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11/1/2002

**COCAINE CASE:** District Judge Joseph Bonaventure, who presides over the Geneva Kincaid drug and embezzlement case, called to compare me to a writer from the Tribune. Not the Chicago Tribune -- the Las Vegas Tribune.

Bonaventure notes that Monday's court action involving Kincaid, a former evidence handler for the North Las Vegas Police Department who stole cocaine from under the cops' noses, doesn't officially close the case against her. Although the district attorney's office and defense have signed off on a plea bargain giving her probation, and the judge didn't protest the agreement, final sentencing is set for Dec. 16.

Does Bonaventure have a surprise for Kincaid?

**GENEROUS GOV.:** Never let it be said Gov. Kenny Guinn does not put his money where his political support is. In the GOP Assembly District 37 primary, Guinn for Governor donated \$5,000 to Earlene Forsythe's unsuccessful legislative bid.

While he was embracing candidates, Republican Guinn this week also joined the ranks of top Democrats endorsing Democrat Kathy McClain for Assembly District 15 over former Lt. Gov. Lonnie Hammargren.

**TABLE STAKES:** Think it's tough to beat the House these days? Poker legend Doyle Brunson remembers when times were much tougher.

"You had to win the money," Brunson tells Richard Munchkin in the just-released "Gambling Wizards." "You had to collect it. You had to keep from getting cheated at the table. You had to keep from getting robbed. And then you had to keep from getting arrested by the police. It was an interesting combination of things that you had to overcome."

**ON THE BOULEVARD:** Creepy GOP Assembly District 14 candidate Richard Gardner's gall is limitless. He's still whining about running for office despite the Review-Journal's discovery that he's been convicted of three sex crimes and one theft. Of course, some would say that makes him overqualified for the Legislature. Leave those "ugly" kids alone. ClearChannel officials say "all will be revealed next week" on the outdoor company's "Ugly Kids" campaign. It will make a laughingstock out of those in the media who have been taking the promotion a little too seriously. ... Author Cathy Scott's latest, "Murder of a Mafia Daughter," is set to hit the shelves. It's the tragic tale of the life and violent death of Susan Berman.

Have an item for the Bard of the Boulevard? E-mail comments and contributions to Smith@reviewjournal.com or call 383-0295.

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ASSEMBLY ELECTIONS, PROCEDURES, & ETHICS

DATE: 3-18-03 ROOM: 3138 EXHIBIT C

SUBMITTED BY: Ellen Koivisto



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## Officials report more crimes in candidate's past

### Republican says he is eligible to run

By JANE ANN MORRISON  
REVIEW-JOURNAL

Republican Assembly candidate Richard Gardner's criminal past is more extensive than originally realized. His crimes include a theft conviction and three sex crimes instead of one, as previously reported.

Gardner on Tuesday continued to say he is eligible to run and serve despite a second legal opinion from the Clark County district attorney's office stating he is not eligible because of his status as a felon.

He said "it wasn't an intentional omission" that he failed to mention during a prior interview with the Review-Journal the theft conviction and the two other sex crimes.

Gardner said he does not think the issue should be the type of crime he committed but the legal question of whether he is entitled to run for office.

"At that time in my life, I was a pretty bad person," he said.

Gardner, 63, a semi-retired management consultant, is listed on the ballot as the Republican nominee trying to unseat Democratic Assemblywoman Ellen Koivisto. Independent American candidate Jim Barrier is the third choice in District 14.

On Oct. 1, county counsel Mary-Anne Miller advised Gardner that he was not eligible to run or serve if elected. She cited one felony conviction, which involved lewd and lascivious behavior with his daughter.

But more information emerged in a recent memo Miller sent to Clark County Registrar of Voters Larry Lomax.

The additional information obtained by the district attorney's office showed that on June 2, 1988, Gardner pleaded guilty in California to the following:

- Committing a lewd and lascivious act upon his daughter, who was about 12 when the crime was

committed in May 1982.

- Committing oral copulation on the same daughter in January 1988.
- Child molestation in 1983 against another daughter under the age of 14.

He was placed on probation for the three charges.

Also, the memo said, "Police records reflect that in August 1981, Mr. Gardner was convicted of theft and confined in Chino State Prison from August 1981 until April 1982."

