

# **International Masters of Gaming Law**



**Annual Spring Conference**

**In conjunction with the  
13<sup>th</sup> Annual Canadian Gaming  
Conference and Exhibition**

**Caesars Windsor, Windsor, Ontario**

**April 29, 2008**

# *The Gambling Treatment Court Experience*



*A View from the  
Criminal Justice System  
“A Work In Progress”*

**Judge Mark G. Farrell  
Gambling Treatment Court Judge  
Amherst, NY**

[www.gamblingcourt.org](http://www.gamblingcourt.org)


# *Pathological Gambling Definition*



- Pathological Gambling is:
  - A progressive disorder
  - An individual who has a psychologically uncontrollable preoccupation with an urge to gamble
  - Resulting in damage to vocational, family and social interests
  - Characterized by a chronic and progressive inability to resist the impulse to gamble
  - An impulse control disorder in the DSM since 1980

# ***PATHOLOGICAL/COMPULSIVE GAMBLING PROFILE***

***Diagnostic Criteria: 5 or more***

- 
- Preoccupied with gambling
  - Gambles to escape negative feelings
  - Behavioral changes (restless or irritable if not gambling)
  - Illegal behavior
  - Lies to conceal extent of gambling
  - Needs to gamble more to get same thrill
  - Chases losses
  - Risks job, school, relationships
  - Seeks financial bailouts
  - Tries to cut back or stop but can't

# TYPES OF PATHOLOGICAL GAMBLERS

ACTION GAMBLER  
card games, horses  
male

VS

ESCAPE GAMBLER  
slots  
female

- Traditional view  
gender oriented
- Current view  
equalizing presentation



# *Types of Gambling in New York State I*



- **Lottery, including instant scratch tickets, daily numbers, Lotto, Quick Draw and Mega Millions**
- **Horse Racing at Race Tracks and OTB**
- **Casinos: Turning Stone, Mohawk, Seneca Niagara, Seneca Allegany, Seneca Buffalo Creek**
- **Video Lottery Terminals (VLT's) at Saratoga Monticello, Finger Lakes (Rochester), Buffalo, Tioga Downs, Vernon Downs, Yonkers and Batavia Raceways and opening soon Aqueduct Raceway**

# *Types of Gambling in New York State II*



- Floating Casinos (Cruises to Nowhere) in New York City
- Stock or Commodities Market, Day Trading
- Cards for Money not at a Casino, poker Rooms
- Dice Games not at a Casino
- Slot Machines, poker Machines or other Gambling Machines not at a Casino

# *Types of Gambling in New York State III*

- Games of Skill for Money
- Sports
- Office Pools, Raffles, Charitable
- Numbers
- Dogfighting or cockfighting
- Pull tabs
- 50/50 tickets
- Bingo



More casinos and VLT's are on the horizon

# *Gambling Affecting New York State*



- Atlantic City, NJ
- Foxwoods, CT
- Ontario: Casino Niagara, Niagara Fallsview Casino, Fort Erie Racetrack and Slots, Fort Erie Bingo Parlors
- Quebec: Casino de Montreal
- Slot Machines at Pennsylvania racetracks
- INTERNET GAMBLING

# *Five Types of Gamblers I*



- **Social Gambler** – Gambles for entertainment and a little excitement. Dedicates small amounts of leisure time and gambling is not given excessive emphasis.
- **Problem Gambler** - Dedicates more time, thoughts and money towards gambling.
- **Pathological (Compulsive) Gambler** – Uncontrollable preoccupation and urges to gamble. Gambling is the most important thing in their life.

# *Five Types of Gamblers II*



- **Organized Crime Gambler** – Lauanders illegal gambling revenue at race tracks, casinos and through lottery wagering
- **Professional Gambler** – Makes a living through gambling. Bets in a controlled way, handles losses well and does not let gambling interfere with normal activities

