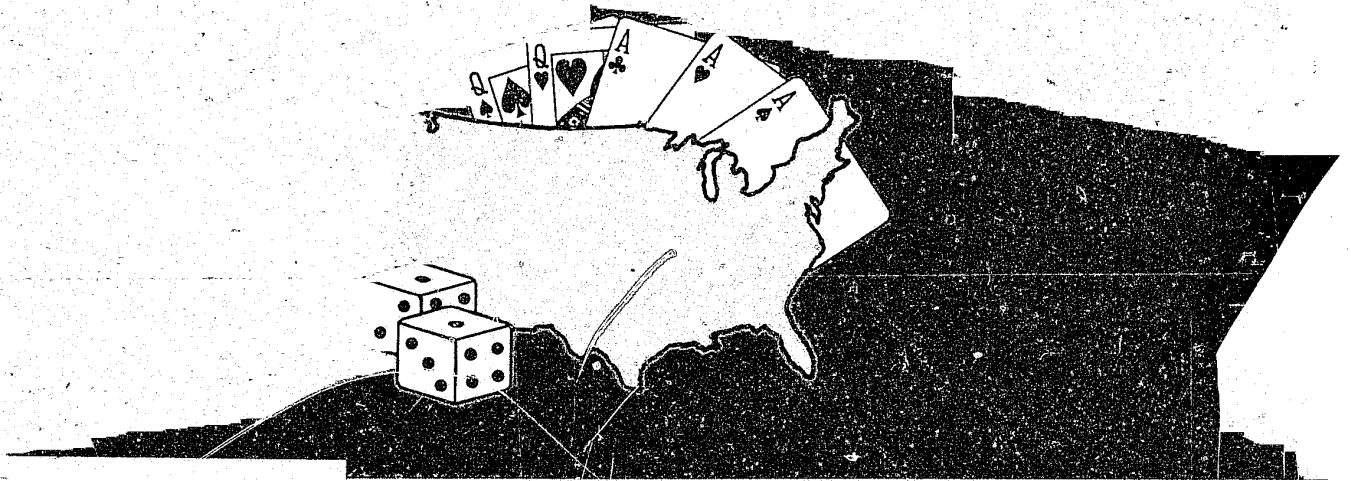


# Gambling Law Enforcement In Major American Cities: Executive Summary



46/56

Cap. 1



National Institute of Law Enforcement and Criminal Justice  
Law Enforcement Assistance Administration  
United States Department of Justice

This Executive Summary presents the highlights of the findings and conclusions of a study of gambling law enforcement in a sample of 16 cities with populations of 250,000 or more. As a summary, it necessarily omits most of the detailed data on which the conclusions are based.

The full report contains a discussion of the nature of gambling laws and what is known about gambling behavior. The various ways police and prosecutors respond to illegal gambling are described in detail, along with an analysis of the significance of these variations. Data from surveys of police officers and citizens are then presented to help with the assessment of the effects of gambling law enforcement responsibilities on police departments and their relationships with their constituencies.

A particularly important analysis of these data looks at the association between different levels of legal gambling, such as lotteries and horse racing, and the responses of the criminal justice system, including attitudes of police and citizens toward gambling laws.

For those interested in an overview and the major conclusions, the Executive Summary should suffice. However, those interested in the specific research findings and the analysis process itself will want to read the full report.

**Gambling Law Enforcement  
In Major American Cities:**  
Executive Summary

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## ABSTRACT

This project was designed to achieve two major goals: 1) to examine the effects of legislative decisions related to gambling, with particular attention to recent decisions to permit some forms of legal commercial gambling; and 2) to examine the way gambling laws are enforced, with particular attention to variation in enforcement practices and the significance thereof.

Sixteen randomly selected cities with populations of 250,000 or larger were studied. The cities included a representation of various amounts of available legal gambling - from none to those having off-track betting, a legal lottery and legal horse racing. A Nevada city was also studied. In each city, key police officers, prosecutors, and judges were interviewed. Legal statutes were analyzed and record data collated. In fourteen cities, a probability sample of police officers completed a self-administered questionnaire. In addition, a special set of questions dealing with gambling law enforcement was included in a national survey to provide data on citizen goals for gambling law enforcement.

Our findings and conclusions can be summarized fairly succinctly:

- 1) The laws against social gambling in private are primarily a symbolic gesture on the part of legislators; they are neither enforced nor enforceable in any reasonable sense of the word.
- 2) Legislators have given police a relatively unattractive job, for which police get little credit if they do a good job and considerable abuse if they fail.
- 3) The laws against public social gambling and commercial gambling probably are enforceable to the extent that other comparable laws are.

The resources devoted to gambling law enforcement are very modest and the results, with a few notable exceptions, are modest as well. Most departments realistically strive for one of several models of limited enforcement.

4) Citizens are very likely to view non-enforcement of gambling laws as an indication of police corruption.

5) Regional, multi-service criminal organizations were reported to directly control all or a substantial portion of illegal commercial gambling operations in about half the cities. These cities were much more likely than others to have had publicly disclosed gambling-related corruption in the past. In the balance of the cities, bookmaking and numbers were said to be run primarily by local, independent organizations that specialized in gambling. There had been no significant publicly disclosed gambling-related corruption in any of these cities in the past ten years.

6) The prosecutors of gambling cases generally do not recommend penalties for conviction which any reasonable person would think would be a deterrent to further involvement in commercial gambling. Seriously impinging upon commercial gambling operators would seem to require serious penalties for convicted commercial gambling operators.

7) Prosecutors are not held accountable for their decisions due to the lack of recording and summarizing of the decisions they make.

8) As states have made legal horse tracks or lotteries available, there is no evidence that this has made the enforcement task of police harder or easier.

9) Legislators need to understand that because of the nature of gambling offenses, the meaning of gambling laws and the resulting constraints on gambling behavior are determined less by what legislators write than by how local police and prosecutors carry out their responsibilities.

## ACKNOWLEDGEMENTS

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Dennis M. Crowley, Jr. and Richard Bickelman of the New England Bureau were integral members of the study team. Mr. Crowley's extensive experience in criminal intelligence, law enforcement and criminal justice research enabled him to make invaluable contributions to all phases of the research project. In addition to providing the project with a basic understanding of police procedures and policies, he was also personally responsible for all on-site data collection and interviewing in the participating police departments. Mr. Bickelman, an attorney, was similarly responsible for interviews with prosecutors, court clerks and judges, as well as for analysis of state laws and city ordinances. Both made important editorial and critical contributions to the final report.

We also want to acknowledge the contribution of our Advisory Committee; its members were extremely helpful in reviewing our research design and objectives at an early stage as well as critiquing our presentation of results when data collection was complete. The Advisory Committee members were: Maurice J. Cullinane, Chief, Metropolitan Police Department, Washington, D.C.; Jonathan Rubinstein, Research Associate, Police Science Center, New York City; Peter Reuter, formerly Research Director, Commission on the Review of



the National Policy Toward Gambling, (currently Research Associate, Policy Science Center); Charles Wellford, currently a researcher with the Department of Justice; Richard Israel, attorney and former Attorney General, State of Rhode Island; the late Joseph Weintraub, former Chief Justice, Supreme Court of New Jersey.

Gary Marx, Associate Professor of Urban Studies at M.I.T., was a consultant to the project and provided helpful criticism and comments throughout.

We also want to give special recognition to Cynthia Martin from the Center staff for her many contributions, not the least of which was her careful collation of the massive amounts of information obtained.

Of course, a project such as this was only possible because of the cooperation of law enforcement officials throughout the country. Because of the numbers involved we cannot single out the various prosecutors, court clerks, judges, and police officers who generously contributed their time to make this project a success. Our demands were heaviest on the participating police departments, however, since they had the most people involved in gambling law enforcement, and we would like to acknowledge individually the help given to us by the police chief executives in the 17 sample cities:

Atlanta Public Safety Department, A.R. Eaves, Commissioner

Birmingham Police Department, James C. Parsons, Chief

Boston Police Department, Joseph Jordan, Commissioner

Buffalo Police Department, Thomas Blair, Commissioner

Cleveland Police Department, Lloyd J. Garey, Chief

Detroit Police Department, Phillip C. Tannian, Chief

El Paso Police Department, Robert E. Minnie, Chief

Los Angeles Police Department, Edward M. Davis, Chief

Newark Public Safety Department, Hubert Williams, Director  
New York City Police Department, Michael J. Codd, Commissioner  
Phoenix Police Department, Lawrence M. Wetzel, Chief  
Portland Police Bureau, Bruce R. Baker, Chief  
Reno Police Department, James Parker, Chief  
San Jose Police Department, Robert Murphy, Chief  
St. Louis Police Department, Colonel Eugene Camp, Chief  
Tampa Police Department, Charles Otero, Chief  
Toledo Police Department, Corrin McGrath, Chief

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Finally, we would like to express our appreciation to Fred Heinzelmann, Project Monitor at NILECJ, for his patience and support through the various delays and complexities which developed during this project. We also want to acknowledge the help of Lois Mock at NILECJ for suggestions and helpful criticisms of the initial proposal and research design.

To these people, along with the countless others who contributed to making this project a success, we extend our gratitude. However, the authors want to state emphatically that the final data collected, the analysis and presentation of that data, and the conclusions drawn from them are solely their own. No individual or organization, merely by cooperating with us, should be construed as having necessarily endorsed any of the findings or conclusions of this project.

## INTRODUCTION

This project was designed to achieve two major goals: 1) to examine the law enforcement significance of legislative decisions related to gambling, with particular attention to recent decisions to permit some forms of legal commercial gambling; and 2) to examine the way gambling laws are enforced, with particular attention to variation in enforcement practices and the significance thereof.

A number of different societal policy concerns converged to make this project timely. Mounting fiscal pressures on state budgets have encouraged legislatures to search for new sources of revenue as an alternative to increased taxation. One such funding source is legalized gambling. Since 1963, 13 states have begun to run state lotteries, two states have set up facilities for legal off-track betting on horse races, three states have set up jai alai arenas and Atlantic City is about to go into the casino business. It seems highly likely that this trend will continue, resulting in even more legal opportunities to gamble in the coming years.

At the same time, there is a growing debate about the propriety of using criminal laws to regulate the behavior of participants in plaintiffless crimes such as prostitution, homosexual relations and the use of marijuana. Many feel that a choice to engage in these activities, which are technically illegal, is rightfully a private moral decision and not a matter of public domain. A number of anti-gambling laws fall into this category.

Third, there is a trend in the criminal justice system to deal more harshly with serious or habitual criminal offenders. Along with armed robbers, terrorists and sex offenders, persons associated with organized crime have been

especially targeted. To assist law enforcement agencies, numerous changes have been made in state and federal laws. Strike forces, both local and federal, directed against organized crime figures, have been established over the past ten years throughout the country. Revenues from illegal gambling operations are often cited as a major source of support for criminal organizations. Reflecting this view, some state legislatures have been increasing the maximum penalties for gambling violations.

Also of significance is the recent trend toward critical assessment of the way in which the criminal justice system functions, resulting in a search for ways in which this could be improved. Reflecting this interest, LEAA's Task Force on Standards and Goals (1973) was particularly concerned with the need of various segments of the criminal justice system to increase professionalism by specifying their goals, setting priorities, and articulating policies more clearly, thereby reducing the need for reliance on discretionary judgements.

Legislatures across the country are in the process of discussing at least three kinds of issues:

a) Should there be more legal commercial gambling? There are many aspects to the discussion - moral, economic and psychological. One important aspect of the debate is predicting the impact of legalized gambling on the enforcement of anti-gambling laws.

b) Should certain forms of gambling be decriminalized? Again, there are moral considerations that may lie beyond research, but one important basis for the discussion is a good understanding of the nature of current gambling laws, the kind of responsibility they place on police, and how those laws are enforced.

c) Should harsher penalties be set for serious gambling offenders; and should certain penalties be mandated legislatively? Again, the issues are

complex, but one important part of the discussion should be an understanding of the significance of current penalties and existing attempts to mandate sentences.

Police and prosecutors also must set policies with respect to gambling enforcement. What are realistic and attainable goals? What should be the priorities? How should gambling law enforcement be managed to maximize goal attainment and minimize the potential for internal problems?

