to close up his business because of addicted gamblers who stole thousands from him.
4. Bankruptcy increases and that's hard on the public as a whole.

### Final Statement

I have done my own research regarding gambling and it's a known fact that anyone who already has an addiction problem or has relatives with addictions is more likely to become addicted to gambling. In my love for Alaska I feel compelled to mention that Alaska has one of the highest drinking and drug addiction problems in the U.S. from what I've heard and read. Which, if this is true, means if gambling were introduced to Alaska, it could be devastating. If you also include long, dark, winters and the depression problems, I can't even imagine what would happen 10-20 yrs. down the road. If a casino were to open please consider the following:

1. Increase funding to Child Protective Services programs and foster homes because the children will need you to help them.

2. Provide marriage counseling and addiction counseling programs for free to the public.

Again I thank you so much for your time.  
May God bless you with His wisdom.

Pamela Samash

## Facts about Gambling and Addiction

- **Yes, it is addictive.**

"Gambling is an addictive behavior, make no mistake about it . . . Gambling has all the properties of a psychoactive substance, and again, the reason is that it changes the [1]  
neurochemistry of the brain."

The National Gambling Impact Commission found that following a decade of expansion in the 1990's, the national lifetime compulsive gambling population had grown by at least 50%, to no [2]

less than 1.2% based on the most conservative of its source studies. It also discovered a significant trend indicating **addiction had doubled in many populations within 50 miles of [3]  
casinos.**

Probable pathological gambling in Nevada in 2000 measured 3.5% and the prevalence of problem gambling added 2.9% for a total of 6.4%. Other cited states ranged from 2.1% in North [4]  
Dakota in 2000 to 4.9% in Mississippi in 1996.

The American Psychiatric Association notes the diversity of pathological gambling rates in its diagnostic manual. "Community studies estimate the lifetime prevalence of pathological gambling to range from 0.4% to 3.4% in adults, although prevalence rates in some areas (e.g., Puerto Rico, Australia) have been reported to be as high as 7%. Higher prevalence rates, ranging [5]  
from 2.8% to 8% have been reported in adolescents and college students." Those differences illustrate the effects of demographics, proximity and diversity of gambling opportunities.

- **Proximity matters. So do culture, disadvantage and demographics.**

Researchers at the National Opinion Research Center combined data from a national telephone survey with data from a casino patron survey and found that **adults living within 50 miles of a [6]  
casino had double the probability of pathological or problem gambling.**

Poverty, lower education level and other social and economic factors can effect gambling addiction, and they can be accelerated by the proximity of gambling outlets. "Neighborhood disadvantage shows . . . a strong positive effect on frequency of gambling and pathological or problem gambling. For every increase of one standard deviation in neighborhood disadvantage the odds of being a pathological or problem gambler increase by 69%. . . . **A casino within 10 miles of home is associated with a 90% increase in the odds of being a pathological or [7]  
problem gambler.**"

In short, the presence of gambling opportunities is likely to double the prevalence of problem and pathological gamblers, and the addition of other contributing factors may increase the addiction rate exponentially.

For example, 93% of a group of Southeast Asian refugees in a Connecticut study had gambled in the previous two months, and more than half were said to be pathological gamblers. [8]

Clear across the nation, casinos find 60% to 70% of table game customers and 20% to 25%

of their slot players are Asians, despite the fact they comprise only 9% of the population.

- **Electronic Gambling Machines may be the most addictive.**

Gamblers who participate with electronic machines are becoming addicted much more quickly. One of the most recent studies show EGM gamblers arrive at the pathological level in 1.08 years vs. 3.58 years with more "conventional" forms of table and racetrack gambling. Thus, electronic

[10]

gambling devices have been often labeled as the "crack cocaine" of the industry.

- **It is neither a small number nor a small problem**

The percentage of those afflicted by compulsive gambling should not be considered "small." Even at the minimalist "background" level of under one percent, gambling addiction, not

[11]

including problem gamblers, would still be twice as prevalent as cancer among Americans.

In mature gambling markets, more than 5% of the population will develop some problem with gambling, a prevalence rate about five times that of schizophrenia and more than twice that of

[12]

cocaine addiction.

- **Problem gamblers are biggest victims**

Problem and pathological gamblers comprise a sharply disproportionate share of gambling losses, contributing 30 to 50% of all gambling losses. They also often comprise HALF the gamblers participating at any given time.

Problem gamblers in Nova Scotia comprise 16% of all those who play the machines on a regular basis, which translates to approximately 0.92% of all adults in the province. This group of gamblers contributes **just over half of the net revenue** for video lottery gambling and, at any given time, and will comprise **almost half of all those sitting in front of video lottery**

[13]

terminals in Nova Scotia.

Dr. Henry Lesieur, president of the Institute for Problem Gambling compiled existing surveys from seven states and provinces. His study concluded that **30.4 percent of gambling revenues in those markets came from problem and pathological gamblers.** Those surveys

[14]

included data from lotteries, casinos, pari-mutuel wagering and sports betting.