# *Three Phases of Compulsive Gambling*

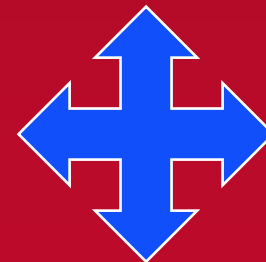
- WINNING PHASE



- LOSING PHASE

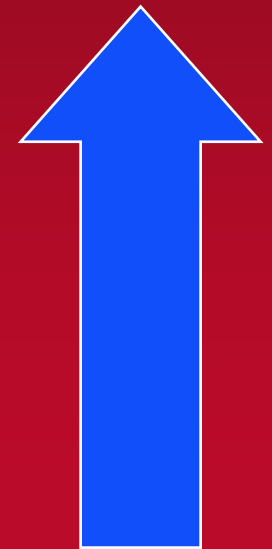


- DESPERATION PHASE



# *The Winning Phase*

- **The Search for Action:** Wins enhance self-esteem and egos. Losses are rationalized as bad luck or poor advice. The gambler will frequently describe “The Big Win”.
  - Occasional Gambling
  - Frequent Winning
  - Excitement Prior to and with Gambling
  - Increased Amount of Bet
  - Fantasies About Winning
  - “BIG WIN”
  - Unreasonable Optimism



# *The Losing Phase*

- **The Chase:** As losses become more frequent and self-esteem is jeopardized, the gambler will borrow money to “get even.” The gambler will hide losses and lie about where money went. Lies, loan fraud, absenteeism, family disputes and job changes are common danger signals

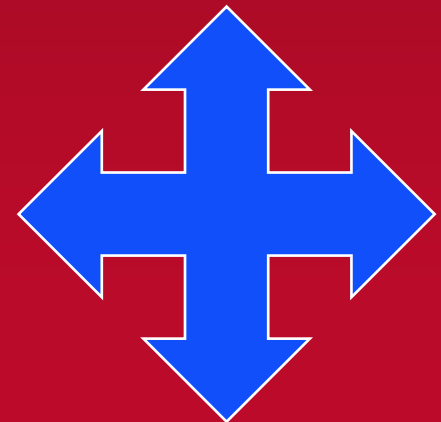
- Gambling Alone
- Thinking only of Gambling
- Can't Stop Borrowing
- Careless of Spouse/Family
- Delay Paying Debts
- Unhappy Home Life
- Unable to pay debts



- Bragging About Wins
- Prolonged Episodes of Losing
- Covering Up/Lying
- Losing Time from Work
- Personality Changes
- Heavy Borrowing: Legal/Illegal
- Bailouts

# *The Desperation Phase*

- **Hitting Bottom:** The gambler becomes obsessed with getting even to cover money lost through gambling. Withdrawals from family bank accounts and secret loans. S/he panics at the thought that the gambling action will end if the credit of bailouts stop. The gambler will often turn to illegal activities to support the gambling. S/he can experience severe mood swings. Suicide may be contemplated as a way out.
  - Reputation Affected
  - Increases in Time/Money Spent Gambling
  - Alienation from Family and Friends
  - Remorse
  - Blaming Others
  - Illegal Acts



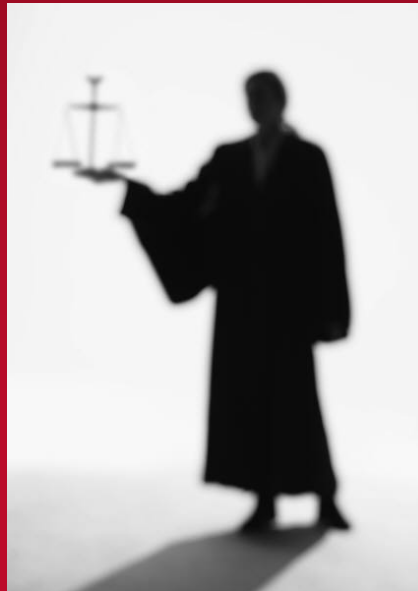
# *Rock Bottom*



- Hopelessness
- Suicidal Ideation or Attempts
- Arrests, Divorce, Jail
- Alcohol/Drug Involvement
- Emotional Breakdown
- Withdrawal Symptoms

# *Problem Solving/ Specialist Courts*

## Judicial Dilemma



# *Theory and Practice*



- Diversionary versus traditional processing
- Rehabilitative vs. Punitive/deterrent focus
  - Cycle of recidivism
- Protocol
  - i.e. “Ten Key Components”

