

# INTRODUCTION

On January 23 and 24, 1991, the State Commission of Investigation held public hearings into problems relating to the illegal use of video gambling machines. It was a hearing that had been suggested by officials in the Division of Criminal Justice in the Attorney General's Department of Law and Public Safety.

The problems with these machines were best summarized in a few lines of testimony from Assistant Attorney General Robert J. Carroll, the first witness at the hearing.

*Today ...we find the descendents of the one-armed bandit proliferating not only in this state but in the entire nation. These electronic machines, like their mechanical predecessors, are capable of generating millions of dollars of illegal profits for organized criminal groups and enterprises.*

....

*[Organized crime families] have rediscovered the lucrative slot machine market....Unlike the earlier mechanical devices, however, the new ... electronic slot machines are equipped with sophisticated computer software. This software allows the operators, manufacturers and distributors of the machines to inhibit law enforcement detection by masking their true nature as illegal gambling devices.*

Carroll's testimony was based on his experience supervising several investigations from the mid-1980's to the present.

In his opening statement at the public hearing, Chairman James R. Zazzali said :

*The citizens and the lawmakers of New Jersey are familiar with gambling. Our state has more forms of legalized gambling than any other state in the nation. Over the years, a great deal of attention has been focused on the subject.*

*Now there is something new on the horizon, gambling of a different kind. Along with fax machines, automatic teller machines, VCR's and personal computers, technology has brought us a new and more convenient way to gamble — video machines. Devices formerly thought to house only innocent PAC-Men and Super Mario Brothers now can be made to serve a much more sinister purpose.*

*As difficult as it may be to believe, our testimony will show that fortunes can be won and lost in increments of 25 cents. The evidence will demonstrate that these machines also harm the young people in our state — at a time in their lives when they ought to be spending more time in libraries than in video arcades.*

The Commission believes that there are several difficult and vexing public policy issues that state officials must soon confront. Those issues include:

- Whether to legalize the machines as part of the state lottery in order to claim as revenue some of the money they already generate, both because of the need to find new sources of state revenue and in the belief that such legalization will hurt organized crime.
- Whether to legalize the machines, allow them to remain in the private sector and regulate them because of the difficulties inherent in policing the devices.

- Whether, by such legalization, New Jersey would become too dependent on gambling as a revenue producer and, at the same time, cause the state’s public image to deteriorate as it becomes the virtual gambling capital of the nation.

- Whether more legalized gambling will create more gamblers while also skewing our system of values for ourselves and our children.

\* \* \*

Public controversy over gambling has been with us a long time. In fact, some authorities have so despaired of effectively enforcing laws controlling gambling that they can contemplate only legalization as a solution. However, one probable consequence of further legalization is an increase in the number of people who gamble. The law enforcement problems will likely remain and perhaps increase if greater numbers of gamblers result in more offenses from gambling-related problems.

Popular attitudes about gambling have changed. Gambling used to be considered wasteful and irresponsible as money wagered was often diverted from productive uses and support of families. Now, however, gambling is a welcome generator of public revenue in some quarters as policymakers view it as a cash cow for the state.

There have been many comprehensive studies conducted in New Jersey on gambling. The Gambling Study Commission, formed to study “the desirability and feasibility of extending legalized gambling in the State,” in its report dated February 5, 1973, gave these reasons for the interest in legalized gambling:

- In an era of fiscal stringency, legalized gambling holds forth a promise of providing substantial revenues through as nearly “painless” a method as can be conceived;

- In an era increasingly vexed by problems of

crime and corruption, legalization of gambling is suggested as a means, 1) to undercut organized crime by depriving it of revenues it now derives from illegal gambling, 2) to free law-enforcement resources for use against both “organized crime” and the violent “street crime” which alarm the citizenry and undermine social order, and 3) to eliminate opportunities and temptations for the corruption of public officials whose protection or connivance is necessary to the survival of most illegal gambling operations;

- In an era when assertion of personal liberties against state control is being more vociferously expressed, the legalization of gambling would remove restrictions on personal action which many people resent as puritanical, hypocritical, repressive and archaic.

\* \* \*

After six public hearings, the Gambling Study Commission made nine findings:

1. Gambling, legal or illegal, has been widespread at all times in living memory and historical record, and will probably continue regardless of legal status;

2. Public sentiment in this state is generally favorable to extension of legalized gambling;

3. Scandal and abuses of gambling have consistently resulted not from legalization but from inadequate controls over gambling;

4. The success of legalization, in those areas where it has been applied, has been related both to the strictness of regulation and to the flexibility of the regulatory mechanism;

5. Possible revenue from legalized gambling is substantial but has often been exaggerated, and is not the most significant justification for legalization;

6. Among officials involved in law enforcement, there is a general agreement that a disproportionate amount of time, manpower and other resources is devoted to enforcement of anti-gambling laws, both in relation to the actual benefits achieved and in relation to the amount of such resources diverted from more urgent needs of public order and safety;

7. As noted, there is general agreement that organized crime derives considerable revenue from illegal gambling activities, and law enforcement officials agree that revenue from this source is used to finance many other criminal endeavors, including the takeover of legitimate businesses and the corruption of public officials;

8. In some forms, the establishment of a legal gambling industry can be expected to have locally beneficial economic impact, but the economic benefits to the State generally are more problematic;

9. Compulsive gambling is an affliction comparable to alcoholism, affects a significant proportion of the population and poses a problem for public policy which will continue to exist regardless of whether gambling is legalized.

The Gambling Study Commission stated that “Gambling is a pervasive and perhaps innate form of human activity....In our culture, at any rate, it seems to be too popular to be repressed [but too] dangerous to be let run uncontrolled.”

The Study Commission ultimately concluded:

Historically, the social ills connected with gambling appear to have been kept within tolerable limits only by strict regulation. Total suppression has been unsuccessful; indeed, such laws have proven counterproductive in that they have led to extra-legal but accepted forms of toleration, have habituated both citizens and public officials to such extra-legal arrangements, and have prepared the way for extensive corruption.

. . . .

Regulation within a framework of law is necessary. A prerequisite to such regulation is legalization of the activity to be regulated. State policy should recognize not only the futility of total suppression, but also the ... social ills and corrupting influence which arise from attempting to maintain a set of suppressive laws which generate hypocrisy in their enforcers and resentment among the general citizenry.

A report issued 15 years later, the Report and Recommendations of the Governor’s Advisory Commission on Gambling (June 30, 1988), said of the dangers inherent in gambling:

States that have legalized, and likewise promote, gambling have a serious obligation to direct some of the funds realized from gambling into public education/prevention, training, treatment and research programs. The wisdom of providing funds for the “victims of public policy” is obvious. There is evidence which indicates that the availability of legalized gambling increases the risk of becoming a compulsive gambler. The Commission on the Review of the National Policy Toward Gambling (1973 through 1976) recognized a direct relationship between the rate of addiction and increased availability. It seems apparent, then, that by sanctioning legalized gambling as a revenue-raising device, the State has contributed significantly to what is now known to be a major societal problem. While the State and those who pursue profits through its various forms of legalized gambling are not solely responsible for the disease, it must accept a certain measure of responsibility for its cure.

Although conducted only a few years ago, this study did not anticipate the problems emerging from illegal use of video gaming devices. In the commentary to its conclusions, the Governor’s Commission stated:

This Commission has heard from law enforcement experts in New Jersey who contend that legalized gaming has not only failed to curb

illegal gambling but in fact has been conducive to its growth. While it may be surprising that the availability of so many forms of legal gaming in New Jersey has not cut into the appeal of the illegal gambling business, this Commission strongly suspects that whatever recent successes have been realized, illegal gambling, especially the numbers rackets and sports betting, remains a major problem. The reasons appear to be several. First, illegal gambling is a mainstay of organized crime groups. Numbers and sports book traffic, considered by many as basically an innocuous activity, is so deeply rooted in certain areas that it has become culturally acceptable as part of the local economy in some neighborhoods. And finally, from a competitive perspective, illegal gambling offers better odds, easier credit and confidentiality.

As with street crime, the impact of legal gaming in all of its forms on illegal gambling may be an appropriate subject for further in-depth study as part of the State's continuing review of gaming policy issues.

Another view was expressed in an April 22, 1991, column by William Safire of The New York Times:

...[I]t is wrong for the state to exploit the weakness of its citizens. It is the more unfair and painful form of "painless" taxation.... And gambling taxation feeds on itself. We cannot give up the state income from betting, say legislators who feel guilty about pretending that gambling is good, because the states have become dependent on the money, or because other states will use casinos to lure their tourism. They have become hooked on gambling as a source of revenue as any compulsive gambler betting the milk money.

\* \* \*

Because no one really knows how many illegal

video gambling machines there are in New Jersey, no one can say with any accuracy how much potential tax revenue the state would lose by not legalizing, licensing and regulating the machines. Estimates of potential revenue are therefore nothing but speculation or wishful thinking. Nor can anyone say for sure how much money organized crime makes on the machines, although testimony before the SCI indicates it is virtually a torrent of cash. Only the mobsters know for sure, but they're not talking.

No one should delude himself into thinking that legalizing such games will have any but the slightest impact on organized crime. Such action, however, probably will create more gamblers. Certainly it will make gambling easier and more convenient for more people than driving to Atlantic City. In fact, it may even hurt the casinos financially, much as casinos have hurt the racetracks.

In the view of the Commission, therefore, video amusement devices present an extremely difficult law enforcement problem. But the possible solutions to the proliferation of machines which have been designed for, or are easily converted to, illegal gambling devices, range from the impractical to the Draconian. And even at that, none seems capable of even coming close to ridding the state completely of an underground industry which will inevitably grow, devastate more lives and put more money into the pockets of organized crime.

Because of the difficulty of the issues, this document is unlike many prior SCI reports in that it makes no firm recommendations. In fact, the Commissioners themselves were of differing views about an ideal solution. Since the issues cut across so many different interests, the Commission believes that the Legislature and the Governor are the appropriate entities to resolve the complex policy considerations. The Commission therefore cannot overstate the need for them to undertake an immediate, comprehensive effort to attack this problem after carefully weighing the complex economic, moral, social and public safety issues. But the Commission cautions that the arguments of both the fiscal Pollyannas and the

doomsday moralists should be treated with equal skepticism and a final resolution based on the *total* impact on our state. For its part, the Commission will, in the pages that follow, attempt to aid that effort by describing the gravity and complexity of the problem. And it will, in its conclusion to this report, identify various responses which have been proposed, and offer observations as to the efficacy of each.