- **Youth are more troubled and addicted than adults.**

The "acceptance" of gambling by government and the society's adults have led to a devastating increase in problem gambling among minors. Many studies have confirmed the problem, including study of America's **11- to 18-year-olds which showed a 4 to 7% prevalence rate of**

[15]

**problem gambling behaviors.**

- **America's military in danger.**

The Worldwide Survey of Substance Abuse and Health Behaviors Among Military Personnel

[16]

is a large-scale study that screened for gambling-related problems among America's military personnel. The survey reported that in 1992 and 1998, 7.1% and 8.1%, respectively, of all Department of Defense personnel had at least one gambling-related problem, and 2%

exhibited behaviors suggestive of pathologic gambling.

- **Gambling problems become health and family problems**

A recent Canadian study found, "Half of all problem gamblers reported that their gambling caused difficulties in relationships with family or friends. Four in 10 obsessive gamblers (42%) reported a high level of stress in their life, compared with 23% of gamblers who reported no [17] problems.

Financial and other stresses related to problem gambling take a toll on families. Government Accounting Office analyses prepared for the NGISC found **53.5% of pathological gamblers [18] reported having been divorced**, while only 18.2 percent of non-gamblers were divorced.

- **Suicide rates dramatic among problem gamblers**

"About 18% of problem gamblers reported that they had contemplated suicide in the year prior to the survey, six times the proportion (3%) of non-problem gamblers.

"The insidiousness of excess gambling is revealed by the 27% of moderate-risk gamblers and 64% of problem gamblers who wanted to stop gambling in the year prior to the survey, but believed they could not. About 56% of problem gamblers had tried to quit, but could not. The Canadian study validates findings in the United States. Suicide, for example, is a link almost universally denied by the gambling industry, but a Nevada study of addicted gamblers revealed, "Between 20% and 30% of the respondents made actual suicide attempts (we could not assess how many were successful). No other addictive population has had as high a prevalence for [19] attempts."

- **Gambling addiction is extremely hard to overcome.**

A typical study cited by the Harvard addiction scholars in their monthly publication noted, "Of the 80 participants followed for 12 months, 92% experienced relapse. Optimism about winning [20] was the most frequently reported precipitant of relapse for both genders."

In another review, the group reported, "Recent research reports that disordered gambling [21] treatment providers experience patient drop-out rates between 40% and 80%"

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[1]

Shaffer, Howard, quoted by Kindt, John Warren, in *Managerial and Decision Economics*, 22: 17-63 (2001)

[2]

NGISC, Part 4, p. 4

[3]

Ibid.

[4]

Volberg, Rachel A., PhD "Gambling and Problem Gambling in Nevada: Report to the Nevada Department of Human

Resources," p. iii.

[5]

DSM-IV, American Psychiatric Association, P.673.

[6]

Welte, John W.; Wieczorek, William F.; Barnes, Grace M.; Hoffman, Joseph H. Reference cited in "The Relationship of Ecological and Geographic Factors to Gambling Behavior and Pathology" p. 7.

[7]

Welte, et al; P15

[8]

[http://www.newbritainherald.com/site/news.cfm?newsid=10057018&BRD=1641&PAG=461&dept\\_id=10110&rfi=6](http://www.newbritainherald.com/site/news.cfm?newsid=10057018&BRD=1641&PAG=461&dept_id=10110&rfi=6)

[9]

<http://www.sacbee.com/content/news/story/7287160p-8231825c.html>

[10]

Breen, Robert B. and Zimmerman, Mark; "Rapid Onset of Pathological Gambling in Machine Gamblers" p.2

[11]

American Cancer Society: Most recent year's prevalence rates are just under 0.5%

[http://www.cancer.org/docroot/STT/stt\\_0.asp](http://www.cancer.org/docroot/STT/stt_0.asp)

[12]

Petry, Nancy, Ph.D., University of Conn.

[http://www.uhc.edu/ocomm/features/stories/stories03/feature\\_gambling2.html](http://www.uhc.edu/ocomm/features/stories/stories03/feature_gambling2.html)

[13]

Nova Scotia Department of Health Nova Scotia "Video Lottery Players' Survey 1997/98 Highlights" p. 3

[14]

Lesieur, Henry R., "Measuring the Costs of Pathological Gambling," Revision of the presentation to the Tenth International Conference on Gambling and Risk Taking," Montreal, Quebec, June 1997.

[15]

Proimos J, DuRant RH, Pierce JD, Goodman E. "Gambling and other risk behaviors among 8th- to 12th-grade students." *Pediatrics* 1998;102:e23. as cited in *American Family Physician*, Feb. 1, 2000.

[16]

Bray RM, Kroutil LA, Luckey JW, Wheelless SC, Iannacchione VG, et al. "1992 worldwide survey of substance abuse and health behaviors among military personnel." Research Triangle Park, N.C.: Research Triangle Institute, 1992. as cited in *American Family Physician*, Feb. 1, 2000.

