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# Magistrate

**Gambling-related crime**  
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**The Alice Ruggles Trust**  
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 **Magistrates Association**

## **COVER ART**

### ***Gamblers* by Margo Hoff**

Courtesy of Peyton Wright Gallery, Sante Fe, New Mexico

Margo Hoff (1910-2008) was a highly renowned, award winning American figurative and abstract painter whose work has been exhibited in major galleries and museums throughout America. Her work is represented in the collections of the Art Institute of Chicago, the Brooklyn Museum, the Metropolitan Museum of Art, the Corcoran Gallery and the National Gallery of Art in Washington, D.C., the Whitney Museum of American Art and the Victoria and Albert Museum in London. UNICEF once chose one of her designs for their Christmas cards.

For more information please see [www.peytonwright.com](http://www.peytonwright.com)

The Magistrates' Association (MA), Staffordshire University, and the Howard League for Penal Reform recently worked on research to look at sentencers' understanding of crime and problem gambling. We collected the views and understandings of magistrates, criminal justice professionals, and therapeutic stakeholders working with those addicted to gambling. The findings have been included in the work of the Commission on Crime and Problem Gambling led by Lord Goldsmith, which aims to inform national reforms.

## Advocating for sentencing guideline changes for gambling-related crime

Gambling addiction is internationally acknowledged as a behaviour addiction in leading mental health assessment tools, such as the DSM-5 and WHO ICD. Both assessments recognise gambling addiction has similar cognitive impacts to substance misuse addiction. When people chase gambling losses by gambling further, it is understood their cognitive processing has been impaired (Smith and Simpson, 2014). There is growing scientific evidence to suggest that brain chemistry alters, and this is when crime is more likely.

Significant harms associated with gambling include, primarily, committing crime to fund the addiction. People who are addicted to gambling can experience mental and physical health decline, financial, job and relationship loss, as well as increased risk of becoming a victim, or perpetrator, of domestic abuse (Langham et al., 2016). There are harms to immediate family and friends caused by financial loss through money lending or theft, domestic abuse relating to growing tensions concerning debt and behaviour changes, child neglect and emotional distress, as well as negative impacts to the wider society in the form of crime committed in the community and the workplace to fund addiction. Gambling addiction is a growing public health concern globally (Abbott, 2020), and researchers estimate that 3% of the UK population are at risk of experiencing gambling-related harms (Critchlow et al., 2020). The number of gambling consumers is increasing, partially due to easy online access and by using mobile phones (Gambling Commission, 2020), alongside the lack of robust advertising restrictions contributing to the normalising of gambling (ibid).

Sentencers may find people before them in court who represent, or work in, the gambling industry when there have been breaches of patent rights (Brooks G and Blaszczynek, 2011), or, more likely, people who have committed crime because of their gambling addiction. Research has shown that 13% of arrestees within a Cheshire police custody suite reported having a gambling problem (Mann, 2018).

In other jurisdictions, gambling is accounted for when sentencing. In Canada, mitigation can be applied when the crime(s) committed is a direct response to a gambling addiction if sufficient evidence is produced by the defence or an expert witness, confirming the gambling addiction diagnosis and a direct association to the crime(s) committed (Smith and Simpson, 2014). Innovatively, in



*Are Weasels Tasty?*, HM Prison Oakwood, Commended Award for Painting, image courtesy of Koestler Arts

parts of the USA and Australia, gambling-solving courts (a form of problem-solving court) have successfully been used to sentence and monitor therapeutic intervention and desistance progress of people with gambling addictions who have committed a crime (Turner et al., 2017; Dollar et al., 2018). Typically, a financial crime threshold for referral to the gambling-solving court is used and breach of therapeutic support conditions results in a return to court and more punitive sentencing.

### Research aims and methodology

Our research aimed to:

- Understand the extent to which sentencers in England and Wales are aware of problem gamblers coming before them in court
- Understand sentencers' practice when problem gambling is apparent within a case
- Elicit sentencers' views on the potential for courts to account for problem gambling when sentencing

Magistrates were keen to be involved in the research – 656 magistrates, recruited by the MA, took part in an online survey and 26 went on to attend one of six online focus groups. The findings with magistrates were then shared with 21 professionals from the criminal justice sector, including therapeutic stakeholders, via an online world café event to ascertain whether their experiences

corroborated with what we had been told by magistrates. This was achieved through break-out group discussions following a presentation. Further suggestions for criminal justice system (CJS) improvements were also made. All findings were collated into a final report, *Sentencers' understanding and treatment of problem gamblers*.<sup>1</sup>

