# The WAGER, Vol. 8, Editorial, The World's Only Gambling Court

June 18, 2003

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Is compulsive gambling a disease?

The prevailing view in the law is that gambling is a vice. Compulsive gamblers who destroy their lives may be pitied, but they are punished for their moral weakness, not treated.

In this view, telling judges or juries that defendants committed crimes to feed their gambling habits is worse than useless. Not only is it not a legal excuse, but now prosecutors can point to a motive.

In 1980, the well-settled law making problem gamblers liable for their crimes was rocked by a declaration from the medical world. The American Psychiatric Association ("APA") declared "pathological gambling" to be an official "mental disorder." The disorder was published, with a list of recognizable symptoms, in its Diagnostic and Statistical Manual ("DSM").

The APA is quick to point out that the DSM is designed for diagnosis and treatment only and is not intended to have any legal importance. But, defense lawyers are under a duty to raise every defense, including the fact that the leading medical association in the field says that a person who has a gambling problem is not morally weak, but instead suffers from a disease.

The law does not punish people for being ill.

What should the law do with a compulsive gambler who admits stealing to get the money to gamble?

In practice, the overwhelming majority of judges continue to treat the compulsive gamblers accused of committing crimes, as if they have no problems, other than being crooks. This usually means sentencing them to jail.

This might give some feelings of "just desserts," but actually helps no one. Imprisoned compulsive gamblers cannot earn enough money to repay their victims; they will not receive treatment; but they will have lots of opportunities to gamble.

Mark G. Farrell, Justice of New York State's Amherst Town Court, has come up with a different approach. In 2001, he started the nation's, and probably the world's, first Gambling Court.

Speciality courts for drug addicts and perpetrators of domestic violence have been around for a few years. Social workers screen criminal defendants to see if there is an underlying problem which can be treated.

Judge Farrell is the first to apply this "therapeutic justice" model to gamblers. The program may sound touchy-feely, but that is not how it is run. Defendants have to first plead guilty and waive all constitutional rights, including the right to plea-bargain. If they make it through the program, all charges are dropped. But, if they miss a weekly therapy session, they go to jail for a week. If they miss a court appearance or violate the terms of their contracts with the Gambling Court, they are returned to regular criminal court and go to prison for a felony.

Since many compulsive gamblers have lost all their money, the Gambling Court is fortunate to have the help of the local Jewish Family Service's treatment program, which has never turned anyone away.

In September 2002, Judge Farrell and I spoke at a seminar at Whittier Law School. The obvious question is, does Gambling Court work?

The program is still small and relatively new. But it is the only program dealing with convicted criminals that I know of which can say that not a single one of its graduates has ever been convicted as a repeat offender.

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The WAGER is a public education project of the Division on Addictions at Harvard Medical School. It is funded, in part, by the National Center for Responsible

Gaming, and the Massachusetts Council on Compulsive Gambling.