# *Planning and Implementation*



- Judicial commitment
  - Acceptance of disease based model (i.e. drugs, alcohol, gambling, mental health)
- Management and control – team leader/benevolent despot
- Building a Team
  - Recruitment of provider agency support and individual team members
  - Coordination of prosecutorial and defense team members
    - » i.e. dedicated Therapeutic Court Defense Counsel

# *Planning and Implementation*



- Identification of potential outpatient facilities
- Training – Provider/Court Staff - Cross Education and Orientation
- Participant Orientation planning
- Due Process awareness, a defense bar and participant contractual coordination

# *Court Operation*



- Non-adversarial – Contract based - rehabilitative purpose
- Set protocol and rules
- Consistency and uniform application of rules
  - Sanctions
  - Rewards
- Toughness, compassion and open-mindedness

# *Application to Gambling*



- Understand the addiction and the “gambler”
- Understand the carnage
- Listen to experts
- Cope with the challenge of identification
  - Flexibility, risk taking, common sense and realism
  - Remember! – no urine screen available (seek admissions and collateral info)
- Creativity


# ***Gambling Treatment Court***



**Interface with the  
Criminal Justice System**


# *Traditional Characteristic*

## *CRIMES I*

- 
- Fraud
  - Bouncing checks
  - Theft from employer (money, services goods, lottery tickets)
  - Stealing donation boxes
  - Bookmaking
  - Drug/alcohol offenses related to Co-morbidity
  - Theft from family (money, opening credit cards without their knowledge)
  - Shoplifting then returning or selling item for cash
  - Falsely reporting crimes to avoid family detection

# *Traditional Characteristic*

## *CRIMES II*

- 
- Leaving children at home without supervision
  - Leaving children in car
  - Travel without paying (evading tolls after losing all money)
  - Forging
  - Drug sales
  - Receiving stolen goods
  - Tax fraud (taking someone else's tax liability for immediate cash)
  - Donation scams
  - "DWI"

# *“Un”Characteristic Crimes*

## Gambling Treatment Court Experience



Traditional “white collar” or “soft” crimes  
identity theft, forged checks, etc.

*transitioning to*

“Drug Related” street crimes

- More serious theft, burglary and felony level
- Dramatic increase in cocaine use and scratch off – minority women

# *Gambling Treatment Court*

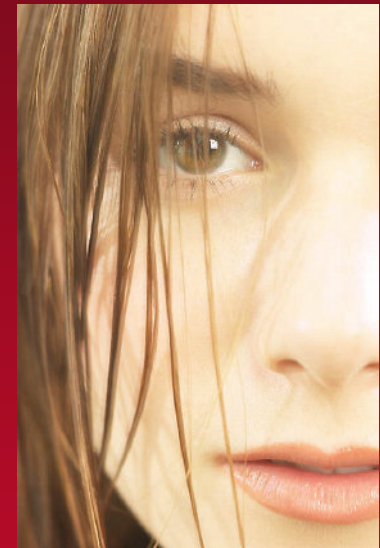


**Co-morbidity:**

**Gambling, Drugs and Alcohol**

# ***PROBLEM GAMBLING AND CHEMICAL DEPENDENCY***

- Use of drugs and committing crimes are both gambles (risking something with thought of getting something more)
- Untreated problem gambling can be a relapse trigger for drug/alcohol abuse and dependency
- Chemically dependent clients may seek “replacement addictions” since gambling is also exciting and/or an escape