## Findings – understanding gambling addiction

- Awareness of gambling addiction and gambling-related crime varied and some knowledge was through pervasive gambling advertising, which concerned magistrates, and corresponded with views from public health researchers.
- Approximately half of the sentencers involved in the research had infrequent experiences of cases where problem gambling was identified within the courtroom, while the remainder had no experience of gambling being identified in a pre-sentence report (PSR) or by the defence. Most felt problem gambling needed better identification within PSRs and training for gambling screening would be beneficial.
- Magistrates would welcome training pertaining to behavioural addiction and sentencing for related cases.
- Stakeholders highlighted services such as the Beacon Counselling Trust and GamCare, that are partnering with the CJS and getting positive results. Learning from this work would enhance future developments.

## Findings – implications for sentencing practice

- When magistrates encountered cases where problem gambling was an issue, it was mostly in cases of acquisitive crime with breach of trust or domestic abuse.
- Gambling came up more frequently in family courts than criminal courts, especially relating to parenting concerns. Our survey findings indicated that child abuse came up in a small number of cases where gambling was cited as a contributing factor.
- Magistrates would welcome improvements to CJS treatment pathways and provision to enable inclusion of treatment in sentencing as part of rehabilitation activity requirement days. Magistrates were generally unsure or unaware of any treatments that could be offered to problem gamblers that they could ask for as part of a sentence. For example, one magistrate spoke of 'a boiler engineer' who had 'taken about £3,000' from 'a couple, to replace their boiler' and then did not do the work because he had spent the money on his gambling addiction. The magistrate sharing this story said, '...it was difficult to pinpoint help for him... That's where the hole is.' (Magistrate P3, focus group 6)<sup>2</sup> Another magistrate recounted that a 'lady who was doing theft from a shop to fund her habit of ... purchasing the lottery scratch cards ... it was causing issues at home, and this was raised you know in mitigation... I think eventually we did manage a community disposal... I don't think there was anything specific [gambling therapeutic support] ... it was just things probation would have to organise through the supervision element of the community order...' (Magistrate P6, focus group 2)<sup>3</sup>
- Magistrates acknowledged financial restraints were a barrier to achieving the best possible outcomes in terms of access to multi-agency treatment pathways.

- With regards to domestic abuse, a person with a gambling addiction may experience being a perpetrator, or a victim: '...there is a huge correlation between gambling and domestic violence, on both sides you know where a gambler will take it out on their partner, and you know a partner might also inflict violence on someone who was gambling because of their frustrations and anger...' (World café participant, therapeutic stakeholder)<sup>4</sup>
- Magistrates were keen to obtain justice for victims of crime, as well as ensuring expert-led therapeutic interventions were available for people with gambling addictions.
- Changes to sentencing guidance to allow for mitigation, where appropriate, were advocated in the main by sentencers and validated by stakeholders.
- Magistrates purported that the amount stolen in acquisitive crime cases mostly exceeded magistrate court thresholds, leading to cases being committed to crown court. There was reluctance to do so when it was the defendant's first offence and they had previous 'good character'. A suggestion was for magistrate powers and committal thresholds to be revised.
- Fines and custodial sentences were thought to be counterproductive when addressing gambling addiction due to an increased potential of recidivism.

## Next steps

The Commission for Crime and Problem Gambling is now taking the recommendations from the research forward to advocate for changes to sentencing guidance and national legislation.

**NOTE:** All references cited in this article can be found in the final report *Sentencers' understanding and treatment of problem gamblers*, under References (see footnote 1).

**For further information about the issues raised in this article please contact Sarah Page at [S.J.Page@staffs.ac.uk](mailto:S.J.Page@staffs.ac.uk)**

## Footnotes

1 *Sentencers' understanding and treatment of problem gamblers, The report of the Commission on Crime and Problem Gambling*, Page 5, Howard League for Penal Reform, London, 2021, ISBN 978-1-911114-59-8, 2021 <https://bit.ly/magistrate221>

2 As 1

3 As 1

4 As 1



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Sarah is a pracademic with experience of working within probation and youth offending services specialising in alcohol and drug addiction therapeutic and educational support. She teaches and researches within criminology and tackling poverty and hardship and publishes in the field.



**Dr Jo Turner, Associate Professor of Criminology, Staffordshire University**

Jo is part of the Senior Leadership of the School of Crime, Security and Sustainability and the Head of Department with management and oversight of Criminology, Policing, Forensic Science and Social Welfare based courses and research. She is a JP and involved in MA work. She is a published author and international conference speaker.