# I

## THE LAW

New Jerseyans are ambivalent about gambling. On the one hand, our 1947 State Constitution prohibits gambling without specific authorization of the voters in a referendum. On the other hand, the Constitution has been amended seven times to permit bingo, raffles, a state lottery and casino gaming. (Pari-mutuel horse racing had been authorized prior to the 1947 Constitution.) A referendum that would have allowed casinos to be built anywhere in the state was defeated in 1974. But a second referendum, narrowed to permit casinos only in Atlantic City, was approved two years later. It appears, therefore, that while New Jerseyans want to gamble, they also want some limits on when and where they can do it.

Yet the evidence is also clear that a substantial number of our citizens believe that gambling is a harmless diversion that should neither be circumscribed nor condemned. And many believe that organized crime is merely providing a service to those who wish to gamble *illegally*, despite the availability of numerous *legal* games of chance. By doing so, they provide the revenue that helps to feed this cancer on the body politic.

The Legislature, time after time, has declared organized crime to be a menace “to the political, social and economic institutions of this State.” N.J.S.A. 2C:41-2b — the racketeering statute. And the laws against illegal gambling are, for the most part, straightforward.

New Jersey’s criminal code defines a gambling device as

any device, machine, paraphernalia or equipment which is used or usable in the playing

phases of any gambling activity, whether such activity consists of gambling between persons or gambling by a person involving the playing of a machine.... N.J.S.A. 2C:37-1e.

A slot machine is defined as

any mechanical, electrical or other device, contrivance or machine which, upon insertion of a coin, token or similar object therein, or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash or tokens to be exchanged for cash, whether the payoff is made automatically from the machine or in any other manner whatsoever. A device so constructed, or readily adaptable or convertible to such use, is no less a slot machine because it is not in working order or because some mechanical act of manipulation or repair is required to accomplish its adaptation, conversion or workability. N.J.S.A. 2C-37-1f.

A person who,

with knowledge of the character thereof, manufactures, sells, transports, places or possesses, or conducts or negotiates any transaction affecting or designed to affect ownership, custody or use of a slot machine or any other gambling device, believing that the same is to be used in the advancement of unlawful gambling activity

is guilty of a disorderly persons offense. N.J.S.A. 2C:27-7. Such devices are legal only in the casinos in Atlantic City under strict regulation by the Division of Gaming Enforcement and the Casino Control Commission. Violations of this section are punishable by a maximum of six months in jail and fines up to \$1,000. N.J.S.A. 2C:37-7.

In addition to these offenses, illegal use of video gambling machines can be prosecuted as promoting gambling, N.J.S.A. 2C:37-2, punishable by up to six months in jail and a fine up to \$10,000, or maintaining a gambling resort, N.J.S.A. 2C:37-4, punishable by up to 18 months in jail and a fine up to \$15,000.

To the extent that prosecutors can prove organized crime involvement in schemes involving the illegal distribution or use of such machines, violators are subject to the provisions of the racketeering statute, which allows the imposition of severe economic penalties as well as substantial prison terms.

The law pertaining to forfeiture, N.J.S.A. 2C:64 et sec, provides greater potential economic punishment than do the gambling statutes. For instance, the forfeiture law designates any “illegally possessed gambling device” as “prima facie contraband,” subject to seizure and in which no property right exists.

In addition to the seizure of gambling devices, the State may also seek possession and title to:

- All property which has been, or is intended to be, utilized in furtherance of an unlawful activity, including, but not limited to, conveyances intended to facilitate the perpetration of illegal acts, or buildings or premises maintained for the purpose of committing offenses against the State. N.J.S.A. 2C:64-1.a(2).
- Property which has become or is intended to become an integral part of illegal activity, including, but not limited to, money which is earmarked for use as financing for an illegal gambling enterprise. N.J.S.A. 2C:64-1.a(3).

- Proceeds of illegal activities, including, but not limited to, property or money obtained as a result of the sale of prima facie contraband as well as proceeds of illegal gambling, prostitution, bribery and extortion. N.J.S.A. 2C:64-1.a(4).

When the State seeks to take title to property other than prima facie contraband, it must, in a civil action in Superior Court, show that the property was used in criminal activity or was purchased with the proceeds of such activity. In other words, the State must prove the underlying crime alleged. But in a civil action, the State’s burden of proof is less demanding than in a criminal proceeding, where a defendant’s liberty may be at stake. For instance, in a civil trial, the State must prove its case only by a “preponderance of the evidence” rather than the higher standard of “beyond a reasonable doubt,” which is required in a criminal prosecution.

Thus, the forfeiture statute provides prosecutors a more potent weapon against those involved in the illegal use of video gaming machines than the gambling statutes. Although there will be details later in the report about this issue, suffice it to say here that these machines have been placed in locations such as bars, candy stores and even funeral parlors. Under the forfeiture statute, therefore, the machines themselves are subject to seizure as prima facie contraband and the business establishments from which they were seized are also subject to forfeiture in a civil action.

Using this statute, the Attorney General’s office on November 19, 1990, filed a major civil forfeiture action seeking to take title to Grayhound Electronics, Inc. of Toms River, a manufacturer of amusement games. The complaint alleges that the firm was “created by and is controlled by associates of” the La Cosa Nostra family of Nicodemo Scarfo and their designees.

According to the complaint, Grayhound manufactured or assembled video slot and poker devices and distributed them to firms in New Jersey as well as in Philadelphia, California, Florida, Michigan and New York. These distributors, in turn, placed the

machines in establishments where they were used illegally as gambling devices. Law enforcement agents in those states have taken action against such establishments and have seized the machines.

The complaint alleges that revenue from the devices was shared equally between owners of establishments and the distributor of the machines who, in turn, gave half his share to the Scarfo family. According to the complaint, Alan Cifelli, a representative of the distributor, B & C, visited each establishment weekly to take the money out of the

machines. He gave half to the owners and took the rest to Grayhound offices.

Every two weeks, George Fresolone, once an associate but later a member of the Scarfo family, visited Grayhound and picked up half the money

Cifelli had turned in earlier. This money, or 25 per cent of the total proceeds of each machine, was turned over to Nicodemo Scarfo, Jr., whose father, the family boss, is now in federal prison on extortion, racketeering and murder charges.

## II

# THE MACHINES

While the wording of the statutes may be clear, practical applications in law enforcement have run head-on against rapidly advancing technology. To understand the problem, however, one must understand the types of machines and their potential uses. The machines are categorized here based on the type of regulation.

The clearest category is that of slot machines that are legal in Atlantic City and are, of course, tightly regulated. A second category is that of the amusement-only machines operated at boardwalk arcades and some amusement parks. These are licensed and regulated by the Director of the Division of Alcoholic Beverage Control (ABC) who, by statute, also serves as the Amusement Games of Chance Control Commissioner. These machines include the cranes that pick up toys, skill ball and others, as well as various video games such as Pac-Man and draw poker. The third category includes all the other machines — the ones in shopping center arcades, bars and illegal gambling parlors.

Testimony at the SCI hearing revealed that games such as Joker Poker, Draw Poker, Top Draw, Grand Prix, keno and eight liners, all of which are conducive to gambling, are being used as gambling devices. Some machines may be changed from, say, PAC-Man into one of these other games by a switch or a remote control device. Police cannot seize such machines as illegal gambling devices unless they see them being used illegally — that is, being used to generate cash payoffs.

One method by which the machines are used illegally is detailed in the forfeiture complaint filed by the Attorney General's office. For instance, the machines contain electronic boards programmed

with "dual capabilities" permitting them to be used either as amusement games or gambling devices. Many can be switched remotely from one mode to the other "to avoid detection and prosecution of the illegal gambling." In the gambling mode, players buy credits which are displayed on the device and which are won or lost as play progresses. Unplayed credits are paid off in cash by the person running the establishment; these unplayed credits can be "knocked off" by the establishment to return the machines to zero after the payouts. But the machines have an internal accounting program to keep track of plays, as well as credits earned and paid, so that revenue can be calculated. The devices can also be adjusted internally to regulate the percentage of winning hands. They also have bill acceptor devices so that players may buy credits directly from the machines with bills as large as \$100. The forfeiture complaint is pending in Superior Court.

In legal, regulated amusement games, a player can "bet" credits on the outcome of a poker hand, for example, and receive additional credits if he wins. Credits can either be used to play more games or exchanged for tokens or merchandise. The cash value of the merchandise is limited by state regulation at no more than \$500. The tokens cannot lawfully be exchanged for cash. This is the most obvious legal difference from a slot machine. The law thus allows people to amuse themselves in video arcades with winnings which differ more in degree than in kind from those offered by slot machines. Any machine used outside the confines of the regulated amusement parks or boardwalks would be illegal if used to pay out any money or prizes.

While video games vary, the cabinets holding them are essentially identical. The key components are simply a box holding a flashy TV-like screen with

internal electronics that cause the machine to operate as well as provide bells, whistles, lights and other effects. There is at present no statewide regulation of all amusement-only machines. The SCI is unaware of any reliable estimate of the number of video machines in operation, where they are located or how much money is made from them.

Atlantic City casinos, on the other hand, have approximately 23,000 slot machines in operation at any given time. Slot machines provide the majority of casino industry revenue. Licensed manufacturers of slot machines sell their products to the casinos. The Division of Gaming Enforcement (DGE) maintains a comprehensively staffed and equipped laboratory within blocks of Atlantic City's casinos to "fingerprint," test and track all slot machines in the casinos.

Video gaming devices are relatively simple by current measures of technological complexity. At its public hearing, the Commission heard testimony from State Police Captain Stefano Gelardi, who heads the DGE laboratory. A slot machine expert, Captain Gelardi demonstrated the operation both of a slot machine and of his lab's testing equipment.

Gelardi testified that the only visible difference between a slot machine and a modern video gaming device used illegally is that the slot machine has a tray into which winnings drop; the illegal video gaming device does not. Because there is no tray into which the winnings may drop, the video game used illegally needs to be manned by someone who will make the payoffs to the players. If there is no payoff, there is no crime.

Captain Gelardi told the Commission that the heart of each slot/video machine is an "erasable programmable read-only memory" chip — an EPROM, which controls all the essential functions of the machine. The EPROM determines the win ratio, which by law must be 83 per cent in the casinos. On the other hand, testimony from witnesses before the Commission showed that win ratios for illegal video gambling machines hovered in the area of 50 per

cent. It also determines whether a machine has features which allow it to be used for gambling. EPROMs provide one key to controlling illegal use. The DGE lab verifies the program of every EPROM used in casino slot machines. Each EPROM has unique identifiers which are cataloged as the device's "fingerprint". Once installed in the machine, the EPROM is sealed and its exact geographic location is tracked. If the seal is tampered with, the machine no longer has integrity.

Many machines are turned over by the casinos every year as old machines are replaced with new ones. Once a machine is mustered out of a casino, the DGE lab no longer has an interest in it and ceases tracking it. The machines are frequently recycled as amusement-only machines with new, different EPROMs. However, if an EPROM that is programmed for gambling is installed in a refurbished device from a casino, that device can operate illegally as a slot machine.