These issues may be more or less salient in different parts of the country. However, at least some of them are relevant almost everywhere. At the time this project was proposed the available information relevant to gambling enforcement policy was very limited. The extent of knowledge about citizen gambling behavior was based on two very limited national studies (Smith and Li, 1971 and NORC, 1974) and a set of local or state studies of uneven quality, mostly sponsored by existing or prospective lottery commissions (see the review of these in Weinstein and Deitch, 1974).

There was, of course, a considerable literature on the police. Wilson (1968), Reiss (1971), and Skolnick (1975), had each looked at police behavior in more than one city, but none focused particularly on gambling. Gardiner (1970), looked more carefully at gambling, but only in the context of the politics of corruption, not at what police were actually doing. In addition, his study was limited to one small city. Kretz (1975) studied officer views of various law enforcement responsibilities with special emphasis on "plaintiffless crimes" in Washington, D.C., and Rubinstein (1973) reported the problems associated with gambling law enforcement in Philadelphia. The findings of the Knapp Commission in New York City (1973) and the reports of the Pennsylvania Crime Commission (1974) have also been highly publicized.

While this project was in progress, the Commission on the Review of the National Policy Toward Gambling and the National Wiretap Commission issued reports that were very relevant to some of our work. In particular, the Gambling Commission sponsored a national survey of gambling behavior and attitudes which added considerably to existing knowledge (Kallick, et al., 1976). A set of questions designed by our staff was included in the questionnaire used in the national study. In this way data were obtained on the perceptions and expectations of citizens regarding gambling law enforcement; a summary of these data was published by the Commission (Mangione, et al., 1976), and we make use of them, where relevant, in this report. The Gambling Commission also sponsored a mail survey of police departments which was analyzed by this study team (Pratter and Fowler, 1976). Also, during this period, Blakey (1976) completed an analysis of the history of gambling laws on which we were able to draw.

Thus, at the outset of this project, research in the area of gambling law enforcement was confined to a few studies of police that, while sound, were limited to a small number of cities or were not very specifically focused on gambling. Considerable relevant information has been compiled very recently. We shall attempt to cite data from these sources whenever such information can serve as a context for our findings.

The information which we have gathered concerns the following issues:

- 1) What effect has legalized gambling, where it exists, had on law enforcement?
- 2) What is the effect of the content of anti-gambling laws on the actual enforcement of those laws?
- 3) What effect does responsibility for gambling law enforcement have on police morale?

- 4) How is citizen respect for the police affected by gambling enforcement responsibilities?
- 5) How are gambling laws enforced, by police, prosecutors and courts?
- 6) What goals do police have for gambling law enforcement?
- 7) What administrative or management decisions have been shown to, or seem likely to, affect the way gambling laws are enforced?

## METHODS

In order to adequately address the issues relating to gambling enforcement, a research design was constructed which would give a representative view of current enforcement efforts.

In order to obtain this representative view the following elements were included:

- 1) Information was collected from a variety of sources (police administrators, vice officers, patrolmen, prosecutors, court clerks, judges, newspaper reporters, citizens), using a variety of data collection methods (self-administered questionnaires, structured interviews, record data, and loosely structured interviews);
- 2) A random sample of cities with populations in excess of 250,000 was drawn;
- 3) Data were collected using standardized procedures; and
- 4) Cities were included which had different amounts of legalized gambling.

### Sample

There are three main patterns of legal gambling in the United States; states where there is no legal commercial gambling; states where there is legal betting at horse race tracks (and sometimes dog tracks); and states where there is legal horse racing and a legal state-run lottery.

The original sample was randomly selected to yield five cities each from states representing the three main types of legal gambling situations, and three other cities representing states with more forms of legal gambling - two cities from a state with legal off-track betting, and one Nevada city. The



police departments in four of the originally selected cities refused to participate. In three cases, a substitute city was selected. The resulting sample was:

- 1) four cities with no legal gambling allowed (except charitable bingo games) -- Atlanta, Birmingham, El Paso, and St. Louis;
- 2) five cities which allowed on-track betting on horses or dogs -- Los Angeles, Phoenix, Portland, San Jose and Tampa;
- 3) five cities which, in addition to on-track betting, had legal state-run lotteries - Boston, Cleveland, Detroit, Toledo and Newark;
- 4) two cities from New York state, where, in addition to on-track betting and lotteries, off-track betting is also allowed -- Buffalo and New York City; and
- 5) one city which had extensive legal gambling -- Reno.\*

#### Data Sources

There were three major sources of data upon which most of our analyses were based.

#### Semi-structured Interviews

Interviews were conducted with various key figures in the police department and the rest of the local criminal justice system in each city. Interviews were taken at least with the chief, head of the vice squad, one or more

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\*In Reno we discovered that the enforcement situation was so different that it was impossible to compare to the other cities. Given the extent of legal gambling in Nevada, all enforcement efforts have been taken from the police and are the responsibility of the Gaming Control Commission. However, this body approaches its task as a licensing and regulatory body. Illegal gambling is that which is not licensed or which is operating in violation of various regulations. Much of the cost of "regulation" is borne by the legal gambling operator. For these reasons, although offering an important anchoring point, the Reno situation was just not comparable to efforts in other cities, and, therefore, we do not include Reno in most of our analyses.

gambling specialists, the head of the detective division, the head of field operations, the head of the organized crime unit (if any), the head of intelligence (if separate from organized crime), and the head of the internal affairs unit (if any). Interviews were also taken with prosecutors most involved with gambling cases and with court clerks and judges.

Information gathered from these interviews was of different types. Some of the information was objective (e.g., how many officers in vice); some was informed opinion (e.g., what is the structure of organized crime in the city); and some was attitudinal (e.g., how important is gambling enforcement to you).

In considering the information from a department we usually averaged opinions from various officers. However, in some instances the study team considered some officers' opinions as more informed and thus gave more weight to their opinions (e.g., the information supplied by the head of intelligence and the head of the vice squad on the structure of organized crime in their city).

#### Self-administered Questionnaires

Questionnaires were administered to a sample of police officers as well as all vice specialists in 14 of the 16 sample cities. Approximately 200 officers in each city were included in the random sample. The overall response rate was 78 per cent. The questionnaire took about ten minutes to fill out and covered several areas relating to the "debate" on gambling enforcement.

Areas included were police perceptions of citizen support for gambling enforcement; perception of support received from courts and prosecutors; officers' attitudes about the seriousness of gambling offenses compared to other crimes as well as their perception of citizen ratings of seriousness of gambling and other crimes; the extent to which gambling enforcement was seen to be important and satisfying; difficulties and problems with the enforcement

of gambling laws; attitudes about legalization; perceptions about the amount of illegal gambling in the city; the role of the patrol officer; and questions on effectiveness, corruption and organized crime.

Given the size of the police officer sample, the data provide fairly precise information. When information is presented for all officers these data should be viewed as having a range of plus or minus four percentage points. Individual department averages (although never presented in a way which would identify a department) have a range of about plus or minus eight percentage points.\*

We felt that to gain cooperation from the department and to facilitate candid responses from officers, we had to promise not to present data on individual departments with departments identified. We have followed that rule throughout this report with the exception of information about willingness to participate in the study and response rates so that readers can judge the quality of the data.

#### Citizen attitudes

Information about citizens was obtained through a special set of questions about gambling law enforcement that were incorporated for this project into a national survey on gambling participation and attitudes. Citizens were asked about their attitudes toward enforcement; how serious they felt gambling was; and how they saw police enforcing gambling laws.

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\* These figures are estimates of the confidence interval; that is, the range around the sample estimates that one can be 95 per cent sure is the limit of error due to chance sampling variation alone. We have calculated the design effect of clustering, estimating the error due to sampling to be about twice that for a simple random sample of the same size. These figures do not take into account possible response error or the effects of non-response, which cannot be calculated but which can affect estimates in any sample survey.

In addition to these major sources of data, we also gathered arrest and disposition data where available, took interviews with newspaper reporters in each city, and did an analysis of each state's anti-gambling laws.

#### Summary

Necessarily, any project can only achieve a limited set of goals; some of the important issues were beyond the reach of a single project, so that choices had to be made. Several critical choices include:

1) The decision to draw a representative sample of cities rather than to select a set of interesting types of cities. This meant that certain individual examples of innovative enforcement strategies or problems may have been omitted; but the need to provide a representative perspective seemed compelling.

2) The decision to spend 4 or 5 days interviewing on-site in 17 cities, rather than spending more time in fewer cities, or less time in more cities. This, in turn, defined the depth and amount of detail we could obtain about each city.

3) The decision not to do citizen surveys in each city but to rely, instead, on national sample survey data for citizen input. This was a fiscal decision made by LEAA, not a design decision, and it severely limited some of the conclusions we could make.

4) The decision to severely limit the length and content of the police officers questionnaire in order to maximize the percentage of departments that would participate and the response rate of police officers in departments.

5) The decision not to attempt to go beyond available case disposition data, except insofar as we could obtain knowledgeable estimates.

6) The decision to focus only on large cities, where two thirds of gambling arrests are made, rather than expanding the sample to include smaller cities.

7) The decision to focus on local law enforcement efforts and not stretch resources to attempt to describe the federal effort as well.

These decisions generally appear to have been sound, given the alternatives (except of course for the omission of the citizen surveys), but they meant there were questions we could not answer, and others for which our answers are not as definitive as we would like. Nonetheless, there are many important questions that we can now answer, that no one could answer as well before.

## LEGISLATIVE DECISIONS

One of the basic expectations of this project was that variations in the form of the gambling laws, in particular increasing the availability of legal gambling, would have a significant impact on gambling law enforcement. This section focuses on data collected from citizens, police administrators and police officers themselves to determine the nature of such impacts.

Simply stated, we found that the local gambling situation and local priorities were more likely to cause variation in the responses of police and others in the criminal justice system than were legislative decisions. Consequently, the remaining sections of this report concentrate on the nature of local gambling law enforcement in large cities, and the management implications of what we found. First, however, it is important to review the impact, or lack thereof, of legal commercial games, the laws against "social" gambling, and the form of the anti-gambling laws.

### Legal Commercial Games

Recent legislative debate about legal horse betting, lotteries, numbers games, sports betting and casinos have focused public attention on the questions surrounding legal commercial games. The Gambling Commission (1976) and the 20th Century Fund (1974) have thoroughly investigated the revenue potential of legal gambling and have concluded that while it is significant, it is nevertheless less than has been claimed. Public acceptance of legal gambling has been shown to follow legislative lead (Kallick, et al., 1976), Majorities tend to oppose legalized games prior to legalization, but to support legalization once it occurs. Legislators appear to have a wide latitude in this respect; citizens will probably accept what they pass.

The potential of legal gambling to reduce illegal gambling has not been demonstrated. The Gambling Commission was unable to find evidence that available legal games reduce illegal gambling. They note that outside of Nevada, few legal games are truly competitive with illegal gambling. In fact, given the current range of legal gambling options, the Commission found indications that legal games may even increase illegal gambling by enticing additional bettors.

It has been hypothesized, and the Gambling Commission strongly suggested, that legal games may undermine the resolve of police, prosecutors, judges and citizens to enforce anti-gambling laws. We found little or no evidence to support this position. In cities where more legal gambling existed, police considered enforcement against illegal games to be no less important or satisfying than did their colleagues in cities with less legalization (see Table 1). Police did not see illegal bookmaking as less serious in cities where there was more legal gambling, although there was a regional effect with regard to numbers playing (Table 2). We cannot say, for certain, that there has been no diminution of feeling about the seriousness of illegal gambling in these cities. However, almost certainly local factors are much more important than legal games in shaping police attitudes.

Similarly, there were not fewer gambling arrests in cities with more legal games available, nor was there a decrease in arrests within a city once legal games arrived. No discernable drop in arrests occurred in any of the five cities where lotteries were introduced in the past five years (Table 3).

We found no tendency for prosecutors to be less willing to accept gambling cases, or for lower conviction rates to be associated with more legal gambling.