[17]

Schwer, R. Keith; Thompson, William N, Nakamura, Daryl; "Beyond the Limits of Recreation: Social Costs of Gambling in Southern Nevada." p. 4

[18]

GAO stats prepared for NGISC, cited in Grinols, Earl L. *Gambling in America, Costs and Benefits*, p.145

[19]

Schwer, et al, p. 4

[20]

Hodgins, D., & el-Guebaly, N. (2004). "Retrospective and Prospective Reports of Precipitants to Relapse in Pathological Gambling." *Journal of Consulting & Clinical Psychology*, 72(1), 72-80. quoted in The WAGER Volume 9 Number 13 - March 31, 2004 "In the Mood for a Relapse?" [www.thewager.org](http://www.thewager.org)

[21]

*The Wager*, Volume 9 Number 24 - June 16, 2004 <http://www.thewager.org/index.htm>

**Tide of gambling yields  
backwash of addiction**

*by Carl G. Bechtold*

*for the National Coalition Against Legalized Gambling  
Rev. 08/21/04*

The risk of gambling is not so much in losing one's money, but rather the danger of losing control of one's life. Like other substances and activities which become addictive, games of chance too often turn on their players and transform frivolity into a nightmare. Collectively, the pattern is predictable, as each tide of gambling expansion leaves a backwash of addiction, pulling under an ever-growing wave of Americans.

In ways and in individuals that few would suspect, gambling can and does become addictive. Gambling addiction is listed among the psychological disorders recognized by the American Psychiatric Association. In 1995, Howard J. Shaffer, PhD., of the Harvard Medical School Division on Addictions reported, 'Gambling is an addictive behavior, make no mistake about it . . . Gambling has all the properties of a psychoactive substance, and again, the reason is that it changes the neurochemistry of the brain.'<sup>1</sup>

Gambling causes excitement, often leading the participant to forget about outside problems and the stresses of everyday life. Electronic gambling devices in particular offer a seemingly non-competitive diversion from reality. Gambling establishments usually serve and often encourage the use of alcoholic beverages, which further loosens players' inhibitions. The games themselves are made to satisfy the demands of excitement; and the ensuing "loss of control" is part of the "enjoyable" experience of gambling.<sup>2</sup>

Gambling environments, specifically within casinos, are scientifically and socially designed to transport players beyond the realm of rational decisions. Presentations by one prominent international researcher concluded, ". . . strong emotional/physiological responses during a session of play is a natural human experience. The expectation that the player will be able to continue to make controlled, informed, rational decisions during such a session of continuous gambling is ill-founded.'<sup>3</sup>

Even the best intentioned gamblers, the majority of whom say they set limits of how much they intend to lose, often find themselves "out of control." "When regular players are recruited in gaming venues (no other selection criteria) 43% "sometimes", "often" or "always" experience an irresistible urge to continue a session of play once they

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<sup>1</sup> Shaffer, Howard, quoted by Kindt in *Managerial and Decision Economics*, 22: 17-63 (2001)

<sup>2</sup> Dickerson, Mark, "What if There Were No Problem Gamblers" p.3.

<sup>3</sup> Ibid.

have started," the study concludes.

Though most gamblers are not "hooked," some begin to gamble well beyond reason or their financial ability. These players fit the classic definition of addiction, which is, "The compulsive use of a substance or activity resulting in physical, psychological, or social harm to the user; (and) the user continues in this pattern of behavior despite the harms that result."<sup>4</sup>

Much has been made of the "co-morbidity" of addictions, or the apparent tendency of victims to have multiple addictions or emotional and mental problems. The gambling industry has repeatedly attempted to dismiss gambling addiction as just another symptom of broader psychological problems among victims. That argument is specious and largely irrelevant, since harm would not befall victims if gambling were not available, in much the same way that lung cancer would occur far less if tobacco were not available. The fact is, gambling is addictive to a significant number of Americans, and that addiction afflicts an increasing number of victims as technology changes and the prevalence and proximity of gambling increase.

**HISTORY** provides some background for consideration of gambling addiction. The United States is in its third historic wave of gambling. The first two occurred in the Revolutionary and Civil War eras. Gambling was sanctioned and often sponsored by government to pay for war costs and civic improvements, and has historically intensified during times of economic stress. Both earlier eras ended when corruption and social costs persuaded the states to criminalize gambling.

In 1900, there was virtually no legalized gambling in the United States. After several decades of "abstinence," America first ventured back into gambling with its legalization in Nevada in 1931. Government first sponsored gambling in the modern era as New Hampshire initiated a state-run lottery in 1963. In 1976 New Jersey opened Atlantic City to gambling. In 1988, Congress passed the Indian Gaming Regulatory Act, providing gambling financiers a means of using tribes to penetrate states where gambling had been illegal. As the 1990's began, the floodgates opened.

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<sup>4</sup> [http://www.hms.harvard.edu/dao/research\\_education.htm#institute](http://www.hms.harvard.edu/dao/research_education.htm#institute)

In 1994, Congress realized gambling was growing out of control and authorized the National Gambling Impact Study Commission (NGISC), which published its findings in 1999.

