

Sentencing, Crime & Problem Gambling Research: Core Findings

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Acknowledging the Participatory Research Team:

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**Howard League
for Penal Reform**



Magistrates Association



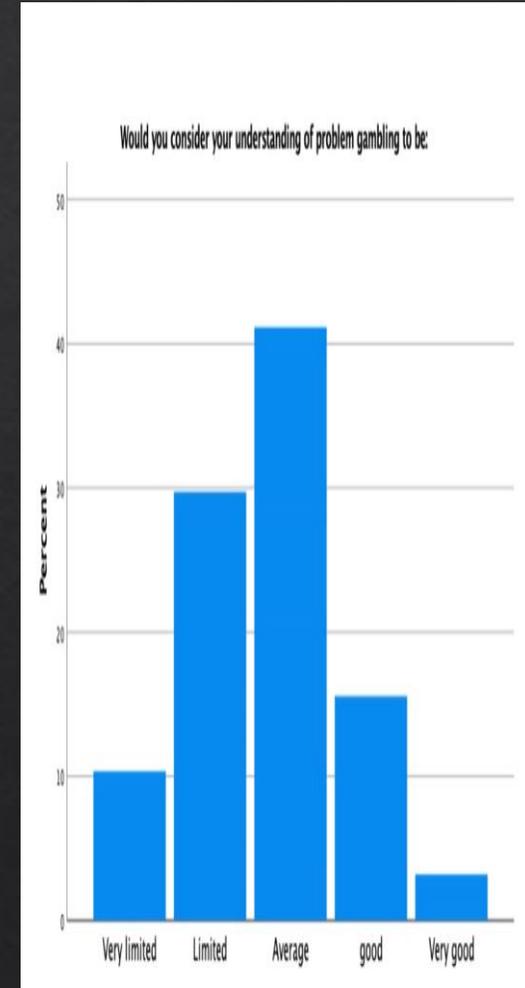
Commission on Crime & Problem Gambling

This research is focussed on magistrates to understand the extent to which sentencers are aware of problem gamblers coming before them in court; their practice when problem gambling is apparent within a case; and to elicit magistrates' views on the potential for courts to account for problem gambling.

◆ <https://howardleague.org/commission-on-crime-and-problem-gambling/research-commissions/>

