



Australian Government

Australian Institute of Criminology

Productivity Commission Inquiry into Gambling AIC Submission No 2009/001 (31 March 2009)

In 1999, the Productivity Commission's report into gambling found that the liberalisation of the gambling industry, in particular with regard to the number of gaming machines, had produced social costs as well as benefits (Productivity Commission 2008: 8). Since the publication of that report, revenue paid to government in the form of gambling/gaming taxes and levies has increased from \$4,397 million in 2000-01 (32% of net takings from gambling) (ABS 2002: 7) to \$5,633 million in 2004-05 (36.4% of net takings from gambling) (ABS 2006: 6). Despite the benefits of this increased revenue for government, questions arise concerning the social costs caused by gambling.

The Australian Institute of Criminology (AIC) welcomes the opportunity to contribute to the current inquiry into gambling and wishes to draw the Commission's attention to the issue of gambling-related crime and its ensuing social costs.

Gambling-related crime

Generally, gambling-related crime can be characterised as offences committed in consequence of, in order to support, as a significant result of, or significantly related to an individual's desire, need or compulsion to gamble (Sakurai and Smith 2003: 3). Whilst it is hard to quantify the extent of gambling-related crime there have been a number of studies that provide evidence of gamblers, in particular problem gamblers, as being at high risk of committing crimes due to the presence of some pathology (Sakurai and Smith 2003: 3). The work of the Australian Institute of Criminology (AIC) has played a key role in this research:

- Australian Institute of Criminology and Price Waterhouse Coopers, 2003, *Serious Fraud in Australia and New Zealand*, Research and Public Policy Series, no. 48, Australian Institute of Criminology, Canberra
- Sakurai and Smith 2003, *Gambling as a Motivation for the Commission of Financial Crime*, Trends and Issues in Crime and Criminal Justice series, no. 256, Australian Institute of Criminology, Canberra

The relationship between problem gambling and crime

The relationship between gambling and crime can be approached from a number of perspectives. First, cases can be categorised according to the extent to which an offender has a gambling problem. Two alternatives are available here - the presence of a pathological gambling problem, and the presence of gambling in connection with the offender's circumstances or how the proceeds of the crime are disposed of, but without a pathological aspect.

A second approach looks at the cause of the offending. This can also have two alternatives - the presence of gambling as a primary, although not necessarily the sole, cause of the offending, and the presence of gambling in connection with the offender's circumstances or how the proceeds of the crime were disposed of, but without being a primary cause of the offending.

An additional question concerns the extent to which crimes of dishonesty are committed before or after the onset of a gambling problem. In some cases, offenders may incur substantial debts as a result of problem gambling and then turn to fraud in an attempt to discharge those debts. In other cases, offenders may incur debts and begin gambling in an attempt to raise funds to discharge those debts, and continue gambling subsequently.

Finally, gambling may simply be incidental to fraudulent activities and used as a recreational activity which could be engaged in more readily using the proceeds of the fraudulent activities.

Unfortunately, much of the prior research into gambling and crime fails to differentiate between gambling which led to the commission of fraud, gambling to raise funds to repay stolen money, or gambling as an activity incidental to the fraud. The current inquiry would benefit from an examination of these different drivers of gambling-related crime.

The nature and size of problem gambling

Problem gambling ranges in seriousness from 'mild and short in duration through to severe and chronic' (Sakurai and Smith 2003: 4). Studies over the last ten years have revealed that as individuals' addiction increases so does their propensity to suffer breakdowns in personal relationships, loss of employment, bankruptcy and they are more likely to turn to illegal means of income generation (Sakurai and Smith 2003: 5). Whilst not all problem gamblers engage in illegal activity, it is a common last resort for those seeking an alternative means of satisfying their addiction and/or as an attempt to address indebtedness (Sakurai and Smith: 5). In order to support their expenditure on gambling, problem gamblers sometimes seek alternative sources of income. At first, they are likely to borrow money from family, friends and colleagues, often without paying it back. Some may then sell their assets, including personal belongings to pawnbrokers, or borrow money, often at high interest rates. Once debts have accumulated beyond their means, problem gamblers may seek out illegal sources of money (Sakurai & Smith 2003).

Principles of environmental criminology which identify the drivers of crime as being related to the presence of opportunities to act illegally, motivated offenders and the absence of capable guardians support the findings of the Productivity Commission that the 'prevalence of problem gambling is related to the degree of accessibility to gaming devices'. Sakurai and Smith (2003) argue that gaming machines have the potential to contribute greatly to the number of problem gamblers as they are highly accessible and readily available playing modes that allow intensive and independent play (Sakurai and Smith 2003: 2).