Among the commission's findings was a number which could be reasonably used as a "background" level for compulsive gambling. The commission cited reports of between 0.6 and 0.9% of Americans were present or "past year" compulsive gamblers.<sup>5</sup>

In 1976, when only Nevada and a few scattered pari-mutuel tracks offered legal gambling, a widely quoted study by the University of Michigan showed just 0.77% of Americans, were then or had been pathological gamblers in their lifetimes.<sup>6</sup>

The commission found that following a decade of expansion in the 1990's, the national lifetime compulsive gambling population had grown by at least 50%, to no less than 1.2% based on the most conservative of its source studies.<sup>7</sup> The gambling industry's own addiction study organization admits to a 1.1% current pathology level in the U.S. and Canada.<sup>8</sup>

The NGISC also discovered a significant trend indicating addiction had doubled in many populations within 50 miles of casinos.<sup>9</sup>

The commission unanimously recommended the nation "pause" the expansion of legalized gambling until the social and economic impacts could be better understood. Their findings were almost universally ignored.<sup>10</sup>

At this writing, there are gambling opportunities in all states except Utah and Hawaii with 443 commercial casinos operating in 11 states, plus racetrack casinos in six states.<sup>11</sup> Indian casinos comprise the fastest growing segment with 354 casinos in 28

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<sup>5</sup> National Gambling Impact Study Commission, "Final Report" Sec. 4, p. 5.

<sup>6</sup> University of Michigan study, 1976, cited in NGISC Final Report, Part 4, p. 6

<sup>7</sup> NGISC, Part 4, p. 4

<sup>8</sup> National Center for Responsible Gambling <http://www.ncrg.org/index.cfm> 08/20/04

<sup>9</sup> Ibid.

<sup>10</sup> "The (NIGC) commission's study included more than a dozen recommendations to combat gambling addiction, ranging from refusing service to any customer exhibiting signs of problem gambling to posting hot line numbers in casinos. More than four years after the study's release, the gambling industry has disregarded most of the guidelines, Whyte said. Social, problem and pathological gamblers differ in their ability to control themselves." Keith Whyte, executive director of the National Council on Problem Gambling. [http://www.thetimesonline.com/articles/2003/09/01/news/top\\_news/ee6dd9117d11049786256d9300807abd.txt](http://www.thetimesonline.com/articles/2003/09/01/news/top_news/ee6dd9117d11049786256d9300807abd.txt)

<sup>11</sup> American Gaming Association "State of the States survey, 2004" p. 4

states.<sup>12</sup> With government sanction and sponsorship of gambling, the vice has been gaining in prevalence and acceptability.<sup>13</sup>

Gaining, too, are the number of addicts and their associated social costs.

**MATURE MARKETS** provide a reasonable reference for what all of America could become if the trend were to continue. Australia has saturated its market with Electronic Gambling Machines, (EGM's) which they call "pokies," and parts of Canada have also had extensive experience with gambling. In the United States, Nevada and the cities of Las Vegas and Atlantic City provide some frame of reference.

Probable pathological gambling in Nevada in 2000 measured 3.5% and the prevalence of problem gambling added 2.9% for a total of 6.4%. Other cited states ranged from 2.1% in North Dakota in 2000 to 4.9% in Mississippi in 1996.<sup>14</sup>

The American Psychiatric Association notes the diversity of pathological gambling rates in its diagnostic manual. "Community studies estimate the lifetime prevalence of pathological gambling to range from 0.4% to 3.4% in adults, although prevalence rates in some areas (e.g., Puerto Rico, Australia) have been reported to be as high as 7%. Higher prevalence rates, ranging from 2.8% to 8% have been reported in adolescents and college students."<sup>15</sup> Those differences illustrate the effects of demographics, proximity and diversity of gambling opportunities.

Researchers at the National Opinion Research Center combined data from a national telephone survey with data from a casino patron survey and found that adults living within 50 miles of a casino had double the probability of pathological or problem gambling.<sup>16</sup>

Poverty, lower education level and other social and economic factors can affect gambling addiction, and they can be accelerated by the proximity of gambling outlets.

"Neighborhood disadvantage shows . . . a strong positive effect on frequency of gambling and pathological or problem gambling. For every increase of one standard

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<sup>12</sup> <http://www.indiangaming.org/library/index.html#facts>

<sup>13</sup> "American Gaming Association State of the States survey, 2003" p. 3

<sup>14</sup> Volberg, Rachel A., PhD "Gambling and Problem Gambling in Nevada: Report to the Nevada Department of Human Resources," p. iii.

<sup>15</sup> DSM-IV, American Psychiatric Association, P.673.

<sup>16</sup> Welte, John W.; Wieczorek, William F.; Barnes, Grace M.; Hoffman, Joseph H. Reference cited in "The Relationship of Ecological and Geographic Factors to Gambling Behavior and Pathology" p. 7.

deviation in neighborhood disadvantage the odds of being a pathological or problem gambler increase by 69%. . . . A casino within 10 miles of home is associated with a 90% increase in the odds of being a pathological or problem gambler."<sup>17</sup>

It is clear that establishing casinos in areas already troubled with alcohol and poverty will have a devastating effect on an already struggling population.

In short, the presence of gambling opportunities is likely to double the prevalence of problem and pathological gamblers, and the addition of other contributing factors may increase the addiction rate exponentially.

For example, 93% of a group of Southeast Asian refugees in a Connecticut study had gambled in the previous two months, and more than half were said to be pathological gamblers.<sup>18</sup> Clear across the nation, casinos find 60% to 70% of table game customers and 20% to 25% of their slot players are Asians, despite the fact they comprise only 9% of the population.<sup>19</sup>

**TECHNOLOGY** is also driving addiction rates as gambling venues compete to attract customers. The most "enjoyable" games may be the most addictive.