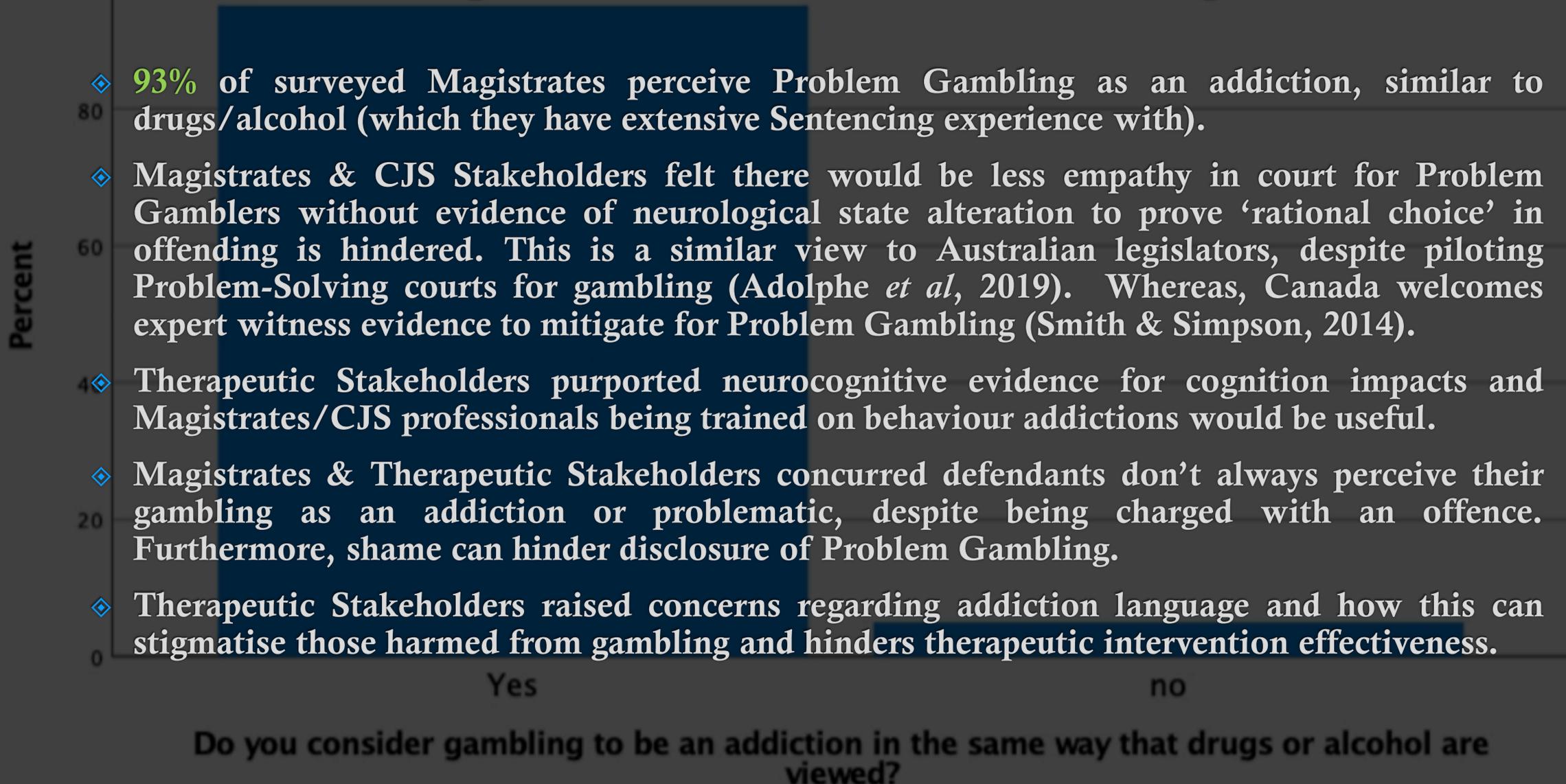
Core Findings - Awareness of Gambling

- ◆ Magistrates mainly rated themselves as having average understanding of Problem Gambling.
- ◆ Magistrates & Therapeutic Stakeholders felt advertising for gambling is pervasive and exacerbates Problem Gambling. Greater advertising restrictions is welcomed:
- ◆ *“... definitely get rid of the free offers... people must start gambling at some point in their life... they’re not born a gambler... these adverts are viewed by 16, 17, 18 year olds in the family home... that £10 freebie, you’re going to get a few little wins, to entice you to carry on gambling... we’re almost spoon feeding our younger generation to see that gambling is acceptable cos if you look at those advertisements, they’re all really happy, colourful, lots of music, cool people on and its making the whole thing look attractive.” (P3, Focus Group 3)*
- ◆ Magistrates & Stakeholders felt online gambling opportunities made access easy, including for those underage *“... it’s made so easy now through mobile phones and computers, they just do it, rather than having to go to a bookies...” (P4, Focus Group 3)*
- ◆ Magistrates didn’t provide examples of sentencing Gambling Providers, but some recognised this possibility if restrictions were tightened and Providers breached requirements.
- ◆ Safeguarding children and those at risk of gambling harm were the main concerns regarding UK advertising, which relate to Public Health concerns (McGee, 2020; Purves *et al* 2020)



Do you consider gambling to be an addiction in the same way that drugs or alcohol are viewed?

Core Findings: Awareness of Gambling Addiction



◆ **93%** of surveyed Magistrates perceive Problem Gambling as an addiction, similar to drugs/alcohol (which they have extensive Sentencing experience with).

◆ Magistrates & CJS Stakeholders felt there would be less empathy in court for Problem Gamblers without evidence of neurological state alteration to prove 'rational choice' in offending is hindered. This is a similar view to Australian legislators, despite piloting Problem-Solving courts for gambling (Adolphe *et al*, 2019). Whereas, Canada welcomes expert witness evidence to mitigate for Problem Gambling (Smith & Simpson, 2014).