We did not have sufficiently good data about sentences, particularly the size of fines, to know if there was a tendency for sentences to be lighter

Table 1

Police Perceptions of the Seriousness of Gambling Offenses  
By Status of Legal Gambling

Perceived Importance to Police of Gambling Enforcement	Per Cent Agreeing		
	Status of Legal Gambling		
	No Legal Gambling	Horses and/or Dogs at Track	Lotteries or Off-Track Betting
Enforcing gambling laws is just as important as enforcing any other laws.	65%	69%	66%
Enforcement of gambling laws uses police manpower that could better be used against other types of crimes.	56	38	57
Running illegal gambling operations doesn't hurt anyone; it is a victim- less crime.	25	14	16
Trying to enforce the gambling laws is more frustrating than enforc- ing most other types of laws.	76	75	72
Gambling enforcement is one of the more satis- fying assignments for a police officer.	10	9	14



Table 2

Police Perceptions of the Seriousness of Gambling Offenses  
By Status of Legal Gambling

Offense	Per Cent Rating Offense as at Least Somewhat Serious		
	Status of Legal Gambling		
	No Legal Gambling	Horses and/or Dogs at Track	Lotteries or Off-Track Betting
Taking bets on horses, dogs or sports	50%	55%	51%
Taking bets on numbers	65	72	58

Table 3

Effect of Introducing a New Legal Lottery on  
Arrest Rates in Five Cities

City	Arrest Rates/100,000 Population: 1969-1975						
	1969	1970	1971	1972	1973	1974	1975
A	32	40	44	27	<u>34*</u>	25	NA
B	440	420	380	324	280	<u>240*</u>	294
C	55	88	59	53	49	<u>NA*</u>	41
D	15	10	10	<u>23*</u>	23	17	22
E	305	<u>335*</u>	377	353	355	318	138

\* Year in which lottery was introduced.

with increased legal gambling. However, there was no tendency for prosecutors (or police) to say they were getting "tougher" sentences where there was no legal gambling. The city in which convicted commercial gambling operators were said to be most likely to receive jail sentences had legal horse tracks and a legal lottery.

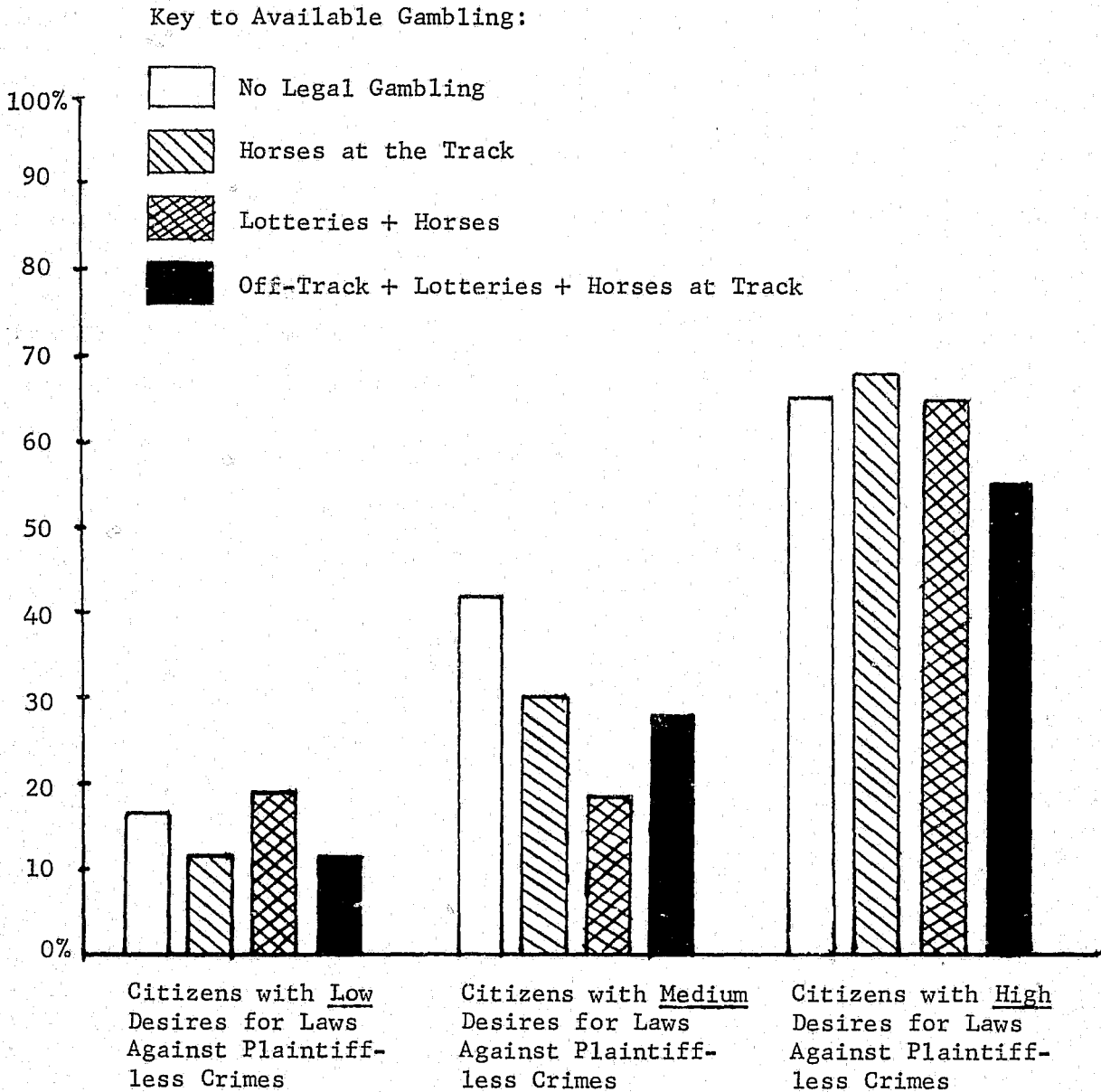
We did find that citizens in states with more legal gambling reported less concern that gambling laws be enforced and less willingness to cooperate with such enforcement. However, careful analysis showed that these citizens also expressed different attitudes than other citizens about laws against prostitution, use of marijuana and homosexuality. When these differences in personal values were taken into account, there was only a modest effect of legal gambling per se on citizens' attitudes about gambling law enforcement, and primarily for those whose views were moderate. Personal values clearly were more significant than the status of legal gambling in determining people's orientation to gambling law enforcement (Table 4).

Supporters of legalized gambling have contended that legalization might permit reallocation of scarce police and other criminal justice resources away from gambling to other areas of criminal investigation. Our data suggest little or no basis for this argument. First, the potential for reallocation of resources is small. Less than one per cent of police resources are devoted to gambling. Second, as noted above, there was little or no evidence that legal games decreased the rate of illegal gambling. With prohibited forms still drawing as many customers, there was no opportunity for police to reduce their level of enforcement.

Nevada presents the extreme case of legalized commercial gambling. Here, local police do no gambling law enforcement. Nevertheless, this state showed

Table 4

Percentage of Urban Citizens Who Said Gambling Law Enforcement Is Very Important  
By Status of Legal Gambling and Desire for Laws Against Plaintiffless Crimes



no diminution of resources allocated to gambling concerns when compared with other states. Indeed, resources devoted to gambling regulation were higher in Nevada than elsewhere. The difference is that the resources were not local police-- they were employees of the Gaming Control Board and, to some extent, the County Sheriff's Office. And, there was one other difference: a good proportion of the costs of regulation were covered by the legal gambling operators themselves, rather than by local taxes.

Thus, the evidence does not definitely support either side of the argument about whether legal commercial games will help or hinder local law enforcement agencies. Unless the enactment of legal commercial gambling includes the establishment of a separate regulatory and enforcement unit, responsible for all gambling, the police, prosecutors and courts will still have a job to do, the difficulty of which will depend much more on the characteristics of the local population and the organization of illegal gambling operations than on the nature of the particular games allowed.

Given this situation, it is not surprising that police were not united in their stance toward legal gambling. The majority of police chief executives we talked with were opposed to increased legal commercial gambling. Several had strong personal views against gambling. They were aware of the points made above and had concluded that their job would not be made easier by legalized commercial gambling; a number thought their job would be made harder.

The survey of police officers showed that they were likely to agree that legal games make the enforcement of anti-gambling laws more difficult. Yet in contrast to the chiefs, they favored the legalization of horse track betting, lotteries and off-track betting; and were more favorable to the idea of legal casinos and sports betting than the citizens surveyed by the Gambling Commission. In general, officers who rated gambling violations as less serious were

most likely to favor legal games. Overall, officers and administrators tended to agree that gambling law enforcement causes some special problems (for a variety of reasons to be discussed later) and that the most common proposals for legal gambling would not solve those problems.

We cannot say for certain what the long-range impact of increased commercial legal gambling would be, nor the impact of more elaborate legal options under the general model of limited legalization. However, just as we see few benefits to law enforcement officials of increased legal commercial gambling, we also think the existing evidence does not support the notion that increased legal gambling makes the enforcement of anti-gambling laws significantly more difficult.

#### Social Gambling

Decriminalization has been proposed for "social" gambling, that is, card and dice games where there is no "house" or fee to play, as well as betting of all kinds among friends.

We know from the Gambling Commission's work that about 60 per cent of the adults in this country bet money on something in 1974 (Kallick, et al., 1976). Most participated by playing cards for money (40 per cent), buying legal lottery tickets (20 per cent) or betting on sports events with friends (15 per cent). We know from our analysis of the statutes in 13 states and from Blakey's (1976) more extensive review of the laws that almost all state laws prohibit gambling in public and the majority prohibit gambling in private (commercial and social). Probably then about one-third of U.S. adults are violating state gambling laws each year.

The laws against social gambling in private are not enforced and are not enforceable. Too many people break them. There are few complaints. Police cannot enforce laws in private unless there is a basis for a warrant. From a

law enforcement point of view, the main value of such laws is their potential use in breaking up private commercial games without the evidentiary problems involved in proving that the game is commercial. The Gambling Commission's model statute, which would require participants in a suspected commercial game to prove that it was not commercial, appears to be a solution, if an appeal of such a law is upheld. However, even if this approach is not judged acceptable, private social gambling laws are problematic. In principle, writing an all-inclusive law with the intent of having it applied selectively (in this case, to games police consider commercial) essentially mandates discretion, invites controversy about fairness, and is generally considered to be an unsound way to write laws (Lafave, 1965).

The value of laws against public social gambling is a more complex issue. Such laws, in contrast to those against private gambling, can be enforced. The majority of all gambling-related arrests in the sample cities in 1975 resulted from police activity against public social gambling. Several police departments in our sample appeared to be making a real effort to enforce these laws strictly. For the majority of departments, however, enforcement of such laws occurred mainly when there was a complaint or a disturbance.

There are two problems with these laws that became apparent in our research. First, to the extent to which the criteria for making arrests for public gambling include an actual or potential disturbance, there is necessarily considerable discretion involved in enforcement. Second, while blacks do not gamble more than whites, they apparently do it more frequently in public places. Because laws against social gambling are more easily enforced in public than in private, the enforcement of laws against public social gambling, as the Gambling Commission observed, are discriminatory in effect, though not in intent.

Police report that illegal public gambling occurs under circumstances where fights are likely and where people make contacts for various kinds of illegal activities. Because of this, they believe decriminalized public gambling would make their job harder. We cannot assess that argument. Even if it is accurate, however, it should be viewed in light of the fact that, because of the realities of law enforcement, the gambling laws that now exist have very high potential to be discretionary and discriminatory.

Legalization of all social gambling might have a salutary effect on the widely-reported problem that more serious offenders are treated too lightly by the courts. If prosecutors and judges saw only commercial gamblers, it might lead to a more serious treatment of them. Some police and prosecutors in the sample cities felt that the high proportion of social gambling cases reduces the general perception of seriousness of gambling offenses and may contribute to the setting of low penalties.

One strategy which has been proposed, total legalization of social gambling, might enable a reallocation of criminal justice resources to the enforcement of more serious gambling violations. In any case, treating a social gambler as a state law violator may not be the best use of resources. While cases such as these are handled quickly, in general, prosecution for a municipal ordinance violation is faster and less complex. In fact, police departments that are most aggressive against social gambling usually charge arrestees for violation of city ordinances, not state laws.