In recent years, casinos and lotteries have turned from table games and ticket sales to slot machines and Video Lottery Terminals (another form of EMG's) Space and labor-intensive table games used to comprise 60% of casino revenue, but slots have taken over, producing about 70% of gaming revenue.<sup>20</sup>

Women appear to be generally more attracted to machines than to table games and addiction rates among women are increasing accordingly. Gamblers who participate with electronic machines are becoming addicted much more quickly. One of the most recent studies show EGM gamblers arrive at the pathological level in 1.08 years vs. 3.58 years with more "conventional" forms of table and racetrack gambling. Thus, electronic gambling devices have been often labeled as the "crack cocaine" of the industry.<sup>21</sup>

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<sup>17</sup> Welle, et al, P15

<sup>18</sup> [http://www.newherald.com/site/news.cfm?newsid=10057018&BRD=1641&PAG=461&dept\\_id=10110&rfi=6](http://www.newherald.com/site/news.cfm?newsid=10057018&BRD=1641&PAG=461&dept_id=10110&rfi=6)

<sup>19</sup> <http://www.sacbee.com/content/news/story/7287160p-8231825c.html>

<sup>20</sup> Christiansen Capital Advisors, <http://www.cca-1.com/Primary%20Navigation:Online%20Data%20Store/Free%20Research/2002%20Revenue%20by%20industry.pdf>

<sup>21</sup> Breen, Robert B. and Zimmerman, Mark, "Rapid Onset of Pathological Gambling in Machine Gamblers" p.2

The effects of gambling addiction on individuals and society have been repeatedly calculated and demonstrated.

The percentage of those afflicted should not be considered "small." Even at the minimalist "background" level of under one percent, gambling addiction, not including problem gamblers, would still be twice as prevalent as cancer among Americans.<sup>22</sup> In mature gambling markets, more than 5% of the population will develop some problem with gambling, a prevalence rate about five times that of schizophrenia and more than twice that of cocaine addiction.<sup>23</sup>

Gambling exploded in Canada during the 1990's as it did in the United States, but Canada has funded more extensive research. A massive study recently completed there shows problem and addicted gamblers comprise 2.8% of the entire Canadian population over 15 years of age! Three fourths of Canadians gambled during the year, and 6% of those are considered "at risk" or "problem" gamblers!

The study also confirms an accelerated level of addictions for those using gambling machines, and affirms the devices have become the "crack cocaine" of gambling for Canadian citizens.

Problem gamblers in Nova Scotia comprise 16% of all those who play the machines on a regular basis, which translates to approximately 0.92% of all adults in the province. This group of gamblers contributes just over half of the net revenue for video lottery gambling and, at any given time, and will comprise almost half of all those sitting in front of video lottery terminals in Nova Scotia.<sup>24</sup>

Percentages from problem gamblers appear to vary with market saturation, technology, gambling genre and demographics.

Dr. Henry Lesieur, president of the Institute for Problem Gambling compiled existing surveys from seven states and provinces. His study concluded that 30.4 percent of gambling revenues in those markets came from problem and pathological gamblers.

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<sup>22</sup> American Cancer Society: Most recent year's prevalence rates are just under 0.5%  
[http://www.cancer.org/docroot/STT/stt\\_0.asp](http://www.cancer.org/docroot/STT/stt_0.asp)

<sup>23</sup> Petty, Nancy, Ph.D. University of Conn.  
[http://www.uconn.edu/ocomm/features/stories/stories03/feature\\_gambling2.html](http://www.uconn.edu/ocomm/features/stories/stories03/feature_gambling2.html)

<sup>24</sup> Nova Scotia Department of Health Nova Scotia "Video Lottery Players' Survey 1997/98 Highlights" p. 3

Those surveys included data from lotteries, casinos, pari-mutuel wagering and sports betting.<sup>25</sup>

These and other studies<sup>26</sup> illustrate that problem and pathological gamblers will contribute 30 to 50% of gambling losses in a mature gambling market.

Particularly troubling are problem and addictive gambling rates among America's youth and military. A study of America's 11- to 18-year-olds showed a 4 to 7% prevalence rate of problem gambling behaviors.<sup>27</sup>

The Worldwide Survey of Substance Abuse and Health Behaviors Among Military Personnel<sup>28</sup> is a large-scale study that screened for gambling-related problems among America's military personnel. The survey reported that in 1992 and 1998, 7.1% and 8.1%, respectively, of all Department of Defense personnel had at least one gambling-related problem, and 2% exhibited behaviors suggestive of pathologic gambling.

**HEALTH ISSUES** associated with problem and compulsive gambling are serious and complex. A recent Canadian study found, "Half of all problem gamblers reported that their gambling caused difficulties in relationships with family or friends. Four in 10 obsessive gamblers (42%) reported a high level of stress in their life, compared with 23% of gamblers who reported no problems.

"About 18% of problem gamblers reported that they had contemplated suicide in the year prior to the survey, six times the proportion (3%) of non-problem gamblers.