# *Protocol:*

## *Identification & Referral*



At Arraignment - Indicia of problem gambler

Type of criminal activity

Past criminal record

Psychosocial characteristics

Drug/alcohol/mental health issues

Financial/debt status

Family/colleague/employer reports

Systemic Cooperation

Full screen for co-morbidity : drug / alcohol

Co-occurring disorders

Consideration of mental health referral

# *Identification & Referral – Post Arraignment*

## Post Arraignment

Pursue corroboration

Additional collaterals

Credit reports

Self admits



# *Systemic Comparisons*



**Traditional Criminal Justice  
Regimen**

**vs.**

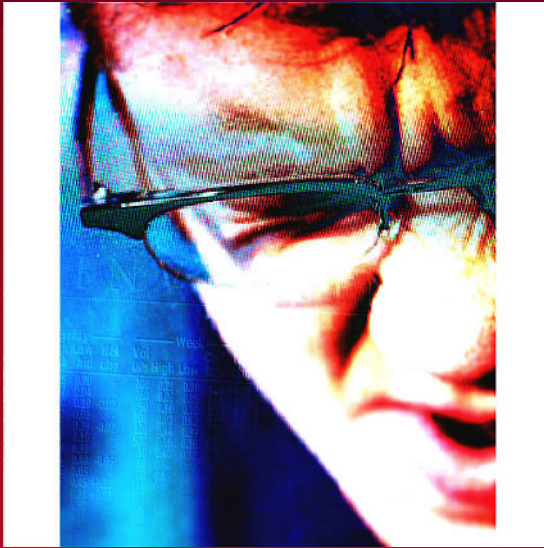
**Therapeutic Intervention**

# *Traditional Criminal Justice System – Arraignment to Probation*



- Defendant is arraigned on formal charges
- Plea negotiations between defense counsel and district attorney
- Plea or verdict
- Defendant has probation evaluation
- Defendant is sentenced
- Extensive processing time
- Defendant may be referred for gambling problem assessment/treatment – **IF IDENTIFIED**
- Problem of available treatment site identification

# *Traditional Criminal Justice System*



## Non-compliant Defendant

- Probation Officer files violation of probation
- Judge may incarcerate appropriate to crime, irrespective of gambling problem

## Incarcerated Defendants

- Limited, if any, access to Gambling Recovery Programs
- Probable return to gambling and criminal activity upon release

# *Therapeutic Justice: Theory & Perceptions*

- Notre Dame Law Review 1/99
  - The Court as a proactive agent of change
  - Cycle of criminal behavior
  - Rehabilitation and reduction of recidivism as a judicial goal
- Georgia Law Review  
Vol. 42 No. 3 Spring 2008
- “Problem Solving” courts in the 21<sup>st</sup> century
  - Judges as “social workers”



# *Therapeutic Justice System- Arraignment to Enrollment*



- Defendant is arraigned on formal charges
- Judge applies problem gambling indicia
  - Suspected gambler is referred for initial limited assessment
  - Evaluation for drug/alcohol or co-occurring disorder issues
- Defendant returns to court within 48 hours – 1 week with initial assessment results

# *Therapeutic* **JUSTICE SYSTEM**

- Full screening assessment completed within 2 weeks
- Plea negotiations between defense counsel and district attorney result in Pre-plea/Post-plea diversion to Gambling Court, if appropriate
- Defendant begins individualized, contractual, judicially monitored, gambling recovery program



# *Therapeutic* **JUSTICE SYSTEM**

Gambling recovery program  
triage process

- short duration education program (abuse)
- long term treatment (up to 3 years) for pathological gambling

*Amherst Gambling Treatment Court*  
minimum 1 year duration for  
pathological gambling participants



# *Therapeutic* **JUSTICE SYSTEM**



- Defendant mandated to return to court regularly to assess progress in treatment
- If defendant non-compliant with treatment program, Judge can sanction (including possible incarceration)
- Defendant motivated to make progress due to regular monitoring, accountability, and psychosocial support system
- Defendant is monitored and educated to guard against “replacement” addictions

# *Therapeutic System Protocol*



## **Sanctions and Incentives**

# *Graduated Sanctions*

The intensity of sanctions  
increases with the number  
and seriousness of program

non-compliance



# *Sanctions Might Include\**



- Warnings and admonishments in open court
- Demotion to earlier program phases
- Increased frequency of court appearances
- Confinement in the courtroom or jury box
- Increased monitoring and/or treatment intensity
- Fines
- Required community service or work programs
- Escalating periods of jail confinement
- Termination from the program and reinstatement of regular court processing


*\*based on Drug Court Key Component #6*

# *Incentives*

*"A positive consequence that is the direct result of and is a reward for the offender's positive behavior."*



# *Responses to Compliance Might Include\**

- 
- **Public encouragement & praise from the bench**
  - **Ceremonies and tokens of progress, including advancement to the next treatment phase**
  - **Reduced supervision**
  - **Decreased frequency of court appearances**
  - **Graduation**
    - **Reduced or suspended incarceration**
    - **Reduced fines or fees**