The Productivity Commission's 1999 report estimated that problem gamblers represent 2.1 per cent of the Australian adult population (one per cent with severe problems; 1.1 per cent with moderate problems). Although the number of problem gamblers appears to be small, they contribute to approximately one third of total expenditure on gambling in Australia. In addition, their annual losses average \$12,220 compared with under \$650 for other gamblers (Productivity Commission 1999: 19 & 21).

It was reported in 2002 that Australia had 185,512 (ABS 2002: 7) gaming machines a figure that by 2005 had risen to 199,930 (ABS 2006: 6). Surprisingly, revenue from gaming machines, whilst still the most lucrative of all sources, dropped from 63 per cent in 2000-01 (ABS 2002: 6) to 56 per cent in 2004-05 (ABS 2006: 5). This figure denotes a decrease in the use of gaming machines, however not necessarily in the rate of overall gambling. Annual expenditure on gambling per person, based on overall revenue figures, has increased from \$944 in 2000-01 (ABS 2002: 7) to \$996 in 2004-05 (ABS 2006: 5).

In North America, research has found higher rates of problem gambling amongst adolescents than amongst adults. For example, in a meta-analysis of research conducted at Harvard Medical School (Shaffer, Hall and VanderBilt 1997), rates of adolescent gambling problems were found to be more than double those of adults. In Canada, the Alberta Alcohol and Drug Abuse Commission (2002) reported that 41 per cent of youth in Alberta in grades 7 to 12 had gambled in the previous twelve months. Problem gambling behaviour was displayed by 3.8 per cent of the sample, and 5.7 per cent of adolescents demonstrated hazardous gambling patterns. More recently, researchers in Nova Scotia reported that the proportion of individuals who were 'at-risk' gamblers declined substantially with age. The percentage of 19- to 24-year-olds who were considered to be at risk of developing problems was 1.5 times higher than among 25- to 30-year-olds and 4 times higher than among adults over the age of 45 (MacKay 2004: 9).

Ease of access to gambling facilities at online gambling websites may result in a higher problem gambling rate. In a recent study by researchers from the International Centre for Youth Gambling Problems and High-Risk Behaviors at McGill University, 563 participants aged between 18 and over 65 were recruited from a banner placed in an online newsletter. The study found that 'prevalence rates for problem gamblers found in this study were higher than those found in previous research that examined land-based gamblers. The current rates are consistent with Wood and Williams' (2007a) research and imply that the rate of problem gambling amongst Internet gamblers may be higher than the rate among the general population' (McBride & Derevensky 2009: 162).

The relationship between problem gambling and crime

The liberalisation of the gaming industry has led to an increase in revenue by \$1236m in the last three years. This, however, excludes revenue able to be collected from offshore internet gambling sites. The extent to which this increase has been associated with changes in crime levels is conjectural.

It is hard to ascertain the extent of the relationship between problem gambling and crime due to low levels of reporting. These low levels can be attributed to a lack of official crime statistics due to allegations failing to result in convictions, under reporting caused by offences commonly occurring between family and friends who are less inclined to report (Sakurai and Smith 2003: 2) and as a result of poor self reporting by offenders in prevalence surveys (usually 1% or less) and to a lesser degree in surveys of counselling agencies (40-50%) (GRA 2008: p87). Nonetheless, leading studies show a strong link and clear typology of gambling-related criminal offences as being non-violent property crimes, although serious fraud is also identified as a common crime type.

In 2003, the AIC collaborated with PricewaterhouseCoopers in a study of serious fraud cases that had been prosecuted in the courts in Australia and New Zealand between 1998 and 1999. The study focused on perpetrators' principal motivations within each of the 183 cases and found that gambling was the second most commonly identified factor after greed that lead individuals to commit serious fraud. The second most frequently used rationale behind the commission of offences was intent to repay stolen funds (AIC & PWC 2003: 45). The study found that the most common crimes committed were obtaining finance or credit by deception, that the majority of offenders were employed and male with an average age of 37 and that nearly half of the offences were committed against their employers (Sakurai and Smith 2003: 4).

In 2003, Lahn and Grabosky (2003) conducted interviews with 102 clients of five Corrective Services Facilities in the ACT. Interviewees were asked to complete 12 month versions of the South Oaks Gambling Screen (SOGS) and various other questions dealing with the

relationship between gambling and offending (Grabosky 2003: 4). Of all 102 participants, 34 per cent were categorised as problem gamblers, 15.7 per cent of whom were found to have severe gambling problems (Lahn and Grabosky 2003: 56).