#### The Form of the Laws

There is quite a bit of variation in the way anti-gambling laws are written and the punishments they prescribe. Through interviews with police and prosecutors and examination of arrests and disposition data, we attempted to determine whether or not there were ways laws were written that affected the



ease or the results of enforcement. Our analysis was limited by the poor quality of disposition data. Therefore, our conclusions should be taken as only suggestive. However, we did not find evidence that it made any difference how the laws were written or what penalties were prescribed. To the extent that there was variation, it could be attributed to the organization and policies of the police, prosecutors and the courts.

For example, we found in state laws considerable variation in the maximum penalties for gambling offenses. We cannot say how the maximum penalty allowed affects the sentence of the very important gambling operator, because such cases are so rare. However, the average fines reported to us appeared to be unaffected by the maximum penalty allowed and in some cases was even below the minimum fines suggested in the laws. In fact, in one city in our sample in a state with extremely severe legislated penalties, the police took their serious cases to a federal grand jury, because they felt sentences given in state courts were so trivial.

In another instance, there were six cities in our sample in states where there are second offender laws. Under these, minimum mandatory penalties are prescribed for persons convicted twice for a gambling offense. In no city were these laws used to any significant extent.

Legislatures can provide prosecutors and courts with a wide range of charges and penalties. At the moment, however, what happens to a gambling case depends primarily on the values and the judgements of local officials.

## NATURE OF GAMBLING LAW ENFORCEMENT

There is a growing body of literature which discusses the unattractive aspects of gambling enforcement responsibilities for local police. One of the important goals of this project was to examine the extent to which these characterizations were accurate.

Among the most important aspects of gambling law enforcement are that the target of enforcement is not really participation in illegal gambling activity, and that the prohibited acts are not considered serious, either by police or citizens. In part, this results from the nature of the laws themselves. As we have noted, while many states actually prohibit gambling of all kinds, including social gambling in private, law enforcement necessarily is aimed only at that part of gambling that is public, complained of, or commercial.

Moreover, even taking bets is not considered to be a serious crime. We found that, compared with other crimes, police rated taking bets on sports and numbers to be among the least serious crimes that they dealt with-- less serious than prostitution and about on a par with after-hours liquor violations. Just as in Washington, in Kretz's survey (1975), police officers in our sample rated citizens' perceptions of the relative seriousness of gambling as similar to their own, though they consistently thought that citizens considered all the crimes rated to be less serious than they did themselves. The data from the citizen survey were relatively comparable to data from the police questionnaires: when citizens were asked to rate the priority of gambling compared with a series of other law enforcement problems, gambling appeared at the bottom.

This should not lead one to think that gambling law enforcement is unim-

portant. However, the importance of gambling law violations stems not from the seriousness of the crimes themselves but from other associated factors.

In interviews with police officers and executives, we found that there were three sets of goals with respect to gambling law enforcement, each of which is important. First, police departments have the internal goal of managing the enforcement of gambling laws in a way which is least stressful to their men and which minimizes or eliminates police corruption. Second, police have the goal of maintaining the respect of citizens which they can attain by being responsive to citizen complaints and by minimizing the extent to which citizens see unenforced laws. Third, they have the goal of minimizing the profits that do or can go to criminal organizations for use in other serious criminal activities, which they may try to accomplish by directly attacking criminal organizations and/or by interfering with commercial operations to the extent possible, thereby reducing profits.

In this section, we shall discuss the reasons why these goals are important, the extent to which they are achieved, and the factors associated with their achievement.

#### Internal Effects on Police Departments

Several studies have suggested that gambling law enforcement is distinctly unattractive to police. Five basic kinds of observations are made: (1) neither citizens nor the police believe that gambling is a serious crime, (2) police perceive little citizen support or encouragement for gambling law enforcement, (3) there is a great deal of discretion (and hence inconsistency) in the way police go about enforcing the laws, (4) it is a difficult task, and (5) the results of good work are not very gratifying.

We have already demonstrated that our data support the contention that gambling is not seen to be a serious crime. The discretionary nature of

gambling law enforcement is also very clear from our data. Basically the problem lies with the fact that many police departments have not come to terms with the problem of priorities and the limits of law enforcement. As a result, bases for making choices among potential cases, and guidelines for when to enforce the gambling laws and when not to, as well as the role of various police officers in the enforcement process, have not been carefully spelled out. This is clearly demonstrated by the fact that well over 60 per cent of all police officers agreed that the departmental policies for gambling law enforcement were not clear.

Perhaps the worst victim of this uncertainty is the patrol officer. Most police departments still have a formal expectation that all police officers should play a role in gambling enforcement, both through making on-view arrests and through providing information to the vice detectives.<sup>1</sup> In fact, at present, patrol officers play very little role in gambling law enforcement. This is partially attributable to the fact that they receive little or no training in gambling law enforcement. As a result, about 70 per cent of all police officers agreed that the average patrol officer, without special training or experience, could not recognize evidence of illegal gambling if he saw it. Moreover, there was nearly unanimous agreement that the responsibilities of the patrol officers in gambling law enforcement are not clear.

Evidence shows that even gambling enforcement specialists could benefit considerably from more specific guidelines. A majority of police officers in the departments studied agreed that it is more difficult to enforce gambling laws in a fair and evenhanded way than most other laws. An officer who must use discretion in determining whether or not to make an arrest may have a particular problem when faced with public social gambling. Where this kind of activity is involved, the criteria for arrest often include not only the fact

that gambling is going on but also that there was a complaint or some kind of public disturbance. However, because of the way in which all kinds of gambling offenses come to police--most often through complaints or through informants--there is, as others have observed, a real difficulty in applying consistent criteria about who is arrested and who is not.

The difficulty of gambling law enforcement is well known to law enforcement officers but is less commonly appreciated by the general public. Most citizens believe that illegal gambling is associated with police corruption. They are generally unaware of the legal technicalities and investigative difficulties which constrain gambling law enforcement. In many cities, public social gambling is prevalent enough to make enforcement against it an endless task. The arrest of bookmakers and numbers operators, on the other hand, requires lengthy investigations which often include extensive physical surveillance-- still the most common investigative procedure used in gambling law enforcement. Unless considerable care is taken when gathering evidence against a commercial operator, the arrest will be fruitless because the case will not hold up in court. The majority of all police officers recognize this fact; 73 per cent agreed that it is often impossible to make a good case against a known street-level operator.

Finally, we found a commonplace perception that court disposition of convicted gamblers was not appropriately harsh. Large majorities of all police officers agreed that prosecutors do not take gambling cases seriously, that they are too willing to accept reduced charges, and that courts do not give appropriate sentences.

Although we did not collect comparable data on other kinds of offenses, it is probable that this perception is not unique to gambling. In general, police were critical of prosecutors, and prosecutors were critical of judges (and in

some places, police). The lack of serious penalties for what police see to be serious offenses is certainly not limited to gambling. However, there are three features of gambling law enforcement that make light penalties particularly irksome.

An illegal gambling operator is guilty of running a business that is against the law. He makes a profit. One common measure for the appropriateness of a fine is whether or not that fine significantly reduces the profit a person is realizing illegally. We were told that the typical gambling fine amounts to only a day or two of illegal profits. In addition, the arrest of commercial gamblers often entails lengthy investigation. It may seem further inappropriate when fines amount to only a small portion of what it cost the police department to apprehend a convicted gambler. Third, the clear goal of apprehending a gambling operator is to put him out of business. Putting a serious offender in jail or on probation may do that; penalties which do not serve this function seem inadequate to some people.

Since most of the generalizations that previous studies have made about the unattractive nature of gambling law enforcement are borne out by our data, it is not surprising that only 11 per cent of all police officers rated gambling as one of the more satisfying assignments.

In general, we found officers' responses to be fairly consistent from city to city. However, we did find significant variation in the clarity of police department policies and, in one case, an exceptional relationship between police, prosecutors and courts in gambling law enforcement; and these differences were reflected significantly in what police officers felt about gambling law enforcement and how they perceived the job. The implications of these findings will be discussed in more detail in a subsequent section.

The association between police corruption and gambling is, of course, a very sensitive topic for police departments. This was not an investigative project; all we know about police corruption in our sample cities was a matter of public record.

Several investigations concerning the causes of known cases of police corruption in gambling enforcement have been made. The best known among these are the report of the Knapp Commission in New York (1973), the reports on the investigative activities of the Pennsylvania Crime Commission (1974), Jonathan Rubinstein's study of Philadelphia police (1973), and Gardiner's study of "Wincanton" (1970). Many of those same factors discussed above which make gambling law enforcement unattractive have also been hypothesized to be conducive to corruption: lack of consensus that the crime is serious, lack of perceived citizen concern about enforcement, lack of clear policy guidelines, and the difficulty of effective enforcement. It has often been observed that the fact that gambling is a business, with profit potential, and that it has to operate somewhat in the open are also critical factors.<sup>2</sup> Furthermore, police corruption has often been linked to political corruption at higher levels in city governments.<sup>3</sup>

Finally, there has been some debate about the effectiveness of a specialized central vice squad versus decentralized enforcement of gambling laws. Decentralized enforcement is probably more difficult to control, but a central specialized vice squad may mean that city-wide protection can be bought by controlling only a few people.

In response to this complex question, this study has two main observations to make. First, in our sample of 17 cities, there were seven cities where local police thought they had clear evidence that gambling was directly tied

to multi-service regionally organized crime operations. Four of these cities have had major public disclosures of police corruption in connection with gambling during the past ten years; a fifth has received embarrassing publicity about gambling enforcement, or lack thereof, though no police misconduct was proven; and a sixth had a major public embarrassment about the way drug-related laws were enforced by police. None of the other nine departments in our sample have had any public embarrassment about its gambling law enforcement. It would seem to require a very large-scale illegal business operation to support system-wide police corruption and make it worthwhile. We do not feel that we have adequate evidence to fully address these issues; but it is clear in our sample that the best predictor of the likelihood of a police problem in connection with gambling law enforcement is the direct involvement of multi-service regional criminal organizations in gambling.

Our second observation deals with the four departments that have had publicly exposed gambling-related corruption within the last ten years. Each currently has a reform administration which has enacted significant changes. The responses of the four departments have been different. In one case, law enforcement was transferred entirely out of the police department into a special unit in the county prosecutor's office. In the second case, decentralized enforcement was abandoned and enforcement responsibility was placed in the hands of a small centralized vice squad with a supervisor who reported directly to the chief. The third department continued with decentralized enforcement but created a significant set of accountability procedures.



A fourth department set up a strong accountability system in addition to eliminating decentralized enforcement by putting enforcement responsibilities in the hands of a specialized vice unit. Our observation is that each of these reforms in its own way has worked in achieving the goal of eliminating system-wide corruption. This was the opinion not only of police officials themselves but of outside observers of the police departments. In two cases, there has been a trade-off, with a significant reduction in aggressive gambling law enforcement. However, it appears that when police departments address corruption problems specifically, they are able to set up procedures which, if not perfect, basically work.

Thus, the data are fairly clear that gambling law enforcement is not very attractive, and there is considerable room for improvement in this respect. The corrupting potential of gambling is very real, but appears to be a problem mainly in cities which have direct involvement of multi-service criminal organizations in gambling. Moreover, departments that have addressed the issue directly seem to have been able to control it, albeit sometimes at the cost of reduced arrest rates.

#### Effect on Citizen Respect for Police

Kretz (1975) found that the police officers in Washington, D.C. perceived a lack of citizen support for the enforcement of gambling laws. Gardiner (1970) found citizens generally apathetic about the level of gambling law enforcement unless non-enforcement was shown to be associated with corruption. When such observations are coupled with some of the exaggerated estimates of citizen participation in illegal gambling, which the work of the Gambling Commission has done much to put into perspective,<sup>4</sup> it is not surprising that some people have concluded that citizens do not want gambling laws enforced.

Data from our survey of police officers suggest that their perception of the situation varied little from the above findings. Substantial majorities agreed that some respectable citizens oppose tough enforcement of the gambling laws, that citizens do not cooperate with gambling enforcement, and that citizens do not care how the gambling laws are enforced.