"The insidiousness of excess gambling is revealed by the 27% of moderate-risk gamblers and 64% of problem gamblers who wanted to stop gambling in the year prior to

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<sup>25</sup> Lesieur, Henry R., "Measuring the Costs of Pathological Gambling," Revision of the presentation to the Tenth International Conference on Gambling and Risk Taking, Montreal, Quebec, June 1997.

<sup>26</sup> Also see E. L. Grinols, E.L. and Omorov J. D., "Development or Dreamfield Delusions?: Assessing Casino Gambling's Costs and Benefits," *The Journal of Law and Commerce*, University of Pittsburgh School of Law, Fall 1996, pp.58-60, which calculates 52% of revenues from problem and pathological gamblers. Also, University of Minnesota researchers calculated that 2% of gamblers account for 63 percent of all the money legally wagered in Minnesota. Tice, D. J. "Big Spenders," *Saint Paul Pioneer Press* (Special Reprint Section), February 1993.

<sup>27</sup> Proimos J, DuRant RH, Pierce JD, Goodman E. "Gambling and other risk behaviors among 8th- to 12th-grade students." *Pediatrics* 1998;102:e23. as cited in *American Family Physician*, Feb. 1, 2000.

<sup>28</sup> Bray RM, Kroutil LA, Luckey JW, Wheelless SC, Iannacchione VG, et al. "1992 worldwide survey of substance abuse and health behaviors among military personnel." Research Triangle Park, N.C.: Research Triangle Institute, 1992 as cited in *American Family Physician*, Feb. 1, 2000.

the survey, but believed they could not. About 56% of problem gamblers had tried to quit, but could not.<sup>29</sup>

The Canadian study validates findings in the United States. Suicide, for example, is a link almost universally denied by the gambling industry, but a Nevada study of addicted gamblers revealed, "Between 20% and 30% of the respondents made actual suicide attempts (we could not assess how many were successful). No other addictive population has had as high a prevalence for attempts."<sup>30</sup>

The national publication of American family physicians said problem gambling victims may present "various gastrointestinal symptoms, low back pain, chest pain, impotence, headaches and vague illnesses. When patients are in the desperation phase of the addiction, they may present with symptoms of anxiety or depression. Pathologic gambling can have devastating effects on patients and their families, and may be the root of marital, family, sexual and financial problems. Some preliminary studies are starting to look at chemical markers for problem gambling, but the clinical use of such markers is limited. Studies have implicated the central noradrenergic system, the serotonin system and platelet monoamine oxidase activity in the pathophysiology of this condition."<sup>31</sup>

Gambling addiction appears to be very difficult to overcome. A study cited by the Harvard addiction scholars in their monthly publication noted, "Of the 80 participants followed for 12 months, 92% experienced relapse. Optimism about winning was the most frequently reported precipitant of relapse for both genders."<sup>32</sup>

In another review, the group reported, "Recent research reports that disordered gambling treatment providers experience patient drop-out rates between 40% and 80%."<sup>33</sup>

Financial and other stresses related to problem gambling take a toll on families. Government Accounting Office analyses prepared for the NGISC found 53.5% of

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<sup>29</sup> 2002 Canadian Community Health Survey, Cycle 1.2 on Mental Health and Well-being  
<http://www.statcan.ca/Daily/English/031212st031212c.htm>

<sup>30</sup> Schwer, R. Keith; Thompson, William N.; Nakamuro, Daryl; "Beyond the Limits of Recreation: Social Costs of Gambling in Southern Nevada." p. 4

<sup>31</sup> Pasternak, Andrew V., IV, MD, "Pathologic Gambling: America's Newest Addiction?" *American Family Physician*, V. 56, No. 5, 1997.

<sup>32</sup> Hodgins, D., & el-Guebaly, N. (2004). "Retrospective and Prospective Reports of Precipitants to Relapse in Pathological Gambling." *Journal of Consulting & Clinical Psychology*, 72(1), 72-80. quoted in The WAGER Volume 9 Number 13 - March 31, 2004 "In the Mood for a Relapse?" [www.thewager.org](http://www.thewager.org)

<sup>33</sup> *The Wager*, Volume 9 Number 24 - June 16, 2004 <http://www.thewager.org/index.htm>

pathological gamblers reported having been divorced, while only 18.2 percent of non-gamblers were divorced.<sup>34</sup>

**INCREASING** crime is a well-documented companion of legalized gambling. Crime predictably rises three to four years following the opening of a casino as problem and pathological gamblers begin to deplete their resources.<sup>35</sup> Gamblers who have "bottomed out" their own resources frequently begin borrowing money from family, friends and business relationships. This "borrowing" frequently takes the form of theft. Gamblers often feel they are only borrowing other people's money until they can win it back.