◆ Therapeutic Stakeholders purported neurocognitive evidence for cognition impacts and Magistrates/CJS professionals being trained on behaviour addictions would be useful.

◆ Magistrates & Therapeutic Stakeholders concurred defendants don't always perceive their gambling as an addiction or problematic, despite being charged with an offence. Furthermore, shame can hinder disclosure of Problem Gambling.

◆ Therapeutic Stakeholders raised concerns regarding addiction language and how this can stigmatise those harmed from gambling and hinders therapeutic intervention effectiveness.



Core Finding: Awareness from Court Room Experience

- ◆ **54.4%** of Magistrates via Survey said that Problem Gambling has never come up in a sitting.
- ◆ Magistrates & CJS Stakeholders felt gambling is more prevalent. Early detection by Police/Liaison & Diversion/Probation is needed.
- ◆ Magistrates want contextual information to empathetically make decisions, in conjunction with Sentencing Guidance.
- ◆ When cases did come up, information was presented by PSRs and/or Defence Lawyers (Survey data). Focus Groups stated PSRs rarely contained details and Probation could screen for Problem Gambling.
- ◆ Gambling screening needs to cover the extent of issue and likelihood of re-offending (Magistrates & CJS Stakeholders).
- ◆ Stakeholders explained pockets of Probation/Police/Liaison & Diversion staff have been trained in Gambling Screening, treatment referrals, gambling harms and links between gambling and crime by GamCare and Beacon. Training needs to become mainstream practice to achieve consistency.
- ◆ A whole systems approach is welcomed (Therapeutic Stakeholders) – shared learning from the pilot in Hertfordshire led by GamCare would be useful.

Core Findings: Awareness from Court Experience – The Defendants



- ◆ Survey data indicated when gambling comes up in Court it is more often with white male defendants over 30 years (7.7% = female). Only 7.7% = BAME defendants. Therapeutic Stakeholders indicated more females are in treatment than this.
- ◆ 25.5% of defendants with gambling problems were estimated as unemployed (Survey data). Gambling also impacts those employed in positions of trust (Focus Groups & Stakeholders). Whereas, Conolly *et al* (2018) suggests higher levels of unemployment among the UK Problem Gambling population.
- ◆ Those presenting in court were recalled as having the following issues (Survey data):-
 - ◆ Financial Issues e.g. Debt (56.7%)
 - ◆ Alcohol Addiction (31.2%)
 - ◆ Relationship Breakdown (29.9%)
 - ◆ Drug Addictions (21.5%)
 - ◆ Job Loss (20.5%)
 - ◆ Poor Mental Health (17.4%)
 - ◆ Adverse Childhood Experiences (5.7%)