Data from the National Survey of Citizens, however, present a different picture. Overall, some 40 per cent of United States adults characterized gambling law enforcement as "very important", while only 20 per cent said it was "not very important". Forty per cent wanted more gambling law enforcement, while fewer than 5 per cent wanted less gambling enforcement. Nearly 80 per cent of all U.S. adults thought that those who take illegal bets should be arrested; and about 45 per cent thought that persons convicted of such crimes should be put in jail.

When these data were re-analyzed, focusing on the citizens of major cities, the results were even more striking. A near majority (48 per cent) of persons living in major central cities said they wanted more gambling law enforcement. Perhaps most important, since resistance to law enforcement is sometimes attributed to the black community, non-white residents in urban areas were even more likely to want increased gambling law enforcement; 54 per cent said they wanted police to do more to enforce the gambling laws.

The Gambling Commission survey estimated that about 11 per cent of adults in the United States participated in illegal commercial gambling in 1974. Although there is no doubt that the prevalence of illegal gamblers varies from one neighborhood to another, it is almost certain that police are likely to overestimate the resistance to the enforcement of anti-gambling laws. Although we are not able to say that there was no neighborhood which was an exception to this statement, we feel confident that a majority of citizens in most

neighborhoods in all major cities would prefer gambling laws to be enforced.

Even if enforcement of the gambling laws would not bring police into conflict with very many citizens, it might also be true that citizens consider the enforcement of gambling laws so unimportant that lack of enforcement would not matter either. This conclusion would be consistent with what Kretz found among Washington police and what Gardiner reported in Wincanton. However, our citizen data suggest that the way gambling laws are enforced, or not enforced, does indeed seriously affect the way citizens judge their police department. Half of all citizens who were aware of illegal gambling in their communities attributed it to police corruption; another fifth perceived a lack of police dedication (Table 5). Almost 80 per cent of United States adults agreed that "bookies have to bribe police in order to stay in business". Thus, police departments could correctly decide that it is important to enforce the gambling laws because citizens perceive non-enforcement as symptomatic of police corruption.

The citizen's perception of whether or not police will be responsive to complaints about gambling is also potentially important to the smooth functioning of the police department within the community. In general, citizens were very unlikely to say that they would report a known gambling operator to the police-- much less likely than to report the violation of several other laws that we asked about. However, the probability that a person would say he would report a gambling offense to police was highly contingent on the perception that the police would act on such a complaint. Moreover, overall ratings of police were much more negative when citizens perceived that police would not act on a complaint about a gambling violation.

Table 5

Urban Citizens' Perceptions of Most Likely Reason  
Why Gambling Operations Continue\*

Reason	Per Cent of Urban Citizens	
	Bookmaking	Numbers
Police, authorities paid off	50%	45%
Police cooperate, look the other way	19	17
Gamblers hide, go undercover	15	21
Legal system ineffective	7	7
Other reasons (each < 5%)	9	10

\* Excludes respondents who thought police did not know about illegal gambling operations or who did not know of illegal gambling in their city.

Thus, while both citizens and police rate gambling in and of itself a low priority offense, the enforcement of those laws has an important bearing on the way citizens rate their police, on the citizen's perception of police honesty, and on their willingness to cooperate in the enforcement of laws. Indeed, the police officers surveyed indicated some recognition of this relationship. While only a minority agreed that the way gambling laws are enforced is particularly important to the way citizens rate the police overall, a majority did say that it is as important to enforce the gambling laws as any other laws; and an even larger percentage agreed that not enforcing gambling laws undermines citizen respect for the law in general.

Citizens respond negatively, then, to open gambling and to the perception that police will not respond to complaints. How do police departments meet this requirement that they be responsive to gambling complaints?

About 60 per cent of all citizens surveyed in urban centers said they thought the police would act on a gambling complaint; 40 per cent did not think they would act. Police responsiveness was seen as significantly lower for gambling complaints than for complaints about the sale of either stolen goods or marijuana.

Police said they were concerned about complaints. However, only about half the departments in the sample had formalized systems which would permit them to check on the manner in which a complaint was followed-up. Clearly, there was room for improvement here.

In assessing the prevalence of open gambling, the majority of citizens in urban areas categorized the amount of operating bookmakers and numbers writers in their city as "a lot". Of those people who thought there were illegal gambling operations in their city, well over 80 per cent believed the police knew about them.

Although departments all valued citizen respect, they differed in their stance toward conspicuous gambling. About a quarter of the sample departments clearly attempted to aggressively control street gambling; and another three or four had very little street gambling in their cities. The balance of the departments, however, did very little street-level enforcement unless there was a complaint or disturbance. In fact, the decision to concentrate on commercial rather than street-level gambling may be a rational decision. However, for the reasons outlined above, it is not without consequences for citizen respect of police.

#### Commercial Gambling and Organized Crime

Another significant aspect of gambling law enforcement is the prevailing belief that revenue from illegal gambling activities ultimately go to support more serious crimes. Two-thirds of all citizens surveyed agreed that the profits from illegal gambling are used to finance other illegal activities such as loan-sharking and drug distribution. Almost 80 per cent of all police officers agreed with a similar statement; and a similar percentage agreed that few gambling operations are independent of organized crime. In almost all of our interviews with police administrators, curtailing or controlling profits to organized crime was cited as one of the most important reasons for enforcing gambling laws.

It is clear that, in the minds of many people, particularly police officers, organized crime and gambling are nearly synonymous. As the Police Guide on Organized Crime, a manual recently prepared for the use of law enforcement officers by the Technical Assistance Division of LEAA, states:

Gambling activity is the most serious form of organized crime. This activity supplies the financial grease that lubricates the machinery of other operations, such as importation of narcotics, penetration of legitimate business, corruption of officials, and so on. (p.16)

However, when we talked to police officers on a city-by-city basis, a somewhat different picture emerged. Admittedly, there is considerable ambiguity in what is meant by "organized crime".<sup>5</sup> Moreover, many police departments do not have access to wiretap transcriptions or other information from the FBI that might be critical to their complete assessment of how deeply organized crime has entrenched itself in their cities. Nonetheless, in about half of the cities we visited, police did not believe that illegal gambling operations were directly controlled or run by regional, multi-service syndicates; and in some of the other cities, police said that some bookmakers and, even more often, numbers operators were independent of such large-scale criminal organizations. We do not want to underestimate the significance of organized crime in America, the seriousness of organized crime in cities where it exists, or the importance of gambling revenues to organized crime in such cities. Moreover, it is important to note that through selling wire services and layoff services, and through loansharking activities, criminal organizations can make money from illegal gambling without actually controlling those who are taking bets. Nonetheless, in understanding the orientation of local police to the enforcement of gambling laws, it is important to know that in about half the cities in this country the police do not see a direct link between organized crime and gambling. This finding suggests that a more sophisticated view of the relationship between gambling and multi-service criminal organizations might be needed; a view which recognizes regional differences and better illuminates

the variety of ways in which illegal gambling services can be organized and their profits distributed.

The significance of commercial gambling differs somewhat depending on the local situation. If direct involvement of criminal organizations is perceived, police may focus on criminal leadership or on trying to make commercial operations less lucrative. Even if organized crime has no known inroads into the local gambling situation, police nevertheless maintain that interference with commercial operations still is a goal in order to forestall any future entry of organized crime into the city.

The control of revenues to organized crime through gambling law enforcement was second to none in its importance to police officials; however, operational goals show considerable variation. Of the eleven cities in the sample where there were active illegal numbers games, three made virtually no numbers arrests. All cities (with one possible exception) had active illegal bookmaking. However, in nine of the 16 cities, police were making virtually no bookmaking arrests.

The organized crime units which existed in a number of departments were primarily intelligence units. There was only one city in which local authorities felt they were arresting significant persons in criminal organizations, although there were two or three other departments that hoped they would be doing so soon.

In fact, then, it is rare for local police departments to attack criminal organizations directly. Instead, they concentrate their primary efforts on making it hazardous to take illegal bets. Moreover, many do not even do that. If one combines those departments that make no bookmaking arrests with those that respond only to complaints (and initiate virtually no commercial cases on their own) over half the departments in the sample were not aggressively enforcing laws against commercial gambling operators.



This is meant as no criticism. Being responsive to citizen complaints and controlling public gambling, as we have discussed above, are important and reasonable goals. However, if commercial gambling operators are not arrested, there is little likelihood that their activities will be deterred.

The most common reason given for not working on numbers operators was that the games were restricted to minority communities where they reportedly did not bother anyone. (In fact, non-whites living in urban areas constituted a group with a higher than average desire for more gambling law enforcement.)

The difficulty of bookmaking arrests without wiretap privileges was also cited. Only five departments in the sample used wiretaps for gambling cases. However, of the three sample departments that made the most bookmaking arrests, two did not use wiretaps.

Finally, the police alone cannot impinge on commercial gambling. They need the help of prosecutors and courts. In general, they did not feel they received the support they needed in commercial cases. Conviction rates appeared to run in excess of 70 per cent for gambling cases in most cities. There seemed to be little problem in police, prosecutors and judges agreeing on what constituted a good case. The problem lay with sentencing.

There are three kinds of sentences that would help to put a bookmaker or numbers operator out of business: jail, a large fine, or supervised probation. Supervised probation was suggested by several departments as a penalty that discourages going back into business and yet does not seem unduly harsh. However, the most common penalty was reported to be a small fine. While such a penalty may be appropriate for a social gambler, it does little to deter the commercial operators. There was only one city where sentences were reported to be distinctively harsh for commercial gamblers; and that was the city where police felt most effective against commercial gambling.

## THE MANAGEMENT OF GAMBLING LAW ENFORCEMENT

One goal of this project was to learn something about the management of gambling law enforcement that might be useful to police, prosecutors or court officials. Gambling enforcement has been cited in the past as a troublesome responsibility; the project produced evidence, summarized previously, that this was true. In this section, we attempt to summarize what we believe to be the management implications of this research, based on research evidence wherever possible but also based on informed judgement and general management principles.

It is important to keep the problem of gambling law enforcement in perspective. It would be easy, when focusing on a single problem, to exaggerate its importance and uniqueness. On the scale of criminal justice priorities, illegal gambling is near the bottom for most citizens and many police.

Yet gambling enforcement responsibilities cannot be ignored. Citizens and their legislatures have opted for a model of limited legalized gambling, where betting with certain people on certain outcomes in certain places is all right, while other forms of gambling are prohibited. In many cities criminal organizations are involved with illegal gambling operations. Citizens have given the local police, prosecutors and courts primary responsibility for apprehending and punishing those who take, and in many places make, illegal wagers. On the other hand, eleven per cent of adult Americans help to break those laws each year by placing illegal bets on horses, dogs, numbers and sports events; and many more break state laws against social gambling when they play cards or bet with friends in their homes.

It is always easy to suggest that more resources be devoted to a problem. In some places, more vice officers would no doubt produce more arrests.

However, we do not believe very many criminal justice agencies are going to increase the amount of resources devoted to gambling, and we have kept that in mind as we drew management implications from the data.

Basically, there are four themes that permeate our conclusions about the management of law enforcement:

- 1) specialization of responsibility;
- 2) coordination among agencies;
- 3) setting and communicating priorities; and
- 4) accountability.

Specialization in gambling for police, prosecutors and judges means increased expertise, increased likelihood of consistent policies and priorities, and, perhaps most important, increased caring. We believe that one way to deal with a problem that has low priority overall is to make it high priority for a few people; and the easiest way to do this is to make gambling enforcement their main job.

Coordination between police, prosecutors and courts means achieving consistent goals and priorities. Unless each of them has a common conception of what is illegal and how seriously to treat various offenses, no set of goals can be achieved.

Setting and communicating priorities within organizations is particularly important in gambling law enforcement. Each of the agencies must make choices or judgements reflecting priorities. All have scarce resources. Priorities need to be explicit, so they can be discussed and reviewed, and they need to be communicated so that all relevant persons are acting together.

Accountability systems for prosecutors and police seem essential, particularly in larger organizations, to insure that policies are carried out consistently.