It is important to realize that the machines used legally in arcades can be and are used to gamble. The features which are essential for an operator to use the device in an arcade are the same features which allow the device to be used for illegal gambling. The machine is not "bad" and not per se illegal. It is the manner of its use which brings it under the criminal law.

It is also important to remember that these devices will look the same whether used legally or illegally. The outside of the box will not give away its use. If an inquisitive police officer opened up the box, all he would see would be circuitry common both to legal and illegal machines.

Captain Gelardi emphasized that prevention of slot machine crimes (and by inference those involving their electronic counterpart video gaming devices) is so difficult that it is not even attempted. Instead, the DGE lab has developed means of detecting a crime after it has been committed. Violators are punished, usually with administrative sanctions, which

are often more devastating for a casino licensee than criminal penalties. Bear in mind, however, that the environment in which the DGE lab presently functions is limited—a small number of highly regulated casinos with large investments at stake, all located

within a small geographic area and all using machines manufactured by a few companies.

# III

## THE MOB

The first witness before the Commission was Assistant Attorney General Robert Carroll. Carroll has been in law enforcement for almost 17 years during which he has worked for the Essex County Prosecutor and the Attorney General. When he left Essex County, he became Chief of Special Prosecutions in the Division of Criminal Justice, investigating racketeering and organized crime. He is now Chief of the Organized Crime and Racketeering Bureau.

Carroll related to the Commission his early involvement in Project Ocean, a 1985 investigation begun by the Essex County Prosecutor's Office and subsequently joined by the New Jersey State Police. He began with an historical outline. He was questioned by SCI Executive Director James J. Morley.

*In the early 1980s, law enforcement detected a resurgence of the use of sophisticated equipment as slot machines and gambling devices. This activity bore a striking resemblance to the racketeering activities of the 1920s and '30s, which centered on the one-armed bandit mechanical slot machine.*

. . . . .

*It is interesting to note that the modern day criminal enterprises which operate video gambling devices also trace their ancestral origin to the outlaw groups which terrorized the United States earlier in this century. Members of the Genovese/Gambino/Lucchese and Bruno [now Scarfo] crime families not only still exist, but have rediscovered the lucrative slot machine market. These enterprises, like their roaring*

*twenties counterparts, also participate in related conspiratorial criminal activities such as extortion, theft, physical assaults, bribery, official misconduct, criminal usury or loan-sharking and even murder to protect their illicit operations.*

### Why A Priority?

Carroll told the Commission how illegal video gambling first came to his attention.

*In the early 1980s...we started to receive information from citizens within [Essex] county, particularly parents of juveniles who started to complain that there were these video slot machines which, at that time, were generically known as Joker Poker machines.*

. . . . .

*Those parents would contact our office and ask about ... the legality of the machines, and secondly, what could be done about having age limitations put on so that their children could not be sucked into becoming habitual and compulsive gamblers at an early age.*

Carroll described the early responses of the Prosecutor's office to these complaints.

*From a priority point of view, it's not something that looks terribly attractive. However, when we started receiving multiple complaints, and at the same time, we had agents out there working, doing surveillances of traditional organized crime gambling operations and we started to see overlays and patterns, we would observe that the persons who were involved in picking up tradi-*

*tional lottery and bookmaking activity would also be making stops at these video poker machines and making pickups, and these are persons who had long records of organized crime association.*

*So combining the two factors, the organized crime participation that we suspected at the beginning, coupled with the citizen complaints, we decided that we should take a good, long, hard look at the problem to determine what was this new form of gambling that seemed to be proliferating.*

Carroll said the office recognized early that on a transactional basis alone, video gaming offenses did not merit a substantial commitment of law enforcement resources. However, because video gaming devices were apparently employed by organized crime to victimize minors, the benefits of prosecution outweighed the cost. As he discovered, however, the machines were more numerous than at first thought, and the investment in police resources increased. Undercover State Police detectives and Essex County investigators began to play the machines in candy stores, liquor stores, social clubs and wherever else they could be found.

*We went so far as to establish a sting operation front business known as Jedi Vending, and by use of that we were able to make incursions into the organized crime control and networking that we suspected existed.*

*We used extensively electronic surveillance, and I might add, without electronic surveillance, Project Ocean could not have succeeded.*

*Because there is no judicial interpretation of the law which allows law enforcement personnel to identify video gaming devices as slot machines, the devices could not be deemed per se illegal. As a consequence, Project Ocean forces were compelled to prove that the devices were used to gamble with.*

*The tack that we followed through Project Ocean and in later investigations when we would have an undercover agent go in, frequent a place for a day or two and then play a machine, hopefully be fortunate enough to accumulate some credits and be paid off by the bartender or shopkeeper, and the credits would be knocked off. It was at that point that we felt we had satisfied the elements of a gambling offense. Beyond that, it was the more traditional types of investigative techniques that had to be used. We had to do visual surveillances, we had to follow the persons who made the pickups on the money, utilize electronic surveillance, we had to take the license plates and do the legwork and everything else. It was very, very resource consuming, if that's a proper characterization. But because of the presence of a lot of these documented criminal figures, we felt that it was necessary to do so.*

. . . .

*You can imagine, you know, how much it would cost if we had to send undercovers into every store that has a machine in this state and try to make a case. Necessarily, we've confined ourselves to the larger enterprises, but it's extremely difficult to make these cases.*

Project Ocean thus revealed for the first time that persons affiliated with organized crime were deeply involved in the video gaming business. Carroll testified:

*What has to be emphasized here is that this is not simply an isolated problem; that is, someone playing a slot machine on their own and someone happening to profit over it. What I'm talking about ... here has been the unification of the organized criminal networks and the enterprises into this area which bring with it the violence, the conversion of the gambling-developed money into the narcotics purchasing power.... This is one of the sources of their life blood.*

*Territoriality was ... enforced. Tributes had to be paid if you went into another person's area and that person had no connection with you at all. There would have to be sit-downs and meetings among representatives of the organized crime networks so that they could work out how the profit would be divided....*

MR. MORLEY:

*Do you conclude from the fact that the territories are so closely and jealously guarded by these groups ... that these machines present a significant income potential to organized crime?*

MR. CARROLL:

*Without question....this new form [of gambling] is very lucrative. It provides them with even less exposure, and that's something organized criminal networks are always concerned with—exposure, both public exposure and criminal exposure. When you can do something in an electronic medium -- derive great profits from it -- and never have to go down and touch the machine, you've achieved a pretty good degree of insulation. And that's the type of thing that we have to penetrate in order to make the cases against these people who are involved in this type of activity.*

\* \* \*

The profits were so great, in fact, that organized crime families vied with one another for control of video game manufacturing companies. At least one murder was committed because an organized crime figure refused to share the tribute from one of these companies with his mob superiors.

Despite traditional efforts by the organized crime bosses to insulate themselves from daily street activities, there were witnesses who could break down the insulation. The Commission heard from three who had first-hand experience with the involvement of

organized crime in the operation of video gaming devices.

- Joseph Fay operated a vending machine distribution company in Essex and Passaic Counties. Fay was not a member or an associate of an organized crime family but was more of a victim, even though he profited from the association. He broke the law and cooperated with organized crime members in the distribution of video gaming devices. Through a high school acquaintance, Fay came under the domination of a particularly ruthless man named Robert Bisaccia, known on the street as "Cabert." Cabert was identified in the SCI's 1989 Annual Report as a powerful member of the Gambino/Gotti LCN family and its most significant figure in New Jersey. For security reasons, Fay's testimony had been video-taped beforehand and played in the hearing room. He was questioned by Counsel James F. Villere, Jr.

- John Januska was well integrated into the Bruno/Scarfo family. He testified that he would have been "made" a sworn member of the organization had he been of Italian rather than Polish extraction. (Being "made" describes a ritualistic rite of passage from mere "association" with to membership in an organized crime family.) Januska distributed and received profits from video gaming devices and he engaged in some of the activities identified by Carroll. Januska testified from a remote location, with his voice and video image disguised for security reasons. The questioning was conducted by SCI Deputy Director Robert J. Clark.

- George Fresolone was a "made" member of the Bruno/Scarfo crime family who acted in a managerial role within the organization and oversaw the operations of a corrupt manufacturer/distributor of video gaming devices. He testified about the revenue which could be had from those devices. Like Januska, Fresolone testified from a remote location, responding to questions from Counsel Villere.

## How Organized Crime Moves In

Fay testified he had been in the vending machine business for about a year when he was invited to a social club in Essex County to meet “Cabert” (Bisaccia). Fay related that Bisaccia told him he had been summoned because, while canvassing for new locations for his vending machines, he had approached businesses where Bisaccia already had the account. Asked if he was told the consequences of such competitive activities, Fay responded that Bisaccia told him his (Fay’s) legs would be broken.

*Q. While you were meeting with Cabert were you developing any feelings about who in general terms he might be or about his background or his lifestyle?*

*A. At that point, I really couldn’t figure him out, you know. I really didn’t know what was going on then, but I just figured he owned the vending company.*

*Q. Did you ever have any conversations with anybody, for example, Scocca [Fay’s high school friend, Dominick Scocca] or anybody else, to confirm, to help you identify what Cabert was all about?*

*A. Yes, later on I finally figured it out.*

*Q. How did you figure it out?*

*A. Well, just by being around him and the people, you know. They would call him the boss and you know, just — after awhile, you knew.*

*Q. Did you have any other conversations with Cabert on that day or any other day regarding your staying away from his locations and him telling you what would happen if you didn’t?.... What did he tell you?*

*A. “These are my locations and if anybody goes in there they are going to have a problem.”*

Fay testified, “he [Bisaccia] thought I was a real nice guy and he liked me and any locations that he didn’t want, he would just give to me.” Fay learned quickly that Bisaccia did not “give” anything. In fact

Bisaccia eventually made himself a “partner” in the enterprise.

## Fay Has To Pay — Dearly

Unfortunately for Fay, the primary beneficiary of this partnership was Bisaccia. Fay learned within a few weeks that he would be required to make payments to the mobsters. There was no schedule or procedure followed. Whenever Bisaccia wanted money, wherever he happened to be at the time, he would contact Fay for payment.

*Q. Did you and Scocca ever discuss between yourselves about what this money was for?*

*A. Not really. If it was for Bobby, you didn’t ask any questions.*

*Q. Why did you bring that money to Bobby... somebody you hardly knew...?*

*A. Because I didn’t want to get my legs broken.*

*Q. You were afraid of him, then?*

*A. Yes.*

*Q. Did you consider any alternative to doing business with Cabert?*

*A. Yes, but I didn’t know how [to do it].*

. . . .