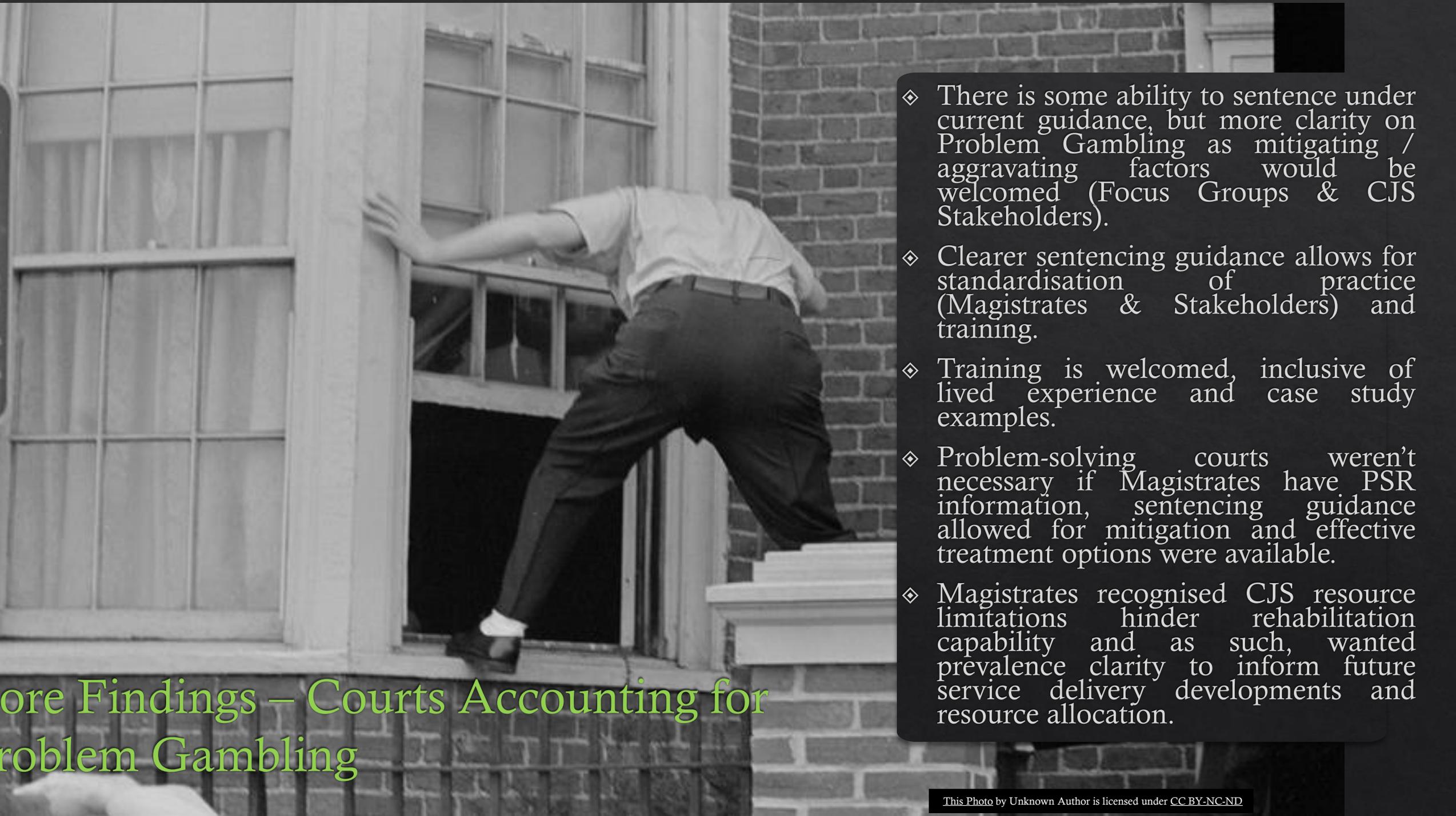
Core Findings: Awareness from Court Experience – Deviance, Crimes & Upstreaming

- ◇ Problem Gambling came up in crime (offences) and also family courts (deviance e.g. disputes over child care)
- ◇ The most common crimes in court were: Theft 25.7%, Unauthorised Credit Cards 14.6%, Domestic Violence 11.4%, Assault 3%, Street Robbery 2.7%, Public Order Offences 1.7% & Child Abuse 0.6% (Survey data)
- ◇ DV cases - the defendant has been a perpetrator, or a victim (Magistrates & Therapeutic Stakeholders)
- ◇ Most financial crime cases were up-streamed to Crown Court (Focus Groups). Magistrates Courts could deal with such first time offender cases, if sentencing guidance permitted (Focus Groups).
- ◇ *“...she had been involved in Theft of breach of trust...from an employer... she did work in the payroll department... had got access to the payment card to erm, you know, pay extra through people’s bacs or PAYE and she had helped herself to that... she had managed to divert, I think something like £25,000... she had spent it on the horses, as well. So, there was nothing to be recovered... I don’t remember any other addictions, erm. It was striking really, because it was so much money and this is a woman with previous good character. It was quite astonishing really... Anyway, I think that we declined a jurisdiction in view of the amount of money which she had stolen...”* (Participant 3, Focus Group 4).
- ◇ CJS Stakeholders & Magistrates talked about cases where up to £500K had been stolen from workplaces.
- ◇ Perception that Problem Gambling spirals out of control & people chase their losses (Focus Groups & Stakeholders) – Zhang & Clark (2020) and others state ‘loss chasing’ infers decision making distortion and Canadian courts allow for this as evidence for mitigation (Smith & Simpson, 2014).