The rest of this section will discuss these themes in detail within the context of the major components of the criminal justice system: police departments, prosecutors and the courts.

### Police Departments

#### Specialization

Most gambling enforcement in larger cities is carried out by vice officers. Overall, very few arrests are made by patrol officers, particularly arrests requiring extended investigation and warrants. There were only four departments in the sample which gave enforcement responsibilities to general detectives at the district level and only in two of them did detectives make a significant number of arrests.

There were several degrees of specialization within vice enforcement units. Several departments had either separate gambling units apart from the vice squad or officers in the vice unit who specialized in gambling. In the remaining departments gambling was one of several responsibilities for all vice officers.

The more specialized an officer's assignment with respect to gambling, the more important he thought gambling law enforcement was, the more serious he felt gambling was, and the more satisfied he was with gambling enforcement as an assignment. We found that vice officers felt this way more than patrol officers or detectives, and that gambling specialists felt this way more than vice officers.

We believe that gambling enforcement will be better if it is carried out by specialists. One basis for this belief has to do with expertise. Officers who are going to make arrests that are more complicated than on-view arrests have to be skilled and knowledgeable about laws and procedures. In fact, the general impression of the study team is that the gambling specialists in police

departments were consistently more knowledgeable about gambling laws than anyone in the criminal justice system.

A more important reason for recommending gambling specialization, however, has to do with priorities. Across the span of responsibilities that police departments have, gambling is relatively low in priority. However, that does not mean it is not important or that enforcement should be ignored. If an individual officer has responsibility for gambling enforcement in addition to the enforcement of laws against other kinds of offenses, including violent and property crimes, gambling is likely to receive little of his attention. If he is a general vice officer, gambling is still competing for priority with prostitution, other sex offenses and after-hours liquor violations. In that context, gambling may well receive its fair share of attention. However, gambling specialists looked on gambling enforcement even more positively than general vice officers. As a general management principle, it seems to us that the job will be done best if it is being done by someone who thinks that the work is important, serious and worthwhile. Thus, given a choice between having a ten-person vice squad, all spending a third of their time on gambling, and assigning three persons to work almost full-time on gambling within the vice squad, it seems to us that the latter strategy is preferable.

The extreme of specialization is to have a special "gambling squad". The size of the resource commitment to gambling enforcement in many departments would not justify having a specialized gambling unit. Moreover, having gambling specialists within a vice unit provides the potential for additional manpower for special operations. Which method is best for a department would depend on the local situation.

To a large extent, as we have indicated, police departments in major cities have put gambling law enforcement in the hands of specialists.

## Coordination

Police efforts in gambling enforcement would be improved if coordination were better between gambling enforcement units and others in the police department as well as with others in the criminal justice system. This is not a remarkable conclusion, but it was surprising to find few serious attempts at coordination.

Within the Police Department. In many departments there are several units with formal gambling enforcement responsibility but which do not work closely together. The relationship among gambling enforcement, other investigative and patrol units is one that depends primarily on information flow. In particular, vice officers report receiving very little information from patrol officers. Although there are limits to the role that patrol officers can play in gambling law enforcement, in many cities they probably could be a good source of information if the kind of information that would be helpful were made clear to them.

One department was actively taking steps to encourage a transfer of information. This department sent vice officers to district roll calls to brief patrol officers on enforcement efforts, targets and problems. They also reported back on the outcome of cases that had been referred to vice by patrol officers in that district. This type of effort clearly reinforces officers' willingness to communicate to vice, and the vice officers felt they received more help from patrol officers than was the case in most cities.

With Prosecutors. Police officers' perceptions of lack of support from prosecutors correlated highly with their expression of frustration in gambling enforcement. Improved coordination between police and prosecutors, including agreement on priorities, would be an important step both toward relieving police discontent and achieving a set of goals.

We found only a few cities where there were obvious discrepancies between police and prosecutor definitions of a "good" case, such as the one department which had 98 per cent of its cases refused by the prosecutors' office. However, there were many places where police and prosecutors did not agree on the appropriate penalty for those bookmakers or numbers operators who could not be definitely tied to a major criminal organization. Moreover, there were only two cities in which police and prosecutors worked together closely on all gambling cases. A few more cities had close coordination on cases involving organized crime. For the rest of the cities there was little evidence of joint efforts or even close coordination.

This need is particularly important because prosecutors have a great impact on the outcome of a gambling case. Individual prosecutors have a great deal of latitude in deciding whether to dismiss a case, what charge to file, whether to plea bargain, the terms of the bargain, and what penalty to recommend. By close coordination with prosecutors, the police can improve the effectiveness of their efforts. If nothing else, if they can accurately anticipate how a case will be disposed, they can take that into account in setting their own priorities.

#### Accountability Systems

We found that departments had three major but interrelated reasons for having accountability systems in gambling law enforcement:

1. To insure that vice enforcement strategies and priorities were carried out in ways that were consistent with departmental priorities and goals;
2. As a management tool, to insure that citizen complaints were followed up effectively; and
3. To minimize opportunities for corruption or the appearance of corruption.

We found that the number of men devoted to gambling enforcement varied considerably from department to department. Elaborate accountability systems may be more feasible and more necessary in large departments than in small ones. However, some departments were using more complete accountability systems than others, and it seems likely that all departments in cities over 250,000 population could improve their enforcement efforts by implementing these types of procedures, if they have not already done so.

Some departments have established certain procedures to ensure that gambling enforcement activities coincide with departmental priorities and goals. One such procedure, which is both modest and useful, is to have a monthly briefing of the chief, or some senior administrator officer designated by the chief, on vice enforcement activities. We found that in a significant number of departments, as many as half, there was no one outside of the vice squad itself who had good knowledge of vice enforcement activity. There is nothing wrong with autonomy, but there should be accountability in the form of an information flow to insure a correspondence between vice squad activities and departmental goals.

Another simple procedure is for vice enforcement goals and priorities to be put in writing. We found this was the case in only two departments in the study sample. Writing down policies and priorities is not simply a matter of creating paper. It is a way of being explicit about trade-offs that otherwise might go unnoticed, and permitting explicit discussion and review of the desirability of those trade-offs.

Every department said it wanted to be responsive to citizen complaints. When a department receives a citizen complaint, it is important that it be followed up adequately. One of the primary reasons citizens were dissatisfied with enforcement efforts was their perception that police would not act on a



citizen complaint. Also citizens were much less likely to call in a complaint if they felt police would not act.

One way to help insure adequate responses to citizen complaints is to have a multi-copy standard complaint form filled out when the complaint arrives. It is difficult to monitor follow-ups to complaints if they are not in writing. The key step, however, is to have a copy that goes in a file maintained by an officer outside the vice or gambling unit, who reviews the department's response to the complaint. Such procedures do not necessarily insure full follow-up, but they would appear to be an important first step.

There is another aspect of complaint management which could be very useful and applies to complaints of all kinds. In every department, we asked about the number and types of gambling-related complaints received. Only one department routinely keypunched and tabulated this information. This provides an excellent, relatively low-cost procedure by which to evaluate the correspondence between citizen concerns and the activities of the department. Although citizen complaints are only one source of data about citizen concerns, they are a ready source of such information. It would seem that such tabulations would serve a variety of useful managerial purposes within police departments.

One final administrative procedure which could greatly aid departments striving to achieve effective accountability would be the creation of a separate unit that is independent of the vice enforcement unit to review the investigative work for a sample of all cases. In addition to going over the paperwork associated with cases, this review unit would also actually carry out its own investigations on a sample of citizen complaints and investigations initiated by vice officers. Smaller departments could use such a procedure for all vice cases, rather than simply gambling cases. A procedure such as

this, which was actually being done in two of the sample departments, would be a major addition to the quality control efforts of most police departments.

### Priorities

Perhaps the most important management-related finding of this project was the need for police departments to clarify their policies and priorities with respect to gambling law enforcement. Three-fourths of all sample officers felt departmental policies were not clear and two-thirds agreed that the responsibilities of patrol officers were not clear. In addition to the lack of clarity being undesirable in itself, it also contributes to a sense of frustration and ineffectiveness in gambling law enforcement.

One source of ambiguity lies in the assignment of responsibility. In most departments, almost all gambling law enforcement is done by vice or gambling specialists. Formal policies continue to imply that all officers have a role to play, but the nature of that role is unclear. Few departments have routine procedures set up to encourage and reinforce reporting possible gambling violations to specialists, nor clear guidelines for what is, or is not, a circumstance that should be reported. Moreover, it was generally conceded, and reinforced by the police questionnaire responses, that non-specialists lack the expertise to be much help even in identifying possible illegal gambling operations. Thus, non-specialists have a responsibility, but lack a clear definition of what it means and lack the expertise to fulfill what they think it might mean.

A second source of ambiguity occurs at a departmental level. About half the sample departments appeared to have established some priorities (usually unwritten) within the wide range of concerns they might have about illegal gambling. Three were clearly very aggressive against street-level gambling. Two were distinctly aggressive against commercial gambling. Three were most

concerned with corruption control. The balance of the departments had a more general approach to gambling law enforcement, basically trying to cover all their possible concerns as well as they could, given the available resources.

Analysis showed that the departments where priorities could be identified by the study team gained some additional benefits. Not only did officers consider policies and responsibilities to be clearer in those departments, they also considered police efforts in gambling law enforcement to be more effective than did the officers in departments with a more general approach to gambling. It appears, therefore, that there is real merit in a department deciding what it can do and wants to do and emphasizing some aspects of gambling law enforcement over others.

The above data do not suggest that any one emphasis is better than another. Among the alternative goals observed, it is clear that most departments with a publicly exposed corruption problem would emphasize control of that over everything else. Given a choice between aggressive street-level enforcement and emphasis on commercial gambling, however, the choice may be more difficult.

Public confidence is a potential problem for police. The data are fairly clear that non-enforcement, rather than strict enforcement, is most likely to undermine citizen respect for police. The sample departments that have set clearer priorities have (with one exception) either emphasized public gambling and numbers, and neglected bookmaking, or emphasized bookmaking and numbers, dealing with public social gambling only when necessary for other reasons (such as a complaint or public disturbance).

As with most choices, there are pros and cons to an emphasis on either street-level or commercial gambling. Aggressive street-level enforcement produces a large number of relatively non-serious arrests for public gambling.

It does not require much support from prosecutors, as the arrest itself accomplishes the goal of breaking up the game and communicating a police presence.

Emphasizing commercial gambling will lead to the arrest of what are considered to be more serious offenders. Because such cases are time consuming, fewer arrests will result and enforcement may be less comprehensive. Moreover, to be effective in controlling commercial gambling, appropriate sentences are probably needed for convicted gambling operators, which requires a coordination with prosecutors that is relatively rare.

An important aspect of commercial gambling is its link to multi-service criminal organizations. This potential or perceived link helps to transform commercial gambling from a non-serious to a serious crime. Police officials may need to be careful about the way they present the role of organized crime in gambling law enforcement. In cities where multi-service organizations were said to be directly involved in gambling, local police usually were not particularly effective in dealing directly with these organizations. Their main role would seem to be to stop illegal commercial activities, such as gambling, that may finance the organizations. For police in these cities, a main problem seems to be to communicate to prosecutors and courts their conviction that all or most commercial gambling offenses are serious, even if they cannot be directly tied to criminal organizations.

In cities in which organized crime is less present, the rationale that commercial gambling law enforcement helps to keep out organized crime may be even harder to sell to prosecutors. It would seem that reflecting the wishes of the public and communicating an effective law enforcement system to the citizens may be a more convincing rationale for commercial gambling law enforcement than citing a tenuous link between gambling and organized crime. Police

need to remember that citizens generally want laws enforced; that commercial gambling violations are certainly more serious to citizens (and more likely associated with corruption) than public social gambling; and that responding to the public is probably the most concrete and stable basis on which to establish priorities.

In the end, we cannot definitely recommend one set of priorities over another on the basis of our data. However, we do believe that addressing the issues discussed above squarely, communicating the answers clearly, and translating the answers into clear policies that recognize the choices that police officers need to make can only be beneficial to police departments.

### Prosecutors

After an arrest is made, the prosecutor becomes the most important element in the criminal justice system in determining what will happen to the case. There were only three cities in which police prosecuted their own cases with little or no involvement of the prosecutor.