Those who were identified as problem gamblers were predominantly male and aged between 18-35, with more than half never having completed secondary school nor having married (Lahn and Grabosky 2003: 51). Participants reported that they had gambled mostly on gaming/poker machines in the 12 months prior to their conviction (Lahn and Grabosky 2003: 53).

The most serious offences identified amongst non-severe problem gamblers (19%) were property crime (37%), traffic offences (17%), violent crimes (29%) and fraud (8.6%). Conversely those with severe gambling problems reported fewer violent crimes (19%), however a higher rate of property crimes (50%) (Lahn and Grabosky 2003: 56). Of all the problem gamblers identified, 26 per cent reported that their gambling had contributed to their offending and 46 per cent said that they had stolen items or illegally obtained money in order to pay for their gambling addiction or to pay off gambling accrued debts (Lahn and Grabosky 2003: 57).

In 1994, Blaszczyński and McConaghy (1994) carried out 306 semi structured interviews in New South Wales with problem gamblers either attending Gamblers Anonymous or those admitted to hospital for inpatient treatment. The study found that 60 per cent of respondents admitted to committing a gambling-related offence, most commonly theft, embezzlement and misappropriation and that almost one quarter had been convicted (Sakurai and Smith 2003: 3).

In 2002, Crofts examined 2,779 cases heard by Local and District Courts in New South Wales between 1995 and 1999. The study examined a variety of property offences involving fraud (e.g. obtaining financial advantage by deception, making false statements with intent to obtain money or a financial advantage, or presenting cheques with insufficient funds), theft (e.g. larceny, larceny by a clerk or servant, or stealing in or from a dwelling house, or motor vehicle theft), robbery and assault, and breach of apprehended violence orders. These types of offence were selected as representing those most likely to establish a link between gambling and crime. Crofts identified 105 cases (4%) that were gambling-related. Of these cases, 42 contained insufficient detail for further analysis, leaving 63 files which provided the basis for the final study. Of the 63 cases, 76.2 percent of offences committed involved fraud, including larceny by a clerk, obtaining financial advantage by false pretences, and cheque fraud. The 27 larceny by a clerk files that were gambling-related involved a total amount stolen of \$2,494,309 and a mean amount stolen by each offender of \$95,935 (Sakurai and Smith 2003: 3).

Impact of problem gambling and gambling-related criminal offences

The chances of recovering fraudulently obtained funds are small resulting in huge financial losses to businesses, the government and individuals. In addition to identifying a relationship between problem gambling and crime, these studies highlight the financial and social impacts of gambling related crimes which include:

- Personal – depression, anxiety, ill health, suicide
- Interpersonal – divorce, separation, loss of friendships
- Vocational – absenteeism, poor performance, job loss
- Financial – debts, asset losses, bankruptcy
- Legal – obtaining money for illegal gambling (Sakurai and Smith 2003: 5).

Problem gambling in the courts

An individual's addiction to gambling and his or her increased vulnerability to commit crimes has been recognised to be a mitigating factor in sentencing, however this tends to be viewed on a case-by-case basis. The courts have stressed in a number of decisions that addiction to gambling which leads to the commission of fraud offences may be considered as one of the individual circumstances which are taken into consideration in sentencing. It should not, however, always be indicative of a reduction in sentence. Mr Justice Southwell in *R v Martin* (1994) 74 A Crim R 252 observed, for example, that:

..... it would be an unusual case where evidence of addiction to gambling will significantly reduce the importance of the element of general deterrence.

In appropriate circumstances, however, a gambling addiction might be treated as a mitigating factor. For example, Chief Justice Phillips of the Victorian Supreme Court in *Director of Public Prosecutions v Roddino*, said (at p. 444):

In appropriate circumstances a gambling addiction might be treated as a mitigating factor. Each case must, in this respect, be treated on its own facts and often it comes down to what weight should be given to such factor in the overall sentencing considerations but recognising as Tadjell J said in *Cavellin* 'it is important that the public does not assume that a crime which is to some extent generated by a gambling addiction even if it is pathological will on that account necessarily immune from punishment by imprisonment'.

Developments since 1999

Since 1999, attempts have been made by both industry representatives and the government to reduce the impact of problem gambling through the creation of voluntary codes of conduct. Nonetheless, these attempts have proven to be insufficient due to their reliance on the voluntary cooperation of stakeholders (Sakurai and Smith 2003: 5). In addition, recognition of problem gambling and its relationship to crime has become more apparent in the prosecution of offences since publication of the Productivity Commission's report.

The AIC would welcome the opportunity to contribute further to the Commission's inquiry by making an oral presentation regarding the material covered in this submission.

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