Regulating Vice provides a new, interdisciplinary lens for examining vice policy and focuses that lens on traditional vices such as alcohol, nicotine, drugs, gambling, and commercial sex. Regulating Vice argues that public policies toward addictive activities should work well across a broad array of circumstances, including situations in which all participants are fully informed and completely rational and other situations in which vice-related choices are marked by self-control lapses or irrationality. This precept rules out prohibitions of most private adult vice and also rules out unfettered access to substances such as alcohol, tobacco, and cocaine. Sin taxes, advertising restrictions, buyer and seller licensing, and treatment subsidies are all potentially legitimate components of balanced vice policies. Regulating Vice brings a sophisticated and rigorous analysis to vice-control issues, an analysis that applies to prostitution as well as drugs, to tobacco as well as gambling, while remaining accessible to a broad social science audience.

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Regulating Vice

MISGUIDED PROHIBITIONS AND REALISTIC CONTROLS

JIM LEITZEL

University of Chicago
To Jed, Mike, Julius, and other friends of long standing
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Craft against vice I must apply.  
– Shakespeare, Measure For Measure

When I arrived at the University of Chicago in the fall of 1998, I was asked what courses I might like to teach. I suggested Regulation of Vice, and it is to the credit of the university that, without further ado, and without any questioning of my motives, the course duly appeared on the spring schedule. Regulating Vice has grown out of that course.

Each spring, during the first class meeting of Regulation of Vice, I provide a few disclaimers, which are appropriate here as well. I am not a lawyer, nor am I a physician, and I often am wrong. (I am not wrong about not being a lawyer or physician, however.) Please do not mistake anything that appears in Regulating Vice as legal or medical counsel; it is not. This book is about public policy toward vice, not private policy, and you should beware of basing your personal vice-related choices on anything in these pages. If what you really need is treatment for a vice problem, then please seek help right away. Regulating Vice, alas, will not be of assistance.

Calling an activity a vice is not considered to be a form of praise; nor is referring to a person as vicious regarded as a compliment. In this book, however, vice and vicious are used as neutral terms, intended neither to denigrate nor commend. “Vicious” is employed in a manner quite at variance with everyday language, standing in as an unassuming synonym for “vice related.” Vice issues often are highly charged, and hence the choice of terminology can be fraught with implicit associations. An example is “sex worker,” the use of which is sometimes seen to signal an attempt to normalize prostitution as just another profession. These sorts of signals are unintended in my selection of terminology – though I do believe that some forms of adult prostitution should be legal and regulated.

Regulating Vice discusses directly a variety of vicious behaviors, and I like to believe that the ideas pertain to essentially all vices. I also like to believe that my approach to vice applies globally. (Indeed, there seems to be no end to the things I like to believe.) Nevertheless, most of the specific applications and examples are drawn from the United States. My decision to make United States policy
the focus of *Regulating Vice* mainly follows from constraints of time, space, and familiarity. The relative neglect of other countries is most pronounced with respect to the “Vice Verdicts,” summaries of court cases derived almost exclusively from U.S. Supreme Court decisions. These summaries are provided in recognition of the important role that the judiciary plays in developing vice laws. “Vice Verdicts” also illustrate the influence of vice regulation upon public policy more generally, through the determination of the limits of constitutional rights to free speech and freedom from unreasonable search and seizure, for instance.

I am a blogger; surely this is one of the more dispiriting phrases in the language. But it isn’t as bad as it sounds: I am part of a group blog, Vice Squad (vicesquad.blogspot.com), devoted to explorations of vice policy. Many of the topics that are touched upon in *Regulating Vice* have graced the webpages of Vice Squad. Citations to Vice Squad in the footnotes are given with the date on which the relevant posts appeared, but for ease of exposition, the lengthy URLs are not provided. All of these posts can be found by going to vicesquad.blogspot.com and clicking on the appropriate month in the archive listing. Citations to other webpages generally include complete URLs.

My debts are many, and I fear that most of them will go unacknowledged here. But a start can be made by reference to the course from which this book developed. Regulation of Vice initially was modeled after a class that I knew about at Duke University, taught by my friend Phil Cook. Thanks to Phil for the inspiration, as well as for many helpful insights over the years. My teaching assistants for Regulation of Vice – Sheldon Lyke, Nicole Eitmann, Paul Goyette, Petr Barton, and Martina Smith – have been stellar. Chapter 7, on the Internet, grew out of a short handout for class that Sheldon and I jointly prepared years ago. Hundreds of University of Chicago students have improved this book over the years; five who merit special mention are Will Baude, Evan Haglund, Dmitriy Masterov, Jessica Ianotti, and Kathleen Rubenstein.

Comments from Mark Kleiman and Rob MacCoun have refined my thinking. Others who have lent their assistance at various stages include Nicole Eitmann, Michael Alexeev, Mary Ann Case, Phil Cook, and Peter Reuter. John Berger at Cambridge University Press has been supportive and pleasant throughout. I have been blessed with two first-rate research assistants, Ryan Monarch and Alexandra (Ali) Cirone. Ryan delved into many vice topics for me over the years and eventually even joined the Vice Squad team. Ryan also collected the data that, in updated and expanded form, became the statistical appendix. Ali was the first person besides me who read a complete draft, and she regularly provided wise counsel. My Vice Squad partners have been a constant encouragement. Thanks to everyone who helped.

Much of the progress on the manuscript was made during a six-month secondment at the University of Chicago Paris Center. Many thanks to College Dean John Boyer and College Masters John Kelly and Constantin Fasolt, along
with the Center Director Robert Morrissey and the outstanding Center staff, for their assistance in making my Paris stay possible. Richard Taub kindly stepped in to more than fill my shoes back at the Hyde Park campus, with aid from Lee Price. My Paris friends were more helpful than they can know in sustaining the development of *Regulating Vice*.

My family and friends have been supportive beyond measure. It is to old and dear friends whom I dedicate this book, including many who will go unnamed here. Among the named old friends are Jed, Mike, Julius, Janice, Joselyn, Jim, Fallaw, Chris, Shlomo, Geoff, Cliff, Barry, Will, Bob, and Nikkie.