It turns out that very few gambling cases actually result in a trial of fact. Therefore, the prosecutor is the central figure in all the remaining decision points of a case. The prosecutor decides whether to accept the case or not; he decides what charge to file, particularly whether to file for a misdemeanor or felony-level charge; he decides whether to plea bargain or not (and in the vast majority of cases the decision is to bargain); he decides what bargain to make; and he decides what penalty to recommend to the courts.

Given the extreme importance of the prosecutor's role, it was startling to discover that there is little specialization, only casual expertise in gambling law, no written policies about criteria for plea bargaining, few close working relationships with police, and little accountability for bargains made.

There was only one city in which the prosecutor's office had designated a team of attorneys to specialize in gambling and organized crime cases. In this city, prosecutors had to demonstrate knowledge and expertise in gambling trials before they were formally qualified as gambling specialists. This team worked closely with police at all phases of the investigation. Only one other city had designated a prosecutor who worked closely with police on all gambling cases after the arrests had been made. In the latter city, the level of support from prosecutors perceived by police was higher than average. However, it was only in the first city, where there was extensive specialization, that a majority of the police considered that prosecutors took gambling cases seriously.

In a few other cities, if and when an organized crime figure was involved, there was closer coordination with police. For the remaining cities, in the vast majority of cases, prosecutors took over the case after the arrest and had relatively little interaction with police. Furthermore, with the exceptions noted above, gambling cases were spread among prosecutors, and hence they did not have the opportunity to develop expertise in gambling prosecution.

There was no district attorneys' office which had specified criteria as to the circumstances under which bargains should be made, or about what penalties should be recommended. There was no system of accountability to assess whether or not the decisions were the right ones. There was no information routinely kept on conviction rates, size of penalties recommended, and circumstances in which pleas were made. Not only were we unable to gather the data, but, more importantly, no one within the cities themselves could review what was happening in order to determine whether the prosecutors were making decisions consistent with the demands of the local situation.

Based on our findings we feel that the following are implications for

the prosecution of gambling cases:

1. Within a prosecutor's office, there should be at least one individual who is identified as a gambling specialist. In those places where one person would not be kept busy full-time working on gambling cases, we would suggest having a specialist on all vice-related crimes. We think that an individual who is given more responsibility and has more involvement in gambling prosecution is likely to be more expert in gambling prosecution, more knowledgeable about the different kinds of gambling laws and possible charges, better able to discriminate serious violators from those who are less serious, and will treat the prosecution of gambling cases more seriously.

Furthermore, if only one or a few prosecutors handle gambling cases, it will be much easier to formulate and implement prosecutorial policies, to review these policies when appropriate, and to coordinate prosecution with police department activities.

2. The arresting officer probably should play a more significant role in the prosecution of gambling cases. In many cities, we found that police gambling specialists were the most knowledgeable people about local illegal gambling organizations and best able to make distinctions among various kinds of gamblers. Moreover, these men were most likely to feel that gambling offenses were serious.

3. There should be written criteria for plea bargaining which spell out in considerable detail the kinds of penalties that are deemed appropriate for various kinds of defendants. Having written guidelines would serve two obvious functions: it would improve the consistency of prosecutorial bargaining, and it would make it possible for prosecutorial policies (which are now largely unstated) to be reviewed within the district attorneys' offices and coordinated with police and judges.

4. Information systems should be developed which keep track of convictions, plea bargains, penalties recommended, and reasons for dismissals. Only by having this type of information available can anyone effectively review the decisions being made by prosecutors.

We want to emphasize that we are not necessarily saying anything about the current content of the decisions made by prosecutors - whether they are too tough or too lenient with gambling offenders. There is a clear discrepancy in many cities between police and prosecutors about the seriousness of a commercial gambling offense that cannot be tied to a criminal organization; but it is difficult to tell which position is more just. All of the above imply only three criteria for prosecution: that it be expert, that it be consistent, and that it be reviewable, by having written policies and documentation of decisions.

#### Courts

As noted above, very few gambling cases result in a trial of fact. Either the defendant pleads guilty or the case is dismissed. Therefore, judges play a relatively passive role in the enforcement of gambling laws. For many of the cases the defendant pleads guilty, the prosecutor recommends the penalty arrived at as part of the bargain for a guilty plea, and the judge simply imposes the sentence.

Although disposition data were not available in many cities, the information we could gather suggested that a relatively low fine, under \$200, was the most common penalty. There were indications in some cities that for felony convictions about 20 per cent of the defendants were given jail sentences.

The severity of the penalty seemed to be the largest concern of police with respect to courts; 86 per cent of the officers responding to the police



questionnaire felt that fines and sentences given to convicted gamblers were not severe enough.

As noted before, the problem seems to be most acute with cases that are of a medium level of severity (i.e. street-level commercial gambling). Police, prosecutors, and judges were more confident that higher ups in criminal organizations would receive stiff penalties and/or jail terms if convicted, and were also in agreement that a low fine was the appropriate penalty for card and dice violations.

The system does not seem to be discriminating very well on cases that are somewhere in between these two extremes. Some of the improvements discussed above as part of police and prosecutor efforts may help in this regard. However, another aspect of the problem is that there was no specialization among judges with respect to gambling cases (with one notable exception). Judges saw relatively few cases in which a trial of fact was necessary. The cases which did go to trial were spread among all judges. This discouraged the development and implementation of a systematic set of criteria for penalties. It probably also contributed to judges playing a relatively passive role in setting sentences.

One city had a special sentencing judge who imposed penalties in all gambling cases in the county. In this city, police were much more satisfied with the penalties imposed by the courts, since this administrative procedure provided a mechanism for policy to be developed and consistently applied.

A single judge deciding on penalties appears to us to be much more likely to implement consistent policies and appropriate level penalties. In a city where there are not enough gambling cases to keep one judge busy, the role could be expanded to sentencing all offenders convicted of vice-related crimes.

The important change, however, is to have a specific judge responsible for imposing penalties. This would facilitate coordination of criteria and policies between police, prosecutors, and the courts.

## CONCLUSION

### Gambling Laws

There are three issues currently confronting legislatures about which this project might contribute some objective information:

- 1) the legalization of commercial gambling;
- 2) the decriminalization of social gambling; and
- 3) upgrading or mandating penalties for convicted gambling operators.

In this section we will provide a brief review of what we have learned.

#### Legalization

There is no evidence, from this study or any others that have been done to date, that legalization of commercial gambling does law enforcement agencies any favors. Excluding the special case of Nevada, increasing the number of available legal gambling options had not been shown to reduce illegal gambling. It is difficult to see how the police could be helped unless legalization of commercial gambling came in a package which offered competitive alternatives to illegal numbers, horse betting and sports betting, and created a special regulatory agency with investigative powers, which took the regulation of gambling out of the hands of the police. The problems of developing competitive legal games have been thoroughly explored by the Commission on the Review of the National Policy Toward Gambling; those problems are substantial. Moreover, such a regulatory body must be a full-scale investigative body that is well funded. The model for this exists in Nevada, where the police have been relieved of gambling law enforcement responsibilities. However, short of some such steps, it is difficult to see how legal commercial gambling could make the job of local law enforcement agencies easier.

Moreover, it is important to understand how modest the benefits would be of completely relieving local law enforcement agencies of gambling responsibilities. Less than one per cent of the manpower in police departments, and a comparable percentage of prosecutorial and court time, is now allocated to the enforcement of anti-gambling laws. The principal benefit to police departments of such a change would be to relieve them of a responsibility which has been associated in some cities with internal corruption and loss of public confidence. Such a benefit is not insignificant. However, this benefit would be considerably more important to departments east of the Mississippi River than to those in the West.

On the other hand, it is also difficult to document that the legalization of some forms of commercial gambling makes it more difficult to enforce anti-gambling laws. It has been hypothesized that increased legalization decreases citizen support for gambling law enforcement. We did discover a wide variation in the level of citizen support in regions of the country with different degrees of legal gambling available. Citizens in areas with no legal gambling thought gambling enforcement was more important than did citizens in areas with several forms of legal gambling. However, citizen views toward other types of "vice" -- prostitution, marijuana, homosexuality -- also showed the same patterns. It is more plausible, therefore, to conclude that people have different views in different regions of the country and that the existence of legal commercial gambling is more an effect, than a cause, of these differences.

Other attempts to identify deleterious effects of legal gambling on law enforcement efforts were not successful. Even though the majority of police officers felt that legal games such as lotteries made the job of enforcing gambling laws harder because citizens took them less seriously, there was no indication that police officers themselves considered gambling violations less

serious in cities with legal games. In the five cities in our sample in which a lottery has been introduced in the last five years, there was no evidence of a diminution in arrests associated with that introduction. On the contrary, police were generally more active against commercial gambling in states with lotteries. Since conviction rates in our sample cities were sufficiently high it is difficult to think that they had been seriously affected by the introduction of legal games, though we could not trace conviction rates over an extended period of time. Similarly, our data on sentences, and particularly the size of fines, were inadequate to examine the hypothesis that fines become lighter as legal gambling becomes more available. However, compared to other states, we found no evidence of significantly stiffer fines in states where there was no legal gambling.

We cannot predict in detail the long-range impact of legal lotteries, nor the impact of more elaborate legal options under the general model of limited legalization. However, just as we saw few benefits to law enforcement officials of increased legal commercial gambling, we also think the existing evidence does not support the notion that limited legal gambling makes the enforcement of anti-gambling laws significantly more difficult.

#### Decriminalization

The argument for decriminalization applies primarily to social (i.e., non-commercial) gambling. The laws against social gambling in private are not enforced and are not enforceable. Probably a third of U.S. adults violate these state laws each year by playing cards for money in their own homes with friends. From a law enforcement point of view, the main value of such laws is their potential use for breaking up private, commercial games without the evidentiary problems of proving that the game is commercial. For some, there also may be a symbolic value in having laws that express the view that gambling in any

place is wrong. From a practical point of view, however, it is difficult to see how such laws against private, social gambling are useful.

In regard to the laws against public social gambling, we find a great deal of variation from city to city in the extent to which such laws are enforced. Public gambling can create public nuisances. However, such laws are discriminatory in effect if not intent, as the Gambling Commission notes. Because members of minority groups are more likely to gamble socially in public, they are much more likely to be arrested than others doing the same thing in places not readily accessible to police. Arrests for public social gambling account for a majority of all arrests for gambling offenses and UCR data show the vast majority of those arrested to be minority group members. Although police clearly use these laws, public order can be maintained in a variety of ways without using state anti-gambling laws. There is a case to be made for decriminalization of public social gambling.

#### Upgrading Penalties

The efforts of legislatures to upgrade the penalties for serious illegal gamblers and to mandate penalties for repeat offenders appear to have had little or no effect on the enforcement of gambling laws. Punishment meted out to the occasional convicted high-level gambling operator may be harsher when maximum penalties are higher; we cannot say. However, most arrested commercial gambling operators are numbers runners or people who take bets, and for these people we were unable to find evidence that the punishments depend on the maximum penalties the legislature has provided. The variations in case disposition are primarily a function of the judgements of the prosecutors and courts. Until the management of the prosecutorial and judicial systems is changed, it appears to us that decisions by the legislatures about how to treat various kinds of gambling offenders will be largely irrelevant to what actually happens.

## The Effects of Anti-Gambling Laws on the Criminal Justice System

In addition to addressing legislative issues relating to gambling, this project also has provided a systematic review of the way gambling laws are enforced in major American cities and the effects of these efforts.

At the time this project was proposed, the working title was "The Effects of Anti-Gambling Laws on the Criminal Justice System". What are these effects? One important effect of current anti-gambling laws was to place the police in a relatively vulnerable position. Laws against private social gambling are unenforceable. Laws against public, social gambling and commercial gambling can be enforced to a degree, but enforcement must be an on-going process. Given current resource allocations, most police departments have to make a trade-off between aggressive public gambling enforcement and aggressive commercial gambling enforcement. In our sample we found only one department that appeared to be succeeding in vigorously enforcing laws against commercial gambling as well as the laws against public social gambling.