*Q. Do you recall what kind of arrangement you typically had with the owner of any of the locations where you had the machines?*

*A. 50/50 split on the profits at the end of the week....*

*Q. Did you negotiate ever with anybody about the percentage or was it always 50/50?*

*A. Always 50/50. People tried to get 60/40 but I only did 50/50.*

*Q. From the time that you first began your business up until early 1985, what was the peak number of locations that you had at any time?*

A. 60, 70.

*Q. How much money — again, we're talking about prior to 1985 — were you taking home after you made the split and taking care of your other expenses?*

A. About \$500.

*Q. And that's on a weekly basis?*

A. Yes.

*Q. How much money were you making after you had taken care of the locations?*

A. Gross?

*Q. Yes.*

A. About \$10,000.

*Q. What kind of expenses did you have after you paid off the locations?*

A. Well, you always had to buy new machines, and you had to repair the machines, give money for contracts, vehicles, gas, payroll and the big one was Bobby. That was the big expense.

*Q. When you say you had to give money for contracts, what do you mean by that?*

A. Well, after awhile, in the beginning, we were able to put these Joker Poker machines out anywhere, see, and after the people knew that it was so lucrative, the vendors would start giving out bonuses or gifts. It started out \$1,000 for a year contract and then it got up to \$10-\$20,000 they would give the location just to get in there, to put our machines in.

*Q. So did it end up that at most locations you had to provide some money up front in addition to the split in order to get in?*

A. Towards the end, every location. Yes.

From a gross of \$10,000 per week, Fay was netting only \$500. Once his machines were adapted to accept paper currency instead of just quarters, however, his receipts increased. His top week, his share was between \$35,000 and \$36,000. Fay was

asked to estimate how much money he paid to Cabert over the term of their relationship.

A. Just estimating, I don't know — \$600,000-\$700,000 — maybe more, I don't know.

*Q. Do you recall the largest [single] payment that you ever made to Cabert?*

. . . . .

A. \$10,000.

*Q. Did it always follow that you'd get a phone call from Scocca who would tell you that you had to make a payment?*

A. Just in the beginning.

*Q. Did you always make these payments directly to Bobby, whether he came to you or you went to him, did it always mean that you made the payments to him directly, or to someone else?*

A. Well, I knew I made the payment even if I gave it to somebody else. I knew that Bobby would get it because, you know, my beeper would stop beeping. He would beep me so much I'd go through 3-4 batteries a day until I'd bring him the money. He'd call me, I just couldn't hide, you know. It's unbelievable.

*Q. Did he call you personally?*

A. Sometimes.

*Q. Did he have other people call you, too?*

A. Yes.

*Q. Did Cabert find any other locations for you beyond the two ... that we just spoke about?*

A. A few...eight or 10.

*Q. Would you consider the locations that Bobby found for you to be good locations?*

A. Maybe one or two.

. . . . .

*Q. Over the course of years, you had business with him for seven or eight years, and you gave*

him six or seven or eight hundred thousand [dollars] and you also said that out of that you got only one good location, is that correct?

A. One that I thought was good, yeah.... I had other good locations.

Q. But they were not from Bobby?

A. Definitely not. Why would he give them to me?

## Unfair Advantage

Despite the drawbacks, Fay learned that, in certain circumstances, he could benefit from the relationship. This once legitimate businessman eventually adopted practices that reduced competition between himself and his fellow vendors and gave him an unfair advantage over the shopowners with whom he did business.

Q. Did you ever have to ask Cabert for assistance in connection with keeping a location or to keep somebody else from trying to move into one of your locations?

A. Yes.

Q. How often did that happen?

A. Once a month or so, it depends, you know. It could be two in a month and then three months go by—say an average of once a month.

Q. On those occasions when you did have an opportunity to ask him for his help, was it effective?

A. Yes.

Q. Were you able to invoke his assistance in regard to locations that you had gotten yourself in or was it limited only to those which he had gotten for you? ...

A. Any location I had.

Q. All you had to do is mention his name and you got help?

A. I got what I wanted.

. . . .

Q. Did you ever use Cabert's name when you went into a place to get a stop [a location where a device was installed]?

A. Yes.

Q. Did you ever use Cabert's name to take away a stop when somebody else already had it?

A. Yes.

Q. To your knowledge, was the use of Cabert's name ever successful in enabling you to take away a stop from some other businessman with organized crime connections?

A. Every time.

Q. Even though that other businessman who had that prior location had organized crime affiliation himself, you were still able to take it away?

A. If he was affiliated with Bobby [Bisaccia]?

Q. Yes.

A. I would not try and get that location.

Q. If he was affiliated with somebody else, then, what would happen when you used Cabert's name?

A. Then I would get the location.

Q. Did you ever have any understanding about territorial rights for organized crime?

A. Well, I knew Bobby's area and that's just the same area I operated in.

Q. Other people [were] in different areas and you didn't go into those areas, then?

A. [That is correct.]

Q. How did you learn that? How did you know what was Bobby's area?

A. Well, he used to tell me that, you know, that is his territory — Bloomfield, Belleville, Newark.

Assistant Attorney General Carroll summarized

the competitive effect of activities, as practiced by Bisaccia, on legitimate businesses.

*An illegal enterprise's control over these type of machines and the territories that they're operating restricts the development of legitimate vending companies. Frankly, if a particular organized crime-backed distributor is in a particular area, it's almost impossible for a legitimate vendor to open a business and start by distributing machines, legitimate amusement machines, in that area.*

### **How Big An Industry?**

As knowledgeable as he was about the business, Fay had difficulty in assessing the size of the illegal enterprise.

*Q. Do you have any idea how many illegal machines are located in New Jersey and where they are concentrated?*

*A. I don't know how many—the concentration is Newark and Paterson. I don't know how many now but back when I was still there, there had to be [a total of] 10,000 machines.*

George Fresolone, the “made” member of the Bruno/Scarfo crime family, had similar difficulty in grasping the full revenue picture. He was helpful through his personal experience in providing information about the southern part of the state — and elsewhere. He answered questions about the operations of Grayhound Electronics, which manufactured, sold or distributed video gaming devices and was owned by Carmen Ricci and Brian Petaccio.

*Q. Do you know if [Bruno/Scarfo associate] Alan Cifelli was the only one who was running a route for stops in the South Philadelphia area for Grayhound?*

*A. No, he wasn't. In fact ... Carmen's brother has ... a route out there, and there must be a lot more people that have routes. I know Carmen's wife in Florida has the biggest route of them all.*

*Q. How did you come to know about that Florida route?*

*A. Well, a couple years back, ... I was in Florida with Pat Martirano [a now deceased high-ranking member of the Bruno/Scarfo crime family], and we were in Hollywood, and we were on the beach one day, and we were going into this diner right on the beach, and there was Grayhound Joker Poker sitting there. I even said to Pat, “Look at this. Grayhound is even down here.” ... [S]o ... during my involvement with Carmen, I had brought that up to him, and he said to me that his wife has a company down there, A & G, and he's the one that told me that she has the biggest route of them all.*

. . . .

*Q. Do you have any idea how many illegal video gambling machines are in operation in New Jersey right now?*

*A. God only knows.*

*Q. Is there any way to know?*

*A. If I had to guess, I would say thousands.*

*Q. Why do you say that there are thousands...?*

*A. Well, ... you go to poorer areas of these cities like Elizabeth, Newark, Paterson, Trenton and walk in these stores and you would see a lot of these—a lot of these games.... I mean, just in “Down Neck” alone, every store I walk in on Ferry Street has got them, and out of the small radius of maybe seven, eight blocks, you're talking— maybe you got a hundred machines there....*

*Q. In your experience, do the people who play these machines in these poor neighborhoods end up making out on the playing of these machines?*

*A. No, it's utterly impossible. What happens is, it works on a percentage basis. If you put in 10 dollars, you're getting back — actually you're getting back, if you're working on 55 per cent, you're getting back 45 per cent of your money.... If you put in the four and a half dollars, you*

*know, then they're going to take 55 per cent of that, so eventually, if you keep playing, you lose the whole 100 per cent that you put in. Utterly impossible.*

\* \* \*

By all conventional measures, Project Ocean, the first large scale law enforcement attack on illegal video gaming, was a success. The areas of activity described by Fay and Fresolone were targeted. The tally reported by Assistant Attorney General Carroll was heartening.

*As a result of the Project Ocean effort ... on March 25, 1985, 500 law enforcement officers seize[d] approximately 400 video gambling devices. We seized approximately \$100,000 in cash and vehicles and related property. We arrested 70 persons. We charged them with a variety of crimes ranging from simple promoting of gambling to extortion, criminal usury, bribery, misconduct in office and conspiracy.... We later returned 10 State Grand Jury indictments....*

This successful prosecution revealed the financial potential of the illegal video gaming industry. Although precise revenue figures are obviously not available, inferences can be drawn that the sums are enormous. Fresolone was able to give the Commission a picture of revenue from one distributor, Grayhound Electronics. As Fresolone's testimony revealed, more money could be made from distribution than from sales.

*[Carmen Ricci of Grayhound Electronics], had to be making at least five or six hundred [dollars] on the [sale of a] machine, so take a machine like that, it would cost like 1,200 to build. For \$12,000, you build 10 machines, and those machines, if you put them in good locations, they can do four or five thousand dollars a machine, so — in the course of a week, so the machine does four thousand a week, and you're earning two of the four thousand, and you got 10 of them out there, you're earning a lot of money,*

*so you can build a lot of machines mighty quick.*

Fresolone helped describe the path the illegal video gaming revenue took through the enterprise. He used as an example another Bruno/Scarfo family member.

*Q. Are you familiar with an individual named Joseph Sodano?*

*A. Yes, I am.*

*Q. How is it that you know Mr. Sodano?*

*A. Mr. Sodano is a made member of the Bruno/Scarfo crime family.*

*Q. Do you know if Mr. Sodano has any involvement with video gambling machines or slot machines?*

*A. Yes, he does.*

*Q. Do you know where they may be?*

*A. North Jersey and New York.*

*Q. And does he have both video gambling machines and slot machines in New Jersey or — do you know how he distributes his business, in other words?*

*A. Well, in New York, he's got the slot machines; in New Jersey, he's got the video machines... just for the simple reason, I mean, there's no difference — there's no difference in the game except that the one has [a place] where the money comes out, that makes it a slot machine. The other one is where the credits is, same game, but one has the return on it.*

*Q. So if it's got a bin where the coins come out, it's a slot machine, and if it doesn't, it's a video gambling machine, is that correct?*

*A. That's correct.*

*Q. How large was the monthly tribute that was generally turned over...?*

*A. Okay, let me explain that to you. The boss received 4,000 [dollars] a month, and out of the 4,000 a month, Joey Sodano paid 3,000 of it, and that was apart from his gambling, his video*

*machines and his bookmaking operation.*

### **It's Hard to Leave**

In 1985, Fay had a change of heart about the manner in which he was making his living. He was arrested for operating a joker poker game, a disorderly persons offense for which he received only a \$500 fine and probation. But it was enough of a shock. Although resolved to get out of the business, he learned that he could not just walk away.