*\*based on Drug Court Key Component #6*

# *Amherst Drug Treatment & Domestic Violence Courts*

## Drug Court since 9/96

- 3910 participants
  - 85% success rate
- 2190+ graduates
- Current case load
  - 210 active
  - 69 on warrant
- 208 (~10%) re-arrests (drug/alcohol)
- 18 “crack-free” babies

## DV Court since 9/97

- 840 participants
  - 66% “success” rate (more problematic)
- Enforcement of Orders of Protection
- Integrated Domestic Violence Court effect

### *Other considerations*

“Drop-outs” or repeated non-compliance

# *Amherst Gambling Treatment Court Statistics*

*9/01 - Present*

- Total number of defendants screened and diagnosed with gambling problems - 426
  - 2004 – 4% of all therapeutic screens
  - 2005 - 8% of all therapeutic screens
  - 2006 – 7.96% of all therapeutic screens
  - 2007 – 9.10% of all therapeutic screens
  - 2008 – 10.6% of all therapeutic screens (as of 12/30/08)



# *Amherst Gambling Treatment Court Statistics*

*9/01 - Present*

- 156 - Those diagnosed with gambling problems with treatment recommended
- 37 - Current active participants
- 31 - Total number of graduates
- 67 - Referred for evaluation after screening
  - no gambling recommended
- 12 - Referred back to criminal court with prejudice
- 5 - Gambling relapses reported with past graduates
- 3 - New arrests reported with past graduates

# *Amherst Gambling Treatment*

## *Court Statistics*

### *DEMOGRAPHICS*

- 61% Male
- 22% African American, 78% Caucasian
- 48% Household income below \$15,000
- 30% employed, 55% of employed are PT
- Ages 17-62, mean 32
- 78% HS grad or GED
- 44% first gambled before 18,  
75% first gambled before 21
- 53% gambling problems began less than 2  
years ago

# *Pathologic Gambling*

- American Psychiatric Association
  - Disorder of “impulse control”
- Impact of Problem Gambling
  - Family - Societal
- Society’s view of gambling
  - a paradox



# ***Gambling Treatment Court***



## **The Legal and Societal Environment**

## **American Criminal Justice System Responses to Problem Gambling**

# *Traditional Criminal Justice System*



- State & Federal Courts: compulsive gambling
  - No excuse for criminality
  - Federal Court: recent recognition as mitigation (sentencing)
- The “Problem-Solving” Court model
  - Reluctance to apply to compulsive gambling
  - Lack of funding and/or grant support (except private)

*Therapeutic Response to Problem  
Gambling in the Criminal Justice System*



**Gambling Treatment Courts**

# *The Legal & Societal Environment*



## **Society**

- Gambling is legal & entertainment
- Compulsive gambling not seen as a disease; character flaw
- No “tool” to measure legal boundary for compulsive gambling
- Gambling has intermittent family & societal rewards

# *Gambling Treatment Courts*



Bases for implementation: Amherst

Demographic

Socioeconomic

Historical

Barriers: elsewhere in US

- Interested citizens & community leaders ignored
- Judges waiting for “official approval”
- Reluctance of Drug Court Judges to apply Drug Court protocol to problem gambling
- Lack of government intervention
- Clinical versus academic dialog (point of intervention at arraignment versus probation/parole)

# *The Legal & Societal Environment: State & Federal*



## Perceptions of Gambling

- Cultural
- Social activity, not recognized as a potential addiction
- Easy money
- Advertising Slogans:
  - “If I had a million dollars”
  - “A dollar and a dream”
  - “You’ve got to be in it to win”

# *The Legal & Societal Environment: State & Federal*



## Perceptions Of Gambling (continued)

- Once considered a vice is now used by states to balance budgets
- Women are gambling in greater numbers than ever before
- Poker on ESPN – Since when is Poker considered a sport?
- 50/50s the staple of many organizations and schools