Core Findings – Sentencing Options

- ◆ Magistrates rely on sentencing guidance to seek justice for the victim, whilst being mindful of therapeutic benefits for offenders.
- ◆ Current guidance allows for mitigation for defendants voluntarily taking steps to address gambling addictions.
- ◆ Current guidance allows for sentences to include bans from geographical and internet locations, but this isn't widely understood and utilised by sentencers (Focus Groups & Stakeholders).
- ◆ Fines and prison sentences were perceived as detrimental to addiction recovery. Prison is considered last resort (Focus Groups)
- ◆ The fine sentence needs reviewing - an alternative punishment would be welcomed to avoid further offending to address debts (Focus Groups).
- ◆ Only a couple of Magistrates knew of services that Probation could refer to as part of a community sentence (Focus Groups).
- ◆ Survey Data – **99.6%** wanted a treatment package option for sentencing similar to drug/alcohol addiction: a bespoke package that could contribute to RAR days (Focus Groups & Stakeholders). Magistrates would prefer Probation to commission existing expertise and want holistic options e.g. mental health support and debt management.
- ◆ Therapeutic Stakeholders pointed out services for gambling addiction are in most geographical areas. Magistrates prefer enforceable mandated programmes to ensure compliance (Focus Groups).





More Findings – Courts Accounting for Problem Gambling

- ◆ There is some ability to sentence under current guidance, but more clarity on Problem Gambling as mitigating / aggravating factors would be welcomed (Focus Groups & CJS Stakeholders).
- ◆ Clearer sentencing guidance allows for standardisation of practice (Magistrates & Stakeholders) and training.
- ◆ Training is welcomed, inclusive of lived experience and case study examples.
- ◆ Problem-solving courts weren't necessary if Magistrates have PSR information, sentencing guidance allowed for mitigation and effective treatment options were available.
- ◆ Magistrates recognised CJS resource limitations hinder rehabilitation capability and as such, wanted prevalence clarity to inform future service delivery developments and resource allocation.

Recommendations in Summary



- ◆ Sentencing guidance to include when Problem Gambling is a mitigating/aggravating factor.
- ◆ Clarify prevalence with offending cohorts through Probation and the Police - this could be achieved through data from existing GamCare and Beacon police custody projects and the Hertfordshire criminal justice whole system case study led by GamCare.
- ◆ Early identification and diversion through police - explore referral to a Problem Gambling awareness course / treatment.
- ◆ Probation/Liaison & Diversion staff to use a gambling screening tool and assess likelihood of reoffending if gambling is not addressed. Pre-sentence reports (PSR) to include this information, along with pursuit of earlier treatment and support intervention.
- ◆ Specialist gambling treatment services commissioned by Probation to provide appropriate support for offenders and included in community sentence RAR days. Interventions designed and delivered by experts in the field, including those with lived experience. Treatment/intervention options to include debt management, mental health support and healthy relationship education.
- ◆ Gambling treatment to be provided by the Prison Service with improved access to service users.
- ◆ Training for Magistrates/CJS professionals on Problem Gambling including behaviour addiction, gambling harms and sentencing options available. The voice of those with lived experience of gambling and crime and shared knowledge from the Therapeutic field would enhance Criminal Justice Practice.
- ◆ The court system to review monetary value of acquisitive/fraudulent crime that Magistrates are entrusted to sentence. Proposed increase to sentencing allowance for below £50K, when it is a first time offence before the court.
- ◆ The fine, as form of punishment, needs reviewing, so that alternatives are available when sentencing.
- ◆ Greater restrictions to gambling advertising and online gambling provision to safeguard children and those at risk of gambling harms.
- ◆ Gambling providers could pay into a CJS victims compensation fund (supported by Smith & Simpson, 2014).

Any Questions?

Final report due to Howard League for Penal Reform with aim for it to be published end May 2021

◆ Further queries / Feedback email:
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