*Q. Following your arrest and the disposition of the criminal charges, did you try to get out of the business?*

*A. Yes.*

*Q. Were you concerned about being arrested again, then?*

*A. Yeah, I didn't want to go through that again. I didn't want to get into any trouble after that.... I didn't want to go to jail. That's a good motivation.*

*Q. Did you speak to Bobby about this?*

*A. Yeah, I told him that I didn't want to do the business anymore and he told me I had to and he was going to send down one of his boys to work with me.*

*Q. To help you?*

*A. To work with me.*

*Q. And did he send somebody to work with you?*

*A. On Monday morning, he sent Buddy Muccigrasso.*

*Q. Did you stay around to have somebody work with you?*

*A. No, I disappeared.*

*Q. How long did you disappear for?*

*A. Around three weeks.*

*Q. Did you hide from Mr. Muccigrasso and from Bobby for that period of time?*

*A. Yes.*

*Q. After three weeks, though, you came back, you surfaced, right?*

*A. Well, I came back because he had one of my mechanics and he was holding him for ransom until I came, at the Finish Line [a restaurant and bar in Newark]. He was threatening to break his legs, or whatever.*

. . . . .

*Q. Once you got word that they were holding one of your guys hostage, you went down there to meet them?*

*A. Yes.*

*Q. What happened as a result of that meeting?*

*A. They told me if I didn't cooperate he's going to take over the business.*

*Q. Who told you that?*

*A. Cabert.*

*Q. Did you get paid for that interest in the business that he said he was going to take over?*

*A. No.*

*Q. Did you continue to have any obligations with respect to the business?*

*A. We made a contract up that he would take over the business and all the loans and machine payments and truck insurance and truck payments and all that and I was not supposed to have any responsibility but they turned the business into their name but not the payments, so I had to keep paying these payments.*

*Q. I gather you were personally obligated then on these loans?*

*A. Yes.*

## Organized Crime Needs Outside Help

During his years in the business, Fay had acquired skills that Bisaccia's associates did not have. Despite their unfair advantages, they ran the business into the ground. About a year after he left the business, Fay received a call.

*Bobby called me up and he wanted to see me. I went down to see him and he said that the business I gave him was a piece of garbage, he said. He lost almost all his locations, which I don't know how. Well, he had this guy Dominick running the business....and he just ran the business down. See, Bobby was just looking for the money, he wouldn't get involved, you know, in the actual working of the business. He would pick someone to run it for him. And this kid messed the whole business up and by the time he found out, it was gone. He had 20 locations left.*

*Q. So it was up to you to build the business back up again.*

*A. Well, he wanted to go back and be partners and I told him that I didn't want to do that but what I would do was take the business back, build it up, sell it and give him all the money and that would be it — see you later.*

*Q. Did you end up doing that?*

*A. Yes.*

*Q. How long did it take you to build the business back?*

*A. About one year.*

. . . .

*Q. After you sold the business and gave the money to Bobby, did you ever get back into the business yourself?*

*A. Well, I was building up a few stops on my own, on the side.*

*Q. Where was that?*

*A. Paterson.*

*Q. You had said earlier that Bobby had a certain area. Was Paterson beyond Bobby's reach then?*

*A. He didn't really go into Paterson so he didn't know what I had going on over there.*

*Q. About how many stops did you end up putting together in Paterson?*

*A. I don't know — at the end, around 100.*

## Once You're Hooked...

Fay soon learned that Bisaccia was not unique in his venality or his ruthlessness.

*Q. After you put together this business in Paterson, did you have an experience with anybody else along the same lines of your experience with Cabert?*

*A. I was approached by Johnny Ventura....a businessman from Paterson.*

*Q. Did you know him before he came to see you?*

*A. No.*

*Q. What did he say to you when he first approached you?*

*A. He told me if I was going to operate in Paterson, I had to pay the right people....*

*Q. Did he tell you who those people were?*

*A. Himself, Michael Perna.*

*Q. Were you aware at the time that Michael Perna was a member of the Lucchese/Corallo [organized crime] family?*

*A. Yes.*

*Q. How about Johnny Ventura?*

*A. Yes.... I didn't know when I first met them, I didn't know who they were but you quickly find out when you're operating in the streets.*

*Q. Exactly how did your meeting come about with these people?*

*A. I was going, taking care of business like usual and I had a salesman and he said he knew Johnny Ventura and Johnny called him or stopped him on the street and said he wanted to see me, so I met Johnny Ventura at the 21 Club in Paterson.*

*Q. Did you eventually have a meeting then with Michael Perna?*

*A. I think it was a day or two later.*

*Q. What did you discuss with Perna at this meeting?*

*A. I told him that I was with Bobby, Cabert, and I didn't know if I could move into another family, like, just change overnight. And he told me that he'd get in touch with Bobby and check me out....*

*Q. Did he do that?*

*A. Yes.*

*Q. Do you recall how much later it was?*

*A. Next day.*

*Q. Did he call you up, or did he meet with you again, or what?*

*A. I met with him outside Johnny Ventura's tavern in Paterson.*

*Q. What did Perna tell you then?*

*A. He told me he talked to Bobby and Bobby gave me the Good Housekeeping seal and I was okay to operate with him.*

*Q. Did you then have to make payments to Perna?*

*A. Yes.*

*Q. Was it the same kind of arrangement that you had previously enjoyed with Cabert?*

*A. Not exactly the same kind of arrangement. This would be every week instead of anytime Bobby felt like it, this would be — I can't remember— one day during the week, every*

*week.*

*Q. So you didn't burn out the batteries in your beeper this time?*

*A. Right, because I knew what day to be there and what time.*

*Q. How much were you paying Perna weekly at the beginning?*

*A. \$500 to start.*

*Q. Did it increase later?*

*A. Yes, to \$1,000.*

Perna and Ventura may have been slightly less greedy than Bisaccia but gave up nothing to him in ruthlessness. Fay testified about how subordinates were educated.

*Q. Did you receive any threats from Perna or Ventura? In other words, did they tell you that you had to worry about what they might do to you, too?*

*A. Well, yeah, it was a way of life, you know.*

*Q. Did anybody ever make an example of you or provide any illustrations of what might happen if you stepped out of line?*

*A. Well, Johnny Ventura went out and they robbed a lot of machines from another vendor. They busted them up and all that and said, "See if you're not with us, this is what could happen."*

*Q. Did they ever do anything to you in particular?*

*A. No, not them—I was giving them money.*

### **An Additional Wrinkle**

The Fay/Perna/Ventura relationship went beyond video gaming devices.

*Q. At anytime during your meetings with Perna or Ventura, did you have discussions about*

loansharking?

A. Yes.

Q. What were you told?

A. He told me instead of giving these people bonuses, the money for contracts for the locations, you come and tell me what they want and we'll go and take care of it. So he told me, you know, "Don't give any money out before you talk to us."

Q. Do you know what ended up happening between Perna and/or Ventura whenever they talked to these people at any of these locations?

A. Usually they'd give them the money and charge interest every week.

Q. So then it was a loan of a sort, then, right? Did you ever collect any of the interest payments yourself?

A. Yes.

At the public hearing, Commissioner W. Hunt Dumont asked Assistant Attorney General Carroll about the mechanics of bringing illegal devices into a legitimate business.

*I'm interested in how the machines get into the store in the first place. In other words, does the store owner learn about these machines and then get in touch with the distributor on behalf of the vending company or does organized crime play a role right at the outset in getting these machines into the store?*

A. There are various ways.... On occasion a store owner, hearing of the potential profitability of these machines, will call up a distributor.... In most cases, a store might have a cigarette machine in it and the person who distributes the cigarette machine, he may say, "I can get you a joker poker "or" I can get you a Grand Prix" or whatever the term of art that is currently prevalent, and "I'll bring you one," and he does it, and it starts — it can come either way, from a shopkeeper to the vendor, from the

vendor offering it to the shopkeeper.

*But there are more nefarious ways that they get into stores. People can be loaned money by a vendor. A person could be in arrears in his repayment schedule. The vendor could then say, "In order to enhance your ability to pay me back, you're going to put a gambling device in there." And the device is placed, and sure enough, the profit will come and everybody will be happy except, of course, now you have illegal gambling in your store and you're risking your store, you've corrupted your commercial environment, and our experience shows you would tend to attract persons who would not necessarily be in the best interests of your business.*

*There have also been situations where machines are placed in premises where a person is simply a front.... There's no other legitimate commercial operation going on except a gambling arcade.*

## **The Breaking Point**

Fay mistakenly thought that Perna and Ventura provided cover. Instead, his troubles worsened.

Q. Once Perna told you that he and Bobby Cabert had worked out a deal with you, were you off the hook with Bobby?

A. I thought I was.

Q. Did you find out otherwise?

A. A few days later, I had to make another payment to Bobby.

Q. Do you remember how much you had to pay Bobby at this time?

A. There were so many times, I can't remember how much it was.

Q. Did this, then, become the time when you became an active agent for law enforcement?

A. Yes.

*Q. Did you set up meetings with Perna and Ventura on behalf of law enforcement?*

*A. Yes.*

*Q. And did you wear recording devices during any of these meetings?*

*A. All of them.*

*Q. And did you testify in grand jury?*

*A. Yes.*

### **Another Vantage Point**

A similar tale was told by George Fresolone about business practices in the South Jersey-Philadelphia area.

Fresolone had been assigned by Nicodemo Scarfo, Sr. (now incarcerated head of the Bruno/Scarfo crime family) to collect tribute from Carmen Ricci and Brian Petaccio, the owners of Grayhound Electronics. Ricci and Petaccio not only manufactured the devices, they distributed them in South Jersey and Philadelphia through a company called B & C Enterprises.

Scarfo suspected that Ricci and Petaccio were cheating him, and he assigned Fresolone to collect tribute from them and to learn as much as he could about their operation. Fresolone testified about the protocols and procedures of this illegal business.