# *The Legal & Societal Environment: State & Federal*

## Public Perception – Teens

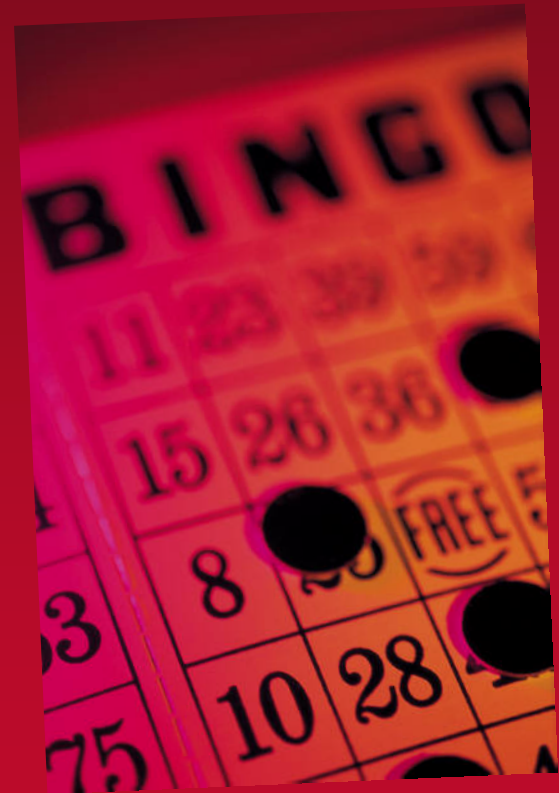
- It's okay for most teens to gamble and some parents think it's a healthy activity.
- Parents would rather have their teens gamble (Texas Hold'em poker nights at neighbor's home) than drinking and drugging.



# *The Legal & Societal Environment: State & Federal*

## Public Perception – Seniors

- Socialize
- Safe Environment
- Excitement
- Free Meals
- Feeling Accepted



# *The Amherst Experience*

The Screening process: unique & evolving

Gambling

Mental health

Substance abuse

Domestic violence




The Programmatic process

The Team: multi-faceted & interdisciplinary

# *The Amherst Experience*

## *continued*

- 
- The Therapeutic approach: problem gambling, *PLUS*
- Mental health; Substance abuse; DV/Family; Consumer debt
  - Individual counselor and/or group
  - Gamblers anonymous/Gam-anon
  - South Oaks Gambling screen, NZ eight, etc. every 3 months
  - 16 week psycho-education group
- Spousal, significant other, and parental cooperation in court room experience*

# *The Amherst Experience*

- Mandated “Replacement Addiction” awareness seminar for all drug/alcohol and Gambling Treatment Court Graduates



# *The Amherst Experience – Psychoeducational Component*



- 16 weeks
- Lecture, role play, video, homework
- Periodic quizzes
- Penalties for missing group (attend 2 sessions for every unauthorized absence)
- Signs of a gambling problem
- Phases
- Dealing with triggers and urges
- Managing time and money
- Thoughts and feelings
- Personality traits

# *The Amherst Experience*

## THE GRADUATION

criteria

“special” event -- celebration

...I think I can

... I think I can

... I thought I could



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years ago

# *Gambling Court Statistics - Type of Gaming and Standardized Test Scores*

- Types of Gambling Activity: Blackjack, Lottery, Video Poker, Sports, Stock Market, Quick Draw, Casino related (i.e., slots, etc.)
- Type of Crime: 71% Theft (Employer, Family)
- Average DSM-IV Score at Time of Admission: 7.3
- Average Time to Complete Program: 9.5+ months  
One year participation now mandatory



# *Amherst Gambling Treatment Court*



## **Programmatic Recognitions**

# *Amherst Gambling Treatment Court Programmatic Recognitions*



Growing active case load

Limited to misdemeanor crimes and felony level cases reduced by the District Attorney

Serious gambling activity involving high level embezzlement, significant credit card fraud, felony identity theft, Grand Larceny, etc. – restricted to higher courts for handling

# *Amherst Gambling Treatment Court Programmatic Recognitions*



Increasing Superior Court referrals for Gambling Court participation as component of conditional discharge/probation sentencing

Need for further awareness of the Court within judicial and legal communities as well as enhanced active buy-in from the District Attorney's Office

# *Amherst Gambling Treatment Court Programmatic Recognitions III*



Continuous programmatic research and reevaluation necessary to enhance identification and enrollment process