Crime may drop slightly in communities with new casinos for the first few months or years, but Atlantic City is typical of the longer view. Three years after the introduction of casinos, there was a tripling of total crimes. Per capita crime in Atlantic City jumped from 50th in the nation to first.<sup>36</sup> Comparing Crime rates for murder, rape, robbery, aggravated assault, burglary and motor vehicle theft reveals Nevada is the most dangerous place to live in the United States.<sup>37</sup>

According to a 1990 Maryland Department of Health and Mental Hygiene survey, 62% of problem gamblers in treatment had committed illegal acts as a result of their gambling, 80% had committed civil offenses, and 23% were charged with criminal offenses. A similar study of nearly 400 members of Gamblers Anonymous showed that 57% admitted stealing to finance their gambling. On average they stole \$135,000 each, for a total of more than \$30 million.

The National Gambling Impact Study Commission's final report noted that among those who did not gamble, only 7% had ever been incarcerated. In contrast, more than three times this number, 21.4%, of individuals who had been pathological gamblers

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<sup>34</sup> GAO stats prepared for NGISC, cited in Grinols, Earl L. *Gambling in America, Costs and Benefits*, p.145.

<sup>35</sup> Grinols, Earl L., *Cutting the Cards and Craps. Right Thinking About Gambling Economics*. p.11

<sup>36</sup> Widgery, Robin, President of Social Systems "Warning: Legal Gambling is a Costly Game." May 23, 1994 edition.

<sup>37</sup> Morgan Quitno Press, "Determining the Safest and Most Dangerous State Rankings"  
[http://www.governmentguide.com/community\\_and\\_home/where\\_i\\_live/factors.asp](http://www.governmentguide.com/community_and_home/where_i_live/factors.asp)

at any point during their lifetime had been incarcerated.<sup>38</sup> That's TRIPLE the incarceration rate of a non-gambling community.

Oregon corrections officials have determined gambling is a significant motivator in criminal activity among the state's women. To help rehabilitate female convicts, the state penal system is launching pilot addiction treatment programs. The correctional system there finds 20-30% of female convicts have histories of gambling problems.<sup>39</sup>

**BANKRUPTCY** is another significant devastation in the wake of gambling expansion. Again, this phenomenon trails a few years behind casino openings because it takes gamblers some time to deplete their resources. In the most recent nationwide survey of every county in the nation, Creighton University researchers found personal bankruptcies rates are 100% higher in counties with casinos than in counties without casinos.<sup>40</sup>

Hired by the banking industry to help understand America's increasing bankruptcy rates, SMR Research Corporation determined in the late 1990's that legalized gambling was not only the fastest growing cause, but also the third leading cause of individual bankruptcies in the United States.<sup>41</sup>

More recently, SMR cites Dr. Nancy Petry's research, "UConn Health Center found that about one-third of all people in Connecticut who seek treatment for problem gambling have already filed for bankruptcy or are in the process of filing. On average, problem gamblers spend more than \$2,000 per month gambling. Some have legal problems stemming from credit card fraud or bounced checks. And their troubles spill over to their families. Each problem gambler may affect the lives of eight to 10 other people."<sup>42</sup>

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<sup>38</sup> Grimols, Earl L., "Cutting the Cards and Craps, right thinking about gambling economics." 2001, quoting Lesieur, Henry, "Costs and treatment of pathological gambling," *The Annals of the American Academy of Political and Social Science* (Gambling: Socioeconomic Impacts and Public Policy, Frey JH, special editor) 556: 153-171.

<sup>39</sup> [www.kgw.com/sharedcontent/APStories/stories/D837H1M01.html](http://www.kgw.com/sharedcontent/APStories/stories/D837H1M01.html)

<sup>40</sup> Gross, Ernie and Morse, Edward. "The Impact of Casio Gambling on Bankruptcy Rates: A County Level Analysis ) p. 1

<sup>41</sup> Kindt, John Warren and Palchak, John K.I, "Legalized Gambling's Destabilization of U.S. Financial Institutions and the Banking Industry: Issues in Bankruptcy," *Credit and Social Norm Production, Bankruptcy Developments Journal* V. 19, No. 1, P 29

<sup>42</sup> Petry

Besides losing everything they own, including homes, vehicles, retirement funds and children's' college education accounts, addictive gamblers are likely to mass significant debts leading into bankruptcy. Families who could have funded their own futures begin to stress social, medical and welfare programs in states where they reside.

These costs clearly encumber the greater society, including the members who do not gamble at all. Based on extensive studies of original research, social costs for problem and pathological gamblers average between \$14,006 and \$22,077 (depending whether one uses the lowest or highest estimated costs.)<sup>43</sup>

Thus, the costs for gambling addiction are born by the entire community, including the one-third of Americans who do not gamble at all.<sup>44</sup>

Though many Americans consider gambling to be acceptable behavior, it is unlikely that the general population understands the costs in either dollars or human suffering associated with the activity. Though the suffering may be born by a minority, the overall economic costs are shared by all.

For individuals and the society alike, when the hook is set, the fun of games is over.