When police do not fully enforce the gambling laws, or any laws, they risk losing the confidence of the citizens in the community. When citizens see visible illegal gambling, they tend to conclude that the police are inept, corrupt or both. Police can gain little public acclaim for effective enforcement of gambling laws, for it is a low-priority offense to most citizens; but they can lose a great deal of public confidence for failure to fully enforce the gambling laws, for citizens want the laws that are on the books to be enforced.

Gambling enforcement responsibility also has been associated with police corruption. We found, however, that the only departments that had had serious problems were in those sample cities where regional, multi-service, criminal

organizations were said to be directly involved in gambling operations. In the cities, there have been severe costs to police departments for having gambling enforcement responsibilities.

In at least half of our sample cities, local independent criminal organizations were said to control gambling operations. These organizations may have bought services from regional, multi-service criminal organizations (i.e., wire services, lay-offs), but were not thought to be controlled by these organizations. In many cities several organizations were involved in gambling operations. These findings do not minimize the need for the enforcement of commercial gambling laws, but they do indicate that for many cities this enforcement may not be directed at multi-service criminal organizations.

For a variety of reasons, discussed above, gambling law enforcement is not a particularly attractive assignment to police. Police administrators must figure out how to manage enforcement efforts with as few costs to officer morale as possible. It also is important to understand that if a police department can avoid public embarrassment, the negative effects of anti-gambling laws on the police are minimal. Few resources are devoted to the enforcement of gambling laws, and current gambling enforcement is becoming increasingly specialized. As a result, fewer and fewer police officers are affected in any way by gambling law enforcement responsibilities.

Prosecutors and courts devote even less time to gambling enforcement than police do. There was almost no prosecutorial or judicial specialization, and little special attention was paid to gambling, except to make sure that embarrassment was avoided or when, infrequently, an organized crime figure was involved.

Indeed, the most important conclusions to be made from this research do not deal with the way that the laws affect the actions of the criminal justice



system but rather the way that the criminal justice system is affected by factors that take precedence over variations in the ways the laws are written.

There is some variation in state laws governing gambling. For example, there were five sample cities in which private social gambling was not specifically prohibited by state law. There was a moderate amount of variation in the maximum penalties prescribed by state laws for gambling violations. However, the gambling violations for which arrests are most commonly made are prohibited in all of our sample cities: taking bets on sports events or horses, running an illegal numbers game and playing cards and dice in public. Yet, these laws are enforced in very different ways in different cities.

There are cities in which bookmakers are virtually never arrested, though bookmakers are known to be operating. There are other cities in which numbers operators are almost never arrested, though numbers operations are known to be active. There are cities in which a person is very likely to be arrested for public social gambling, while in others, an arrest would be made only if there were some other kind of disturbance or problem associated with the game. While the laws, as written, are fairly constant from city to city, the laws, as enforced, are very different, depending on local situations, policies and priorities.

In the same way, sentences given to convicted gambling offenders are not a product of legislative decision-making but rather the result of prosecutorial and judicial discretion. Even attempts by legislators to mandate serious penalties seem to be consistently circumvented.

Others before us have pointed out the importance of police and prosecutorial discretion in the enforcement of laws. In fact, discretion is probably necessary to achieve justice. Legislatures cannot take into account all possible extenuating circumstances and relevant criteria when writing laws.

However, the variations that we have observed in the way in which gambling laws are enforced go well beyond discretion to achieve justice. For practical purposes, anti-gambling laws are being made not by legislators but by police and prosecutors.

We set out to understand what current anti-gambling laws mean to the criminal justice system. Our findings can be summarized fairly succinctly:

1) The laws against gambling in private are primarily a symbolic gesture on the part of legislators; they are neither enforced nor enforceable in any reasonable sense of the word.

2) Legislators have given police a relatively unattractive job, for which police can get little credit if they do a good job and considerable abuse if they fail.

3) The laws against public social gambling and commercial gambling probably are enforceable to the extent that other comparable laws are enforceable. The resources devoted to gambling law enforcement are very modest and the results, with a few notable exceptions, are modest as well. Most departments realistically strive for one of several models of limited enforcement.

4) Citizens are much more likely to be concerned about non-enforcement of gambling laws than about aggressive enforcement. They are very likely to view non-enforcement of gambling laws as an indication of police corruption.

5) Regional, multi-service criminal organizations were reported to directly control all or a substantial portion of illegal commercial gambling operations in about half the cities. These cities were much more likely than others to have had publicly disclosed gambling-related corruption in the past. In the balance of the cities, bookmaking and numbers were said to be run primarily by local, independent organizations that specialized in gambling (though criminal organizations may have made money off these operations through

lay off services or loansharking). There had been no significant publicly disclosed gambling-related corruption in any of these cities in the past ten years.

6) The prosecutors of gambling cases generally do not recommend penalties for conviction which any reasonable person would think would be a deterrent to further involvement in commercial gambling. Seriously impinging upon commercial gambling operators would seem to require serious penalties for convicted commercial gambling operators.

7) Prosecutors are not held accountable for their decisions due to the lack of recording and summarizing of the decisions they make.

8) Legislators need to understand that the meaning of gambling law enforcement and the resulting constraints on gambling behavior will be determined less by what legislators write than by how local police and prosecutors carry out their responsibilities.

These findings have different implications depending on the perspective one takes.

For police departments, given available resources, choices should be made as to the types of gambling enforcement that will be pursued. Departments that had made clear choices were considered by officers to be more effective than those that had not made these choices. Without clear policies, officers were unclear about their responsibilities. This leads to frustration and dissatisfaction.

For prosecutors and courts, clear policies must also be created. In particular, given the role of prosecutors in determining the penalties for convicted offenders, their behavior in pursuit of these policies must be accountable. District Attorneys should develop information systems that enable them to insure that prosecutors are recommending sentences consistent

with police and citizen concerns.

Legislators must come to the realization that changing the wording of gambling laws has little impact on the way these laws are enforced. Instead, legislators must address the way that enforcement is managed both by police and by prosecutors. Providing resources for specialization and accountability would probably do more to influence the way laws are enforced than almost any other measure.

Citizens must demand that their public servants -- police, prosecutors, courts, legislators -- are accountable to them. Community values related to gambling enforcement must be clearly understood and information must be systematically kept to enable citizens to know whether these public servants are indeed behaving in ways consistent with these values. There will almost inevitably be a considerable amount of local discretion in the way laws against gambling are enforced. In theory, this discretion will reflect differences in community values. There is a case to be made that such discretion is appropriate. There is no basis for exercising that discretion in a way that is not subject to public accountability. Until there is better public information about what police, and particularly prosecutors and courts, are doing, however, we will continue to have exactly that occurring in the enforcement of anti-gambling laws in major American cities.

FOOTNOTES

<sup>1</sup>Police administrators are not alone in making this kind of demand on the patrol officer. The Police Guide on Organized Crime, (Washington, 1974) states:

"The fight against organized criminals is not a job for plainclothesmen and detectives only. Because he knows the conditions on his post, the uniformed officer can often spot criminal activity that a detective might not observe." (p.10)

<sup>2</sup>See, for example, J. F. Elliot, "Some Thoughts on the Control of Organized Gaming", Syracuse, N.Y., 1968.

<sup>3</sup>For review of how this happened in one city see: William J. Chambliss, "Vice, Corruption, Bureaucracy, and Power", Wisconsin Law Review, 1971, 4, 1150-1173; also Gardiner, 1970; and PCC, 1974.

<sup>4</sup>An "anonymous witness" before the Gambling Commission is reported to have testified that, "In Boston, 50 per cent of the adult male population places bets with bookmakers, and the other 50 percent bets socially among themselves." (Gambling Commission, Appendix 3, 1976 - p. 192) While the latter estimate may not be far off, in fact the Commission's survey found that only about three per cent of Northeastern adults bet with sports bookies, and less than six per cent on horses with a bookmaker. (Gambling Commission, Appendix 2, 1976 p. 31)

FOOTNOTES (Continued)

<sup>5</sup>The National Advisory Committee on Criminal Justice Standards and Goals, in the Report of the Task Force on Organized Crime, (Washington, 1976) reviews the ambiguity in this area and concludes that, "For purposes of this report, no single definition (of organized crime) is believed inclusive enough to meet the needs of the many different individuals and groups throughout the country that may use it as a means to develop an organized crime control effort." (p. 7) They go on to propose a "working description" which attempts to describe some of the characteristics of this phenomenon.

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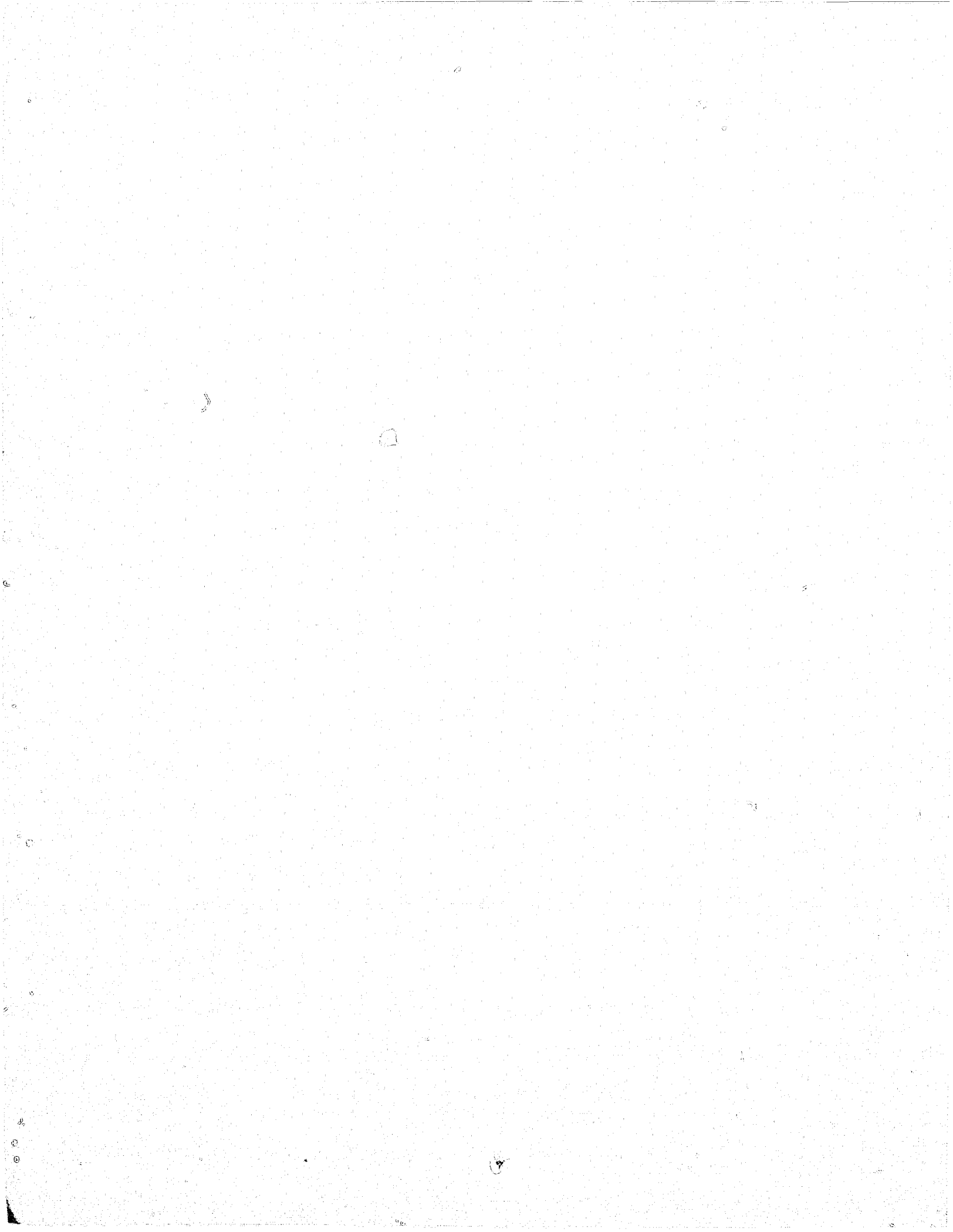
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