- Screening tools require ever increasing sophistication
- Screening should be separate from the drug court and domestic violence court environment

Significant population increase noted in abuse

- only educational track requiring separate protocol development

# *Amherst Gambling Treatment Court*



**Five Year Experience with  
Chemical Dependency**

# *Amherst Gambling Treatment Court 5 Year Assessment*

Dramatic increase in  
identified Co-Occurring  
Disorders

- PTSD (returning vets)
- Trauma issues
- Mental health Diagnosis  
bipolar, depression, anxiety, etc.
- Developmental disabilities (low functioning)



# *5 year Assessment II*

Chemical dependency – more complex/advanced

Increase in opiate addiction, multi drug use

Late stage addiction

Increased risk factors –  
decreased functioning (MH & CD)

Increased need to stabilize  
chemical/alcohol use before gambling  
problems can be addressed



# *Amherst Gambling Treatment Court*



## **Five Year Participant Evaluation**

# *5 year Assessment II (continued)*

## Pathological Gambling and Substance Abuse

- Estimates and evidence show that between 65-80% of clients seeking treatment for problem gambling have a co-existing alcohol and/or substance abuse disorder



# *5 year Assessment (continued)*



## **Differences between Substance Abuse and Pathological Gambling**

- No “saturation” point for a PG
- No urine screen/breathalyzer for PG
- Bailouts – easy access to money
- Chasing losses
- No differential between “Abuse” and “Dependence” in gambling diagnosis
- PG often enter treatment much later in their “progression” – warning signs are hidden

# *5 year Assessment (continued)*



## **Gambling and Chemical Use**

- Gambling and substance use may go hand in hand: Quick Draw, Casinos, card rooms
- CD treatment/self-help may be oblivious to gambling as issue (50-50 tickets in AA, playing cards for money in rehab)
- Gambling as relapse trigger for CD
- “Nothing else is fun/exciting
- “Switching seats on the Titanic”

# *5 year assessment*



Gambling personality does not always respond well to court/legal system

- Difficult to identify initially  
(adept at concealment)
- Continual attempts to manipulate system
- Poor response to authority/expectations in treatment
- Appear antisocial and uncooperative

# *5 Year Assessment*

Increase in youth gambling

College students

High school students  
inner city & suburban

Minority females



*Amherst Gambling Treatment Court  
2001-2007*



**Accomplishments  
and  
Future Requirements**

# *Amherst Gambling Treatment Court 2001-2007*



## *Accomplishments*

Adopted new screening tools

Modified South Oaks

NZ Eight

DSM IV – self test

Local model

# *Amherst Gambling Treatment Court 2001-2007 continued*



## *Accomplishments (cont)*

Evolved new screening approach

Educate (briefly before initial screen)

Screen along with CD measures in Drug Court

Implemented mandatory problem gambling education group

- done in conjunction with orientation

“Replacement addictions” component

Re-Screen throughout program (during mandatory educational group, NZ Eight and DSM IV self test)

# *Amherst Gambling Treatment Court 2001-2007*

## *Future Requirements*

Ever evolving and improving screening process

Referrals from other courts

- Educate lawyers and judges
- Increase number of off site screens



# *Amherst Gambling Treatment Court 2001-2007*



## *Accomplishments and Future Requirements*

Improved communication and relationship  
with defense counsel

Identification and utilization of in-patient  
gambling treatment facilities

# ***Gambling Treatment Court***



## **A Summary**

# *Summary*

## Gambling Treatment Courts ~ Therapeutic Justice Court

- Early identification, intervention & comprehensive assessment
- Mandated treatment
- Judicial supervision – key element
- Development of healthy behaviors  
(~ reduce recidivism)

Expected exponential growth of gambling-related or gambling driven offenses within the Criminal Justice System

# *Summary*



## *Action Plan*

Enhanced public & governmental awareness

- Legislative intervention/support  
(statutory revisions, budgetary allocations)
- Media promulgation of Gambling Court results

Expanding judicial involvement

- Regular involvement/presentations in mandatory Judicial Education Programs
- Liaison and networking between Superior Court and lower Court jurists to promote creative alternative sentencing options