#### Problem Gambling and

### **Criminal Activity**

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

CCGPA

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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

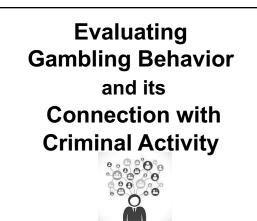
#### Referral Sources for Gambling Clients Specifically with a Legal Connection

- 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



# 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)





#### The evaluator becomes the educator



Teach the judge, the defense attorney, the court.

• Make the diagnosis.

- Back it up with research.
- Make recommendations.



# Typical Cases

- 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

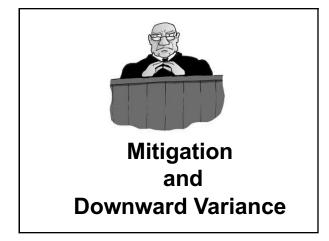
Relationship with the Legal System: Lawyers, Parole and Probation, Judges

# What's the judge's view of addiction?



Will the mitigating factors outweigh the aggravating factors?





#### **Steps in the Legal Process**

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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.