He was on probation for the next five years, Miller wrote.

Miller's memo said nothing was found in the records to show Gardner took any action to have his civil rights restored or have the convictions expunged.

She said under California law, a person found guilty of the sex crimes for which Gardner was convicted loses his right to vote permanently.

Gardner would have had to ask the governor of California for a pardon, she said.

In Nevada, to file for office without being a qualified elector is a felony, and the declaration that one is a qualified elector is filed under penalty of perjury.

Miller said prosecuting Gardner remains under consideration.

Gardner has said he never lost his rights under California law.

"If I have created a felony by being registered to vote, I challenge them to prosecute me rather than try me in the newspapers," Gardner said.

His conviction was uncovered because of a July traffic stop. He registered as a sex offender with Las Vegas police on Aug. 1.

In September, Las Vegas police sent their monthly list of felons to the Election Department. Election officials then discovered that Gardner was on the ballot, but it was too late to remove him.

If he were to win, the county would sue to invalidate his election and declare the office vacant, Miller said. The County Commission then would appoint someone to the seat.

He ran for Congress in 1998 and state Senate in 2000. The Clark County Republican Party donated \$175 to Gardner's state Senate race against Democratic Sen. Ray Shaffer but donated nothing this year.

A check of the state and county Republican party Web sites Tuesday showed he is listed as part of the Republican team, and each page provides a direct link to Gardner through his e-mail address at dickycando@hotmail.com.

County party Chairman Steve Wark said Gardner's name should have been taken off the Web site because "he's not suitable to run for public office."

The party checks out those it recruits, Wark said, but the party does not check out every Republican who files, and Gardner was not one of the party's recruits.

"He should be in jail right now for those crimes; he's a disgrace to humanity," Wark said.

Koivisto had sent a political mailer based on the initial information that Gardner had pleaded guilty to lewd and lascivious behavior. She said that despite coverage in the newspaper and television, voters in the district were unaware of his criminal past.

Koivisto represents a district that is heavily Democratic, but she said with low turnout expected she thought she had to use one of her five political mailers to tell people about Gardner's conviction.

Gardner told the Review-Journal that his conviction was based on his touching his daughter inappropriately. He said that he went to his church to seek counseling and that his bishop said by law they could not counsel him and advised him to turn himself in to authorities, which he said he did. "That's why I didn't go to prison," he said, and was put on probation.

The theft charge, he said, involved buying a gas tanker truck from someone who "never supplied me the documentation."

He denied that he was imprisoned at Chino State Prison and said that he was there for observation for 90 days.

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## ASSEMBLY DISTRICT 14

By MICHAEL SQUIRES  
REVIEW-JOURNAL

Democrat Ellen Koivisto is seeking a fourth term in Assembly District 14 to take care of unfinished business in the Legislature.

"I feel there are things I still can accomplish," she said.

But her opponents, Independent American Jim Barrier and Republican Richard Gardner, say it's time for the district to have a representative who addresses constituent concerns.

It's unclear whether Gardner, a felon, would be able to serve if he wins Nov. 5. County election officials said Gardner was not eligible to file for office in the first place, though information about his conviction came to light too late to remove his name from the ballot.

The Clark County district attorney's office has threatened to sue to remove him from office if he wins.

Gardner said his conviction was based on his touching his daughter inappropriately. He was not sent to prison. His conviction in Orange County, Calif., came to light in Nevada on July 26 when he was stopped by Las Vegas police for a traffic offense. By law in Nevada, felons must register with local police.

When the Police Department sent its monthly list of felons to the Election Department in September, election officials realized Gardner was ineligible to vote, unless his rights have been restored. Each month, felons are removed from the voting rolls.

Gardner said he plans to sue county officials for removing him from the voting rolls. Gardner said, despite his conviction, his civil rights were never taken from him. He attributes the controversy to political maneuvering.

"This is what you would call attempting to influence the outcome of an election under the color of law," he said.

Koivisto would like to complete the transfer of child welfare responsibilities in Clark and Washoe counties to county government, which was a change made into law that was not adequately funded

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## DISTRICT 14 ASSEMBLY RACE: Felony raises eligibility questions

**GOP's Gardner maintains he has right to vote, seek office**

By JANE ANN MORRISON  
REVIEW-JOURNAL

Republican Richard Gardner ran for Congress in 1998, for state Senate in 2000 and currently is an Assembly candidate.