*Q. With regard to the arrangements they had with store owners, do you know if there were any negotiations with the store owners about the payout or the percentage that the store was to get?*

*A. No, that's a set fee. There's no negotiation with the store owners. They—you put a machine in their location and they are entitled to 50 percent of what the machine makes.*

*Q. Did this arrangement with the store owner extend into any aspect of the store owner's liability, for example, if a store owner had a*

*liquor license and the liquor license was jeopardized through an arrest, did your organization help out the store owner in any way?*

*A. No, for the simple reason that ... if they had a bar that was doing, say, 300 a week, you know, the bar was dead, and he had the machine that was doing 2,000 a week, that was 2,000 a week from the machine. What did he care about the liquor license? He just wanted the machine to keep going.*

*Q. Do you have any knowledge about the kind of contractual agreement which was made between the store owner and Grayhound when the machine was put in?*

*A. Okay. What happens there is that ... a lot of times you get into a location, a lot of these people are in trouble and they need money, so what you do is — Carmen would do is that he would give the store owner X amount of dollars, and they would start off putting Pac Man or, you know, regular video games in there, and if they weren't earning enough money to pay him back, Carmen would take those machines out and put in eight liners [a device similar in appearance to a common slot machine] or Joker Poker to operate in the establishment because those machines have the potential of earning a lot more money.*

*Q. So if I understand you correctly, what he would do is hook the store owner into a payment scheme which the store owner couldn't keep up with unless the store owner put in the gambling machines which had a better cash flow, is that correct?*

*A. Well, it's also correct that what happens there is that they would take — if I loaned you \$5,000 to get that spot, we're going to take whatever profits you make from the machine til the \$5,000 is paid back. And if the machine is doing \$20 a week, and I'm only taking \$10 off my original 5,000, I'm going to tell you, hold it, we can't do it like this, let's put these machines in and, you know, so what actually he would do is hope that these other video games wouldn't earn any money, you know, and he would put the eight*

*liners in. He would hook you—and then reel you in.*

Assistant Attorney General Carroll explained that in return for such an association store owners could expect protection by an organized crime figure, the payment of graft, the elimination of competition from non-connected vendors, etc.

*And what generally will happen is once the organized crime network opens up that particular channel of profiting, the vendor who is helping achieve that profit-making will expand, oftentimes the organized crime individuals will give additional stops, put a machine here, put a machine there.... All the while, the criminals are expanding their control both over the vendor and as well as over the industry, because by controlling the vendor, you are 50/50 partners with the shopkeeper.*

*So as the tentacles go out, they become more and more ensnarled into legitimate businesses, and this is, frankly, the very thing that our RICO Act was enacted to protect against. This is a method both for infiltration as well as for profit-making.*

### **Coexistence Between Legitimate Businesses and Organized Crime**

Joseph Fay had a long experience in the business. He was asked:

*Q. In your opinion, is it possible that, in the kind of business that you were engaged in, is it possible to exist without the involvement of organized crime?*

*A. Impossible to exist.*

*Q. Why is that?*

*A. Because you can't operate these, anything to do with gambling, wiseguys are there. Anything to do with cash, they're always there and, you know, they can get, they'll take legitimate people and put them up front and threaten them and*

*make them do things that they don't want to do. They will definitely be in back of any gambling that's involved anywhere.*

John Januska, who operated in Paterson and in Essex and Hudson Counties, told Commissioner Barry H. Evenchick that he thought there was no way to cut out “the family” from the business — “because it’s high stakes.” He did not believe that legalization would put even a dent in the illegal business “...because we already control the industry already, so who are you going to put it in?”

### **Can the Business be Purged of Organized Crime Influence?**

Fay was asked to suggest the best way to get organized crime out of the business.

*Q. Do you think that a crackdown by law enforcement would be effective against the people who operate these machines?*

*A. No, because we used to put our machines out — they cost us 3,000 to 4,000 [dollars], it didn't matter. After we got over 2-3 weeks, we made our money back. Then they could take them if that want. We still made a profit, okay. We would just go out and buy new ones. It didn't matter. They don't have the manpower.... They have to go out every single day and take every machine every single day to hurt the vendors. There's just no way — they make too much money.*

*Q. Do you feel legalization might lessen the impact of organized crime?*

*A. No way.*

*Q. Still going to exist?*

*A. It's the cocaine, gambling, stealing, whatever, I've seen things, I know. There's no way. I mean it's right there on the corner, the corner store. It's different if you want to go to Atlantic City — you have to get on the bus, this and that. It's a different story, but it's right there. You live*

*right in the neighborhood. It's a tease.*

*Q. Is there any way for anybody who plays these machines in the long run to make any money from them?*

*A. Never.*

*Q. Anybody who plays in the long run loses, then?*

*A. Yes.*

Fresolone responded similarly. He said a crack-down on video gaming machines would be ineffective.

*Because what happens there is that they take the machines, and a week later, the machines are right back, you know, and they're doing the same thing again. You know, it's not — you know, a regular crackdown isn't going to help it because the laws ain't — the laws ain't strong enough, and it's money, it's earning money, the machines earn a lot of money there.*

*Q. In your opinion is there any way to stop the illegal use of illegal video gambling machines?*

*A. Sure, impose a heavy fine on the store owners and the vendors or prison term or both.*

## **Payoffs**

Carroll told the Commission that official corruption, the most insidious consequence of organized crime involvement, was discovered during the course of Project Ocean.

*We have found that in many areas where completely legitimate police officers and licensing officials have close alliances and friendships and normal daily interaction with local businessman, as most good police departments and licensing bureaus would, and you have these same originally legitimate businesses then getting illegal gambling devices, then the corruption sometimes begins, because now you have a*

*store owner who may be stepping across that line. And with him, comes the knowledge and the acquiescence of the police officers and officials in the town. And we find that it's fertile for this type of corruption.*

*It ranges from what I would term a noncriminal type of avoidance of the problem...for example, a local licensing board may require that every amusement device in town have a sticker or a stamp, and all of a sudden, Joker Poker machines appear without any stamps and so forth.*

*Police officers... have been tempted by the large amounts of money that have been offered, to look the other way in the operation of these type of machines....*

A particularly revealing exchange took place between John Januska and Commissioner Kenneth D. Merin regarding official corruption.

*Q. Did you ever attempt to bribe or pay off a public official who rejected the bribe?*

*A. No.*

*Q. Is there any area of the state, any particular city or town, that you felt you should not go into because of that reputation?*

*A. I never experienced it, no.*

*Q. So basically, you felt any city or county in your area was fair game. You could get to whomever you had to get to in order to achieve the protection from the public sector?*

*A. Right.*

*Q. We're trying to figure out how we can stop this sort of thing from occurring. Is there anything that you can suggest to us as a way of controlling the public officials? Is it just throughout the total system? Is there anything you can do, you can suggest, that we can do to help to control this?*

*A. Only way you can do it is banning the machines that are only used for gambling pur-*

poses anyway.

*Q. You mentioned you'd made payoffs to public officials for other things other than the gambling machines.*

*A. Yes.*

*Q. Is that pretty easy to do? You had no problems doing that? It was well-known that you could bribe people?*

*A. I was in the business 25 years; I only spent four years in jail.*

*Q. What kind of people would you go after? Are you talking about building inspectors, safety inspectors? Was it people in a higher level of the city government?*

*A. We got to some mayors and got to, you know, the police. Building inspector, I didn't need none of them for a machine.*

A similar exchange took place between Januska and Commissioner Evenchick and Chairman Zazzali:

#### BY COMMISSIONER EVENCHICK

*Q. Sir, let me first ask you by way of a general question if you would comment on the extent to which the operation that you have described involved payoffs to local or municipal officials.*

*A. I didn't pay anybody. I controlled the Passaic area pretty good, and I was, you know, paying people for other businesses I had in Passaic, and the numbers business, sports business — same thing in Hudson county — so I didn't pay any extra, if that's what you're asking.*

*Q. Well, in these times of cost effectiveness, I suppose that's favorable testimony. What about with specific regard to the video gambling machines, are you aware of any illegal payoffs to any municipal officials, whether by you or by those whom you've identified?*

*A. I don't know any individual that got the money itself, but sure, we discussed that this guy*

*was paying that guy and that guy was paying this guy, yeah, sure. You have to pay the law somewhat and you pay as little as possible.*

*Q. How extensive was the involvement of municipal officials in these kinds of illegal operations?*

*A. In my illegal operations?*

*Q. Yes, sir.*

*A. Well, let's put it this way. You see, between Passaic County and Hudson County, that's a little bit of Hoboken, Jersey City, I did 290,000 [dollars] in the numbers business. I kept three per cent on the side for the politicians and the cops. And I also had a piece of the numbers business in Jersey City ... which consists of two million. So they had considerable payoffs.*

#### BY CHAIRMAN ZAZZALI:

*Q. And just to follow-up, you're saying that these payoffs would cover both the video poker machines and your other businesses, you were getting basically two for the price of one?*

*A. Well, in my instance, yes.*

Januska could not remember the exact number of public officials he had bribed, only that it had been "quite a few."

Fay testified about his experiences with public officials in the areas where he conducted his business.

*Q. During the time that you were putting machines in Newark, did you ever have to make payments to any public officials in connection with your business?*

*A. Yes.*

*Q. What kind of payments did you make?*

*A. How much?*

*Q. Yes.*

*A. Usually it was about 1,000 a month here and*

*there. I don't remember, that was in the beginning.*

*Q. Were those payments for permits or were they to allow you to operate legal machines or illegal machines? Do you understand my question?*

*A. It was a payoff. If you didn't pay, you wouldn't operate.*

*Q. While you were in business in Paterson, did you make payments to public officials in Paterson?*

*A. Yes.*

*Q. Did you make payments to police officers?*

*A. Yes.*

*Q. What was the purpose of the payments to police officers?*

*A. I would make payments to the police officers in Paterson because they would only give you a license for three machines. They would take a payoff each week and I had maybe 10 machines in one place, or eight machines in another place and they would tell me if anything was going to come down beforehand so I could pull my machines out and be legal.*

*Q. So if any authorities were going to come in and try and enforce the three machine limit, you'd know about it?*

*A. Yes.*

## **Kinds of Locations**

Even though no witness could be precise about the number of video gaming devices and their locations in New Jersey, they confirmed that video gaming devices are located in many different types of locations. Fay, as a distributor of video gaming devices, was particularly well qualified to describe the types of outlets for the machines.

*Q. You spoke earlier about having 60 or so Joker Poker machines out on the street. What kinds of*

*locations were they in by that time?*

*A. Candy stores, bars, gas stations, funeral parlors, car washes.*

*Q. You had Joker Poker machines in funeral parlors?*

*A. One funeral parlor.*

*Q. Do you recall how many machines you had in that funeral parlor?*

*A. Five or six, seven, it depends.*

*Q. Do you know where in the funeral parlor exactly these machines were located?*

*A. In, like, a lounge area where you would, whatever, have coffee or, you know.*

*Q. Was it accessible to anybody who could walk in off the street?*

*A. If you had a quarter, you could play it.*

*Q. How did it come about that you were able to locate Joker Poker machines in a funeral parlor?*

*A. I had [machines in] a candy store in Newark and a lot of customers, and one customer was this woman around the block that — I think she owned the funeral parlor, worked there, whatever — and the store would close at 1:00 in the morning.*

*Q. The candy store?*

*A. The candy store — and they were still playing. They were ready for action now, you know. The guy had to go to sleep sometime, the guy that was running it, so after awhile they came up with the bright idea that they would put it into the funeral parlor and this way they could run it 24 hours a day and they didn't have to leave.*

*Q. It didn't matter if the candy store had closed down then?*

*A. Right.*

*Q. So they kept the funeral parlor open for 24 hours to play these Joker Poker games?*

A. Yes.

*Q. Did you have other locations besides that funeral parlor where you were running the Joker Poker machines for 24 hours a day?*

A. Yes.

*Q. Where were they?*

A. Well, just about all of them went 24 hours. Like — I had a fire house, people's homes, some candy stores— stayed [open] 24 hours.

