

Problem Gambling and Criminal Activity

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**My Perspective as a
Treatment Professional,
Evaluator, and Expert Witness**

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Types of Criminal Activity Associated with Problem Gambling

- Embezzlement
- Credit Card Fraud
- Securities Fraud
- Bank Fraud
- Bank Robbery
- Running an Illegal Gambling Operation
- RICO Act violation – Enterprise Corruption
- Robbery
- Counterfeiting
- Hobbs Act
- Identity Theft
- Theft of Services

Referral Sources for Gambling Clients Specifically with a Legal Connection

- Private Lawyers
- Federal Defenders Office
- Legal Aid
- District Attorney (Diversion Programs)
- Pre-trial Services
- U.S. Probation
- State Parole and Probation
- Treatment Professionals including Rehabs
- Gamblers Anonymous

“Gamblers Who Steal and Thieves Who Gamble”



At What Point Do You Enter the Process?

- Investigation
- Indictment
- Arrest
- Arraignment and/or Bail Hearing
- Pre-trial Supervision
- Plea
- Pre-sentence Investigation and Report
- Sentencing Memorandum and Government Response
- Sentencing
- Post-correctional Supervision (Probation or Parole)

Evaluating Gambling Behavior and its Connection with Criminal Activity





Forensic Report

**The evaluator
becomes
the educator**



*Teach the judge,
the defense attorney,
the court.*

- Make the diagnosis.
- Back it up with research.
- Make recommendations.

Nexus between Offense and Diagnosis





Typical Cases

1. Poker
2. Wire and Mail Fraud
3. Distributing Drugs
4. Transmitting Betting Information
5. Bank Robbery

Level of Care Recommendations

- No Treatment
- Outpatient Treatment
- Intensive Outpatient Treatment
- Inpatient Treatment
- Gamblers Anonymous
- Substance Use Treatment
- Mental Health Treatment

Relationship with the Legal System: Lawyers, Parole and Probation, Judges



What's the judge's view of addiction?



Will the mitigating factors outweigh the aggravating factors?

Expert Witness





**Mitigation
and
Downward Variance**

Steps in the Legal Process

- Investigation
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- Arrest
- Arraignment and/or Bail Hearing
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Sentencing

Federal Sentencing

- The question presented is: When a person is diagnosed as a disordered gambling addict, and is driven to crime as a result of the addiction, may the court rely upon this pathology to grant a downward variance under the United States Sentencing Guidelines?

Sentencing

A Sentencing Court may downwardly depart if the defendant suffers from "diminished capacity." (U.S.S.G. Section 5 K2.13)

Significantly Reduced Mental Capacity

The defendant, although convicted, has a significantly impaired ability to:

- (a) understand the wrongfulness of the behavior comprising the offense or to exercise the power of reason; or
- (b) control behavior that the defendant knows is wrongful.