But 10 years before he started running for office in Nevada, he was convicted in California on a felony sex crime: lewd and lascivious behavior with a child under the age of 14.

The unanswered question: Has he had his civil rights restored?

Gardner, 63, insisted Friday he never lost his civil rights. "I never went to prison, I was never on parole, I didn't lose my constitutional rights."

Assistant District Attorney Mike Davidson said the burden is on Gardner to prove he had his rights restored or that they were never taken from him following his conviction.

If he cannot, Gardner faces potential criminal prosecution for a felony for signing a statement under penalty of perjury declaring he was a qualified elector when he was not.

Gardner, who handily won his GOP primary race in September, is in a three-way race in District 14 with Democratic incumbent Ellen Koivisto and Independent American Party candidate Jim Barrier. The district is in the eastern part of the Las Vegas Valley.

The district is heavily Democratic with 7,827 active registered Democrats, 6,481 Republicans, 2,189 nonpartisans and 255 Independent Americans.

Barrier said the impact is substantial, and he believes it boosts his chances. "You've got another player out. It's me and her (Koivisto), and it's an even playing field."

He's hoping that even though Gardner will be on the ballot, the news about his felony "is going to steer a lot of Republicans my way."

Koivisto could not be reached late Friday.

Gardner, a semi-retired management consultant, said his conviction was based on his touching his daughter inappropriately. He said he went to his church and asked for counseling and was told by law they could not counsel him. His bishop advised him to turn himself in to authorities, which he said he did. "That's why I didn't go to prison," he said, and was put on probation.

Despite his running for three offices, Gardner is not well-known in the Republican Party, said Clark County GOP Chairman Steve Wark. "We always wondered who Gardner was, he never showed up at any stuff."

His conviction in Orange County, Calif., came to light in Nevada on July 26 when he was stopped by Las Vegas police for a traffic offense and his name came up as a felon. By law in Nevada, felons must register with local police.

When the police department sent its monthly list of felons to the Election Department in September, election officials realized Gardner was ineligible to vote, unless his rights have been restored.

Each month, felons are removed from the voting rolls, since they are ineligible to vote.

Gardner said he plans to sue county officials for removing him from the voting rolls. "I plan on fighting this," he said. "I will file a civil rights action in federal court that they're not following the law when they canceled my voting rights without a hearing."

Since it's too late to remove Gardner from the ballots, which already are printed, he could potentially win the election, although he has been unsuccessful in the past.

"If he gets elected, then the question becomes whether he's eligible to take office. You cannot take office unless you're a qualified elector," Davidson said.

County officials have been talking to Gardner asking him to prove his rights have been restored. He said since they were never taken from him, he can't show they were restored.

On Oct. 1, he was sent a certified letter advising him he is ineligible to run and on Friday the county issued a news release saying he could be referred to the district attorney's office for possible criminal prosecution.

In 1998, Gardner ran in the GOP congressional primary for the chance to challenge Democrat Rep. Shelley Berkley and lost his primary bid to Don Chairez. In 2000, he defeated Republican Tino Mendoza and lost to Democratic Sen. Ray Shaffer. He rarely spends much money on his races, he said.

Davidson said Gardner "is required to register as an felon in Nevada because it was a sex offense. He's of the impression because he was not sent to prison or released on parole that his civil rights were never lost in California. I suspect that's not true."

Davidson said "from our perspective, the burden is on him to demonstrate his civil rights have been restored to him in California or by court order in Nevada."

Gardner, without saying which of his opponents would be behind it, claimed there was a political motivation and he hoped people would "understand the facts" and still support him for his race.



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## Candidate faces charges

### Review-Journal

Criminal charges have been filed against an Assembly candidate accused of lying about where he lives.

The gross misdemeanor count filed against Republic candidate Michael Plaisted alleges he lied in an affidavit of candidacy by listing his address as 845 Dusk Drive when he doesn't live there or anywhere else in Assembly District 14 where he's running.

That seat is currently held by Democrat Ellen Koivisto.

The charges against Plaisted carry a maximum punishment of a year in the Clark County Detention Center and a \$2,000 fine.

Plaisted could not be reached for comment late Thursday.

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