*Q. You had a fire house, do you know if it was a municipal or a volunteer?*

A. No, I didn't care.

*Q. What town?*

A. Belleville.

*Q. You also had machines in people's homes?*

A. Yes.

*Q. Do you know about how many machines did you put into people's homes?*

A. Usually two or three, depending on how much action was there, how much money you could make, how many people were waiting to play.

*Q. How many of these places did you have? How many individual private homes, do you recall?*

A. Not too many, maybe eight or nine.

*Q. Did you make the same kind of split with the private homeowner as you did with any other location — 50/50 split?*

A. Yes, actually, I did give them 50/50 but what would usually happen was the guy that had it in his house was addicted to the game so they usually ended up with nothing anyway.

## **Why People Play**

Fay described the attraction of video gaming devices.

*Q. You say that these things would play a quarter. For a quarter that you could play on the Joker Poker machine, what kind of a payout was possible for the best winner?*

A. Joker Poker machine, you could win for the best hand, \$3,000 for a quarter.

*Q. Later, when you were able to put the bill acceptors on, I would assume that the payoff increased also. In other words, somebody could win more than \$3,000?*

A. Yes.

*Q. How much money could somebody win — at the peak?*

A. Maximum, \$40,000.

*Q. Did you ever have a machine that paid out \$40,000 to a winner?*

A. Yes.

John Januska testified about methods employed to entice and keep players. His was a marketing approach designed to target a neighborhood in which devices were located. His job was tricky. Since he obviously could not advertise, he had to rely on word-of-mouth.

*Well, you could set the machine whatever you want, you know. What you did is, if it was a new stop, you'd put the payout high, say you'd put it at 80 percent, and then as it progressed, the neighborhood would know, you know, you can make pretty good money on the machine. Then you'd go back in and reset the machine down. Next time, you might bring it down to 60 percent. Next time, you bring it down to 40 percent.*

. . . .

*Q. And did I understand you to say that you could fix the machines to pay out whatever you wanted to, to yourselves and to the players of the machine?*

A. Yes. There's a chip on the board there, you just change the odds.

*Q. And in the beginning, the payout to the player was high so as to induce him to continue playing?*

*A. Yeah, entices him to play more, and he tells his neighbor.*

*Q. And you'd get pretty good business in the beginning, is that it?*

*A. ... [Y]ou always got pretty good business all the way through, but if it slacked—what we did is eventually bring it down so there would be more profit for us, and then when you see the business started to slack off, you'd bring it back up to get the business back in.*

George Fresolone testified that Grayhound had eliminated the coin mechanism from some of its devices “for the simple reason, who wants to deal with change?” He had been told by Carmen Ricci that Grayhound was going to start using a new bill acceptor which would recognize \$50 and \$100 bills. “So you can put a lot of money in it and it doesn’t give you any change. Once you put the money in, it stays in.”

According to Fresolone, Carmen Ricci was as astute about marketing as Januska. Fresolone related an episode in which Ricci advised a customer of Fresolone not to get too greedy.

*He told me — we had a problem one time that the guy that I was selling the machines to in New York, Richie Martino, wanted to increase his earning power on the machines, he wanted to change the percentages, and Carmen told him — Carmen told me that, you know, at the time, they were paying out 55 or 56 percent, and that was good business, that money went back for the simple reason that people came back and played.*

Fay related a video gaming vignette which should cause anyone to pause.

*One day I was in one of my locations collecting money and a guy walks in to buy a pack of cigarettes and he noticed that the machines were*

*mobbed with people. He asked me what it was. I said it's a keno machine and you put a quarter in it and you might win a dollar or two. So he put a couple of quarters in and the first day I think he won about \$100....[T]hen he was back every single day after work and after about two or three weeks he was there every day, nine in the morning. Suddenly his Jaguar disappeared and he lost his job. His wife came looking for him and it was a mess. His wife would come down every day trying to get him out of there because, you know, he was blowing all his money. And what happened, she started playing the machine. And then they just disappeared off the face of the earth. I guess they didn't have any money left. I didn't see them anymore.*

## **Organized Crime Families Vie For Control of a Lucrative Industry**

The issue of organized crime control of video gaming manufacturing companies is complicated by relationships between blood relatives as well as between organized crime families. Disputes over control were usually settled by high-level organized crime “sitdowns” in New York, New Jersey, Florida and elsewhere. The case of Myron Sugerman is enlightening.

Sugerman’s late father Barnet was a long-time partner of Genovese capo Gerardo Catena in Runyon Sales, a vending machine firm in Springfield. Meanwhile, Joseph Sodano, a Bruno family member, had become a silent partner in the mid-1970s with Myron Sugerman in U.S. Amusements, Inc. of Hillside. According to Januska, however, in the early 1980s, when it became known in mob circles that Sodano and the Bruno family were making huge profits from the relationship, Louis “Streaky” Gatto of Fairlawn, a Genovese capo, staked a claim to Sugerman on behalf of the Genovese family, based on the prior partnership between Catena and Sugerman’s father. As a result of this claim, a meeting was held in New York with leaders of the Genovese and Bruno families during which it was

decided that Sugerman did indeed “belong” to the Genovese family. The Sugerman operation was such an important source of revenue to the Genovese family that, according to information picked up in 1983 by federal electronic surveillance, the family boss, two capos and an associate often made decisions involving the firm’s daily operations.

Januska also testified that Sodano took “under his wing” young Salvatore Mirando, whose late father Joseph was a Bruno associate subordinate to Sodano. Januska said Sodano got Mirando a job with Sugerman so he could learn the vending and video gaming machine business and eventually set up his own business under Sodano. Januska said that after Sugerman was taken away from Sodano, Mirando left Sugerman and, with money provided by Sodano, set up his own business. Januska testified that Mirando, who lives in Holmdel, is “a giant in the business today,” worth more than \$20 million.

For his part, Mirando denied virtually everything Januska said about him. Testifying several months after the public hearing, Mirando said he worked for Sugerman from 1979 to 1982 before setting up his own business, SMS Manufacturing of Lakewood, with Vincent and Pasquale Storino, in 1982. He said the three each put up \$10,000 of their own money to begin SMS. He said he bought the Storinos’ interest in the firm in January, 1990. Mirando said Sodano put up none of the money used to start the business and got no proceeds from it. He characterized Sodano as “a casual acquaintance and friend” who was also a friend of his father.

The Storinos are nephews of the late Vincent James Craparotta, a Lakewood car dealer who was a Lucchese organized crime family associate. According to an April 18, 1991, news release from the Attorney General’s office, Craparotta was taking payments from “two of the owners of SMS,” presumably his nephews. Craparotta was beaten to death with golf clubs on June 12, 1984, because he would not share that tribute with his superiors in the Lucchese family, according to the Attorney Gen

eral’s office. The Attorney General’s office also said that Sodano was receiving tribute from SMS “from a third owner” of the firm.

Within a month of Craparotta’s murder, according to the Attorney General’s office, a dispute arose between the Lucchese and the Bruno/Scarfo families as to which controlled SMS. Other “sitdowns” occurred, some in Florida, during which it was decided that the Lucchese group would get a two-thirds share of the profits, and the Bruno/Scarfo group only one-third.

### **More Prosecutions**

On April 18, 1991, Attorney General Robert J. DeLufo announced the indictment of 53 alleged members or associates of two separate organized crime families operating in New Jersey, New York or Pennsylvania. Some of the charges center on control of the illegal video gaming industry. The charges included the allegation that Craparotta was murdered in 1984 because he would not share any of

the tribute he was receiving from the profits of SMS Manufacturing. The indictments also included allegations that various of the defendants were trying to muscle in on other vending machine ventures of Salvatore Mirando in the Point Pleasant area. Key witnesses before the State Grand Jury included George Fresolone and John Januska.

On March 7, 1991, Carmen Ricci, Brian Petaccio, Alan Cifelli and Grayhound Electronics were indicted by a State Grand Jury on racketeering charges involving the sale of video gambling machines. George Fresolone was a key witness before the grand jury in that case also.

Myron Sugerman pleaded guilty on March 24, 1987, to federal charges involving the illegal transportation of gambling devices to Washington, D.C. The charges grew out of a federal investigation of the video gaming industry called Operation Vidgam. He

was also a defendant in Operation Ocean in Essex County.

## IV

# THE VICTIMS

The plight of compulsive gamblers and their families is a subject of great concern to the Commission. There is abundant evidence that the problem is a serious one. The Federal Gambling Commission concluded in 1976 that when widely available, legal commercial gambling leads to significant increases in compulsive gambling. “This is consistent with the hypothesis that widespread availability of gambling in a legal form leaves a portion of those classified as potential compulsive gamblers to actualize their potential compulsion,” the federal commission report stated.

Arnold Wexler, Executive Director of the Council on Compulsive Gambling of New Jersey, Inc., has testified frequently before legislative committees on the problem of compulsive gambling in New Jersey. He was questioned at the SCI public hearing by Deputy Director Clark.

*Q. Would you say [video gambling is] any more addictive than any other forms of gambling?*

*A. From the stories I've heard from South Dakota, from Maryland, from Delaware, from the Midwest and from the south, where they have these [video] machines — in fact, I just heard stories from California recently — people that are experts in this field tell me that it's probably the most addictive form of gambling there is today.*

*Q. Do you know why they say that?*

*A. Probably because of the quick, fast action.*

Illustrative of this point is a telephone call received by Mr. Wexler shortly after his appearance at the public hearing from a man who believes that video gambling has ruined his life. This man, whose

identity the Commission is protecting, was interviewed by SCI counsel.

The man claimed to have lost at least \$50,000 at video gaming machines in Paterson. He obtained the money by extortion from a person who had shown him kindness, given him a job and a place to sleep. He told counsel that he did not have a gambling problem until he was introduced to video devices, which he found to be almost hypnotic in their action. He obtained credit from operators to play the machines and also played with money designated for marital support, even though he had previously been on good terms with his ex-wife. Eventually, he lost his business, his home, his car and his family.