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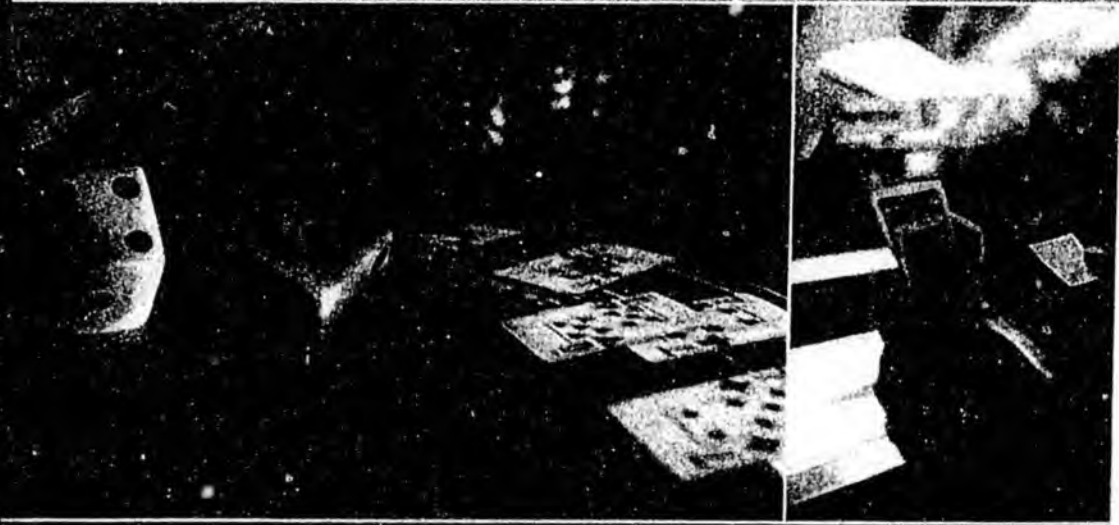
<sup>43</sup> Grinols, p. 14.

<sup>44</sup> March 24, 2004 Gallup Polls, March 24, 2004 "Gambling a Common Activity for Americans"  
<http://www.gallup.com/content/Default.aspx?ci=11098>

JULY 04

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Research for Practice



Gambling and Crime Among Arrestees: Exploring the Link

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JULY 04

## Gambling and Crime Among Arrestees: Exploring the Link

This Research for Practice is based on a final report submitted to the National Institute of Justice, *Pathological Gambling in Arrestee Populations* (NCJ 196677) by Richard C. McCorkle. The final report is available electronically from the National Criminal Justice Reference Service Web site, at <http://www.ncjrs.org/pdffiles1/nij/grants/196677.pdf>

Findings and conclusions of the research reported here are those of the author and do not reflect the official position or policies of the U.S. Department of Justice

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NCJ 203197

## ABOUT THIS REPORT

Is there a connection between problem gambling and crime? Do compulsive or pathological gamblers resort to criminal activity to pay their debts and finance their bets? To examine the link between problem gambling and crime, researchers interviewed arrestees in Las Vegas and Des Moines to probe their gambling behavior and its relationship to their crimes

- Nearly one-third of arrestees identified as pathological gamblers admitted having committed robbery in the previous year. Approximately 13 percent had assaulted someone for money. Pathological gamblers were much more likely to have sold drugs than other arrestees.

### What did the researchers find?

Using the Arrestee Drug Abuse Monitoring (ADAM) Program as a survey vehicle, researchers found significantly more problem gambling among arrestees than in the general population. The arrestees who were interviewed had high levels of criminal activity related to pathological gambling.

- The percentage of problem or pathological gamblers among the arrestees was three to five times higher than in the general population.

### Limitations of the study

The study was conducted among arrestees in only two U.S. cities—Las Vegas and Des Moines. Las Vegas likely has the highest level of residents and visitors who gamble of any major U.S. city. Des Moines was chosen to represent a midsize U.S. city that had more typical levels of gambling.

### Who should read this study?

Corrections administrators, drug and gambling treatment providers, State-level government policymakers

*Richard C. McCorkle*

## Gambling and Crime Among Arrestees: Exploring the Link



The spread of legalized gambling in the United States over the past 15 years has sparked considerable political controversy, public debate, and research (see "How Big Is Gambling?") Many policy-makers are concerned that widespread gambling, especially what social scientists call compulsive or pathological gambling, will lead to increased crime, drug and alcohol use, and other social or psychological problems. They worry that gambling and its consequences will destroy individual lives, wreck families, and weaken societal institutions. Another concern is that many compulsive or pathological gamblers will turn to drug sales or other crimes to finance their habit and pay their debts.

Unfortunately, what little we know about the social and psychological effects of gambling is derived from studies of treatment populations or the general public. To understand the relationship between gambling and crime, more needs to be known about the gambling habits of people who have

been arrested and jailed or sentenced to prison. Their gambling and criminal problems may well be more chronic and severe than those of other subpopulations. And we know little about the nature and consequences of their gambling activities, or the extent to which their gambling is related to the crimes for which they have been jailed.

### Exploring the connection

To better understand and deal with the relationship between gambling and criminal activity, researchers sought to answer several questions about the arrestee subpopulation.

- How many arrestees are compulsive or pathological gamblers and how many pathological gamblers are arrested for felony and misdemeanor offenses?
- Do compulsive or pathological gamblers fit any age, gender, marital status, or other profile?

#### About the Author

Dr. Richard C. McCorkle is associate professor at the University of Nevada, Las Vegas, and chair of the criminal justice department. He was the director of the Las Vegas Arrestee Drug Abuse Monitoring (ADAM) Program.