Hoping to recoup his losses quickly, the man had embarked upon a new career operating video gaming devices in a “coffee shop” in Paterson. The devices were ordered and delivered but before they could be plugged in, he was arrested and charged with extortion. The man suffers from numerous serious maladies, which he believes were caused or aggravated by his standing for uncounted hours at video machines.

SCI Counsel Clark asked Wexler if he would be opposed to legalization of video gambling.

*We are not a prohibition group. . . . But I could tell you that the State of New Jersey today is addicted to gambling. We're in a position where we have 26 bills right now — the last time I counted the bills — dealing with the new forms or added forms of gambling. . . .*

*I don't know where the State of New Jersey is going to stop with this legalization of gambling, but we've created a major epidemic in New*

*Jersey with compulsive gambling....*

*Q. Do you have any estimate as to how many compulsive gamblers there are in New Jersey today?*

*A. We believe that there are 400,000 compulsive gamblers in New Jersey, roughly. [We] also believe that 350,000 spouses are living with an active [compulsive] gambler in their home and 700,000 children living in a house with an active [compulsive] gambler, and that's the real part that bothers me.*

The Commission is also concerned about the effect of these devices on minors, although the lack of information is frustrating. This is a problem deserving special attention.

Mr. Wexler testified:

*You know, I have three articles that talk about video games. Here's one from The [Star] Ledger, May 6, 1982, out of Florida. It talks about an 11-year-old boy who's sitting in jail because he was hooked on video games. Here's another one from the News Tribune in . . . 1982, talks about "video games called cause for truancy." Two women said their children had been skipping school to play video games. Here's one out of California about a boy pulled from a chimney, and he and his friend were charged with home burglaries out of Los Angeles, two nine-year-old boys, and it talks that they ripped off homeowners for \$3,800 worth of jewelry and \$500 worth of cash to play video games. So we have some documentation of it.*

*You know, you talked before about youth. Ninety-six percent, we know from Dr. Custer who recently died, who was the foremost authority on compulsive gambling in New Jersey, Dr. Custer did surveys and showed that 96 percent of all compulsive gamblers start gambling before age 14.*

. . . .

The Commission is aware that many experts on mental health problems of juveniles believe that gambling among minors is growing in frequency and seriousness. Law enforcement and criminal justice literature report a growing belief that video game playing among young people, coupled with gambling, correlates with increased crime. A 1987 British study concluded that "criminal" video game players were distinguished from their non-criminal counterparts by starting younger, playing more frequently, spending more money and having more problems with personal relationships.

Mr. Wexler acknowledged that there are few precise statistics regarding the problem of illegal use by minors of video gaming devices. However, Business Week magazine, in an article published in April, 1991, reported:

Especially troubling is the surge of gambling by teenagers. According to a 1987 study of New Jersey high school students by Henry R. Lesieur of St. John's University, 86 per cent had gambled at least once a week. Atlantic City casinos, where gamblers must be at least 21, turned away 200,000 minors in 1987 and escorted an additional 35,000 from their floors. But often no one is around to keep minors away from automated gambling machines, such as player-activated lottery terminals.

New gambling technologies are driving much of that growth. They have propelled the booming lottery business and revitalized the sluggish casino and horse racing industries by making betting easier, quicker, more exciting and more seductive. New video versions of slot machines and card games, say casino executives, are captivating younger players raised in the video age.

Even as this report was in its final stages of preparation, a two-year study by researchers at the University of Medicine and Dentistry of New Jersey concluded that the lottery is the most common outlet for compulsive gamblers. If this is true, proposals to authorize a state-run video lottery deserve special

scrutiny.

# V

## SOLUTIONS?

As was stated in the Introduction to this report, the many issues raised by video gambling, while perhaps superficially simple, are in fact exceedingly complex. The problems are not easily soluble and the Commission believes the Legislature and the Governor are the appropriate entities to decide the issues. Nevertheless, the Commission believes that its investigation and public hearing have already contributed significantly to that dialogue. The discussion in this report of the issues adds to that contribution.

One of the most difficult of these issues is that of enforcement of the criminal laws against illegal possession or use of video gambling devices, which is intertwined with the issue of legalization. Stated another way, if the machines cannot be policed effectively, is legalization the only alternative? Or should nothing be done at all?

Clearly, the status quo is unsatisfactory. Thousands of machines are already in use, especially in urban areas where those least able to afford to play them are losing money. Aside from purely humanitarian concerns about these players as well as from the fact that all players are being cheated in playing a low percentage game, much of the income is going to organized crime. Low priority policing and a lack of regulation are, in effect, subsidizing a major segment of the underworld.

### **Increased Law Enforcement**

Because of technological considerations, illegal machines are difficult for police to detect. And because penalties for violations of the gambling statutes, even when they apply, are minimal, law

enforcement understandably gives a higher priority

to investigating other offenses. Nevertheless, the Commission believes the Attorney General should ask the Legislature to adopt whatever amendments are necessary to remove any uncertainties about the applicability of the gambling, forfeiture and racketeering statutes to offenses involving illegal video gaming machines. In this connection, consideration should be given to improving local licensing procedures, including the numbering and tracking of individual machines.

Since the prime impetus for the growth of video gambling is the huge economic gain which can be derived, the greatest deterrent to it may be found in raising the economic stakes for getting caught. Certainly manufacturers and distributors of machines, as well as members of organized crime, should be targeted. But shopowners and other entrepreneurs looking to make a quick, easy buck should not be ignored. The grocery store owner must know that he stands to lose his property. The tavern owner must realize that he is putting his liquor license at risk by permitting illegal video gambling. Both may think a little harder about it than if all they have to fear is a small fine and loss of the offending machines. And the threat of the forfeiture of their major assets may induce small businessmen to cooperate with law enforcement in proceeding against distributors and manufacturers of the machines.

### **Banning Video Games**

The enactment of laws to impose a complete ban on any electronic device which can be easily converted to illegal use would eliminate the present law enforcement dilemma of distinguishing the "good" machines from the "bad." Any such machine would be subject to seizure on sight as per se contraband,

without the need for police to undertake lengthy surveillance to witness its being used for illegal purposes.

This simplest-to-impose and easiest-to-carry out solution has one obvious major drawback. It would outlaw not only unlawfully used machines, it would also ban those which are used innocently, including those played for inexpensive prizes along the boardwalks and at amusement parks, as well as those which exist — ostensibly for pure entertainment — throughout the state.

### **Government Inspection and Regulation**

The technology already exists to inspect video devices to ensure that they will play legally permitted games only and to determine easily if they have been tampered with. According to the testimony, there is no technological reason why the Division of Gaming Enforcement laboratory could not apply this knowledge, now used to guarantee the integrity of slot machines in Atlantic City's casinos, to ensure that video amusement machines are not used for illegal gambling. There are, however, two sizable practical pitfalls in this idea.

First, although no one can give even a rough estimate of the number of video games — legal and illegal — in New Jersey, the number may be more than the DGE laboratory could possibly handle, even with a significant increase in staff.

Second, the cost of inspecting and securing all the video machines in New Jersey would be substantial. That cost should not be borne by the State, and it is unlikely that many owners of video games would be willing to foot the bill, as the casinos do, to have their machines tested, especially when the result would be to render the machines unfit for their most lucrative use.

Although it is unlikely that the State would enact a universal system of regulation for all such games, the Commission believes that the State should at least endeavor to apply the available security tech-

nology to the arcade games conducted with its approval along the boardwalk at shore resorts and at amusement parks. To accomplish this, DGE should, consistent with a consolidation plan submitted to the Governor by the Attorney General, assume the responsibilities of the Amusement Games Control Commissioner in the Division of Alcoholic Beverage Control.

### **Legalization of Video Gambling**

Legalizing video gambling would require not only a referendum but also an inspection and regulation scheme like that discussed in the previous section, as well as a mechanism to screen and license operators. It is almost impossible to estimate either how much such a regulatory system would cost or how much play and revenue would be generated.

More than any other response to illegal video gambling discussed in this report, legalization presents a serious threshold policy question: Should New Jersey introduce yet another form of legal gambling, especially in light of the often expressed criticism of the extent to which New Jersey already relies on gambling revenues and the fact that any new form of gambling will inevitably create new gamblers, including some compulsive gamblers. At least one commentator, New York Times columnist William Safire, in the column cited earlier, wrote, "It is wrong for the state to exploit the weakness of its citizens."

### **Video Lottery**

In 1982, then-Attorney General Irwin I. Kimmelman ruled that although games played on a player-operated video terminal satisfied the legal definitions of a slot machine, "there is no constitutional or statutory bar to the incorporation of a consumer operated video game's terminal into ... the New Jersey State Lottery." However, lottery games using video gaming devices were never implemented because on March 1, 1983, then-Governor Thomas H.

Kean signed a law prohibiting their use by the lottery, overturning the impact of that legal opinion.

The Legislature is now considering bills which would authorize the Lottery Commission to install video lottery terminals in taverns and restaurants serving liquor. But a fundamental legal question regarding this proposal remains unanswered and must be resolved, assuming one of the pending bills is enacted. That question is whether the program would be limited to mere video versions of the familiar lottery games or could be extended to so-called “inter-active” video games in which the player makes certain choices or decisions in response to his initial draw of “cards” or numbers. Obviously, the latter type of game which, according to the 1982 Attorney General’s opinion, is permissible without referendum under present lottery authorization, has a much greater potential for raising new revenue, and along the way creating an untold number of new gamblers. An inter-active video lottery would also present at least a perceived threat to the Atlantic City casinos’ slot machine trade.

This proposal requires careful review of its policy implications by the Governor and the Legislature. Furthermore, it suggests a need for the current Attorney General to review the issues addressed in the 1982 opinion, the reasoning of which can be questioned, for it makes no sense to authorize a video lottery including inter-active games if the Attorney General doubts that such a program could survive an almost certain legal challenge.

And lastly, the recent report by the University of Medicine and Dentistry of New Jersey on the relationship between the lottery and compulsive gambling deserves careful scrutiny as the pending bills are considered.

\* \* \*

One final note — in grappling to find a solution to this problem the policymakers should not expect that any form of legalized video gambling or lottery will put the illegal games out of business. Thus, there will always be a need for some level of law enforcement response. And should there be any legalization of new games, there will also be a need to provide additional resources, either from public funds or contributions by legalized gambling entrepreneurs, to programs that refer and treat compulsive gamblers.

This report has endeavored to summarize complex and difficult issues. We trust that the facts presented and the solutions discussed will enable the policy makers to act wisely for the benefit of the people of New Jersey.

*The investigation that led to this report was directed by SCI Counsel James F. Villere and was conducted by Special Agents Michael R. Hoey and Paul P. Andrews Jr., Intelligence Analyst Debra A. Sowney and former Special Agent James J. Sweeney. Assistance was also provided by attorneys and investigators from the State Organized Crime Task Force in the Attorney General's Office and detectives from the State Police.*