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Experiences of New Zealand Psychologists in a Changing Legislative Context

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Abstract

Changes to New Zealand's law and order legislation in recent decades have made provision for psychologists to fulfil increasingly prominent forensic roles. While the complexities of forensic psychological practice, occurring at the interface between the criminal justice and mental health systems, have been comprehensively described in the theoretical literature, few studies either in New Zealand or internationally have considered the experiences of psychologists themselves in navigating the role. This qualitative study aimed to consider both psychologists' experiences of tensions experienced in working with people who have offended, and the ways in which such tensions are reconciled and/or managed.

Sixteen psychologists working in a range of contexts with individuals who have offended took part in the study, with an average of 15 years' experience. A qualitative methodology, guided by an interpretivist approach, was employed. Semi-structured interviews were carried out, exploring psychologists' experiences of tensions and how such tensions were managed. Thematic analysis was used to analyse the data.

The results of the thematic analysis indicated that while psychologists themselves viewed their clients as a highly vulnerable population, considerations of risk impacted on many areas of forensic practice, requiring psychologists to: classify clients into risk and diagnostic categories; focus less on therapeutic treatment and formulation and more on reporting; provide treatment predominantly on the basis of 'risk factors'; compromise the therapeutic relationship; use clinical skills to meet the security demands of the criminal justice context; and compromise professional integrity. The findings suggest that demands for community safety increasingly take priority over the needs of forensic clients.

Psychologists were found to hold different values as they endeavoured to manage the tensions they were faced with, which contributed to them occupying positions of accepting, challenging, or leaving a forensic work setting. Regardless of the position taken by participants, all endeavoured to find ways in which they could optimise benefits to their forensic clients. Psychologists identified, however, that they had previously been viewed as 'helpers' by their clients, but were now often viewed as 'deciders of fate'. The findings thus

highlight a need for psychologists to restore the faith of forensic clients in the profession of psychology. The findings are interpreted in light of ethical principles and codes, and clinical writings on ethical forensic practice.

Dedication

In Memory of my Parents

John Richard Jones 21.1.1930 – 4.1.2011

Esther Veronica Jones (née Prendergast) 28.12.1931 - 11.11.2013

Acknowledgments

To the 16 psychologists who participated in this study, thank you for giving up your time and for generously sharing the insights you have collectively gained over many years in forensic practice. I feel very privileged to have had the opportunity to hear the stories of such a reflective group of people, all endeavouring to benefit a unique client group under circumstances that are often less than optimal. I hope that your participation will help to draw attention to the challenges currently facing psychologists practising in forensic fields, and that in some small way the research will help to change things for the better, both for psychologists and for our clients.

To my supervisor Gwen Willis, thank you. I am so lucky to have been supervised by such a talented teacher and researcher, and have greatly appreciated you poring over draft after draft and providing such on-point and thought-provoking feedback. Thanks for your enthusiasm for the research, and for your encouragement through all the tough times. Thanks also to my second supervisor, Suzanne Barker-Collo, for some very helpful suggestions to the final manuscript, and for your super-efficient turnaround.

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Glossary

The following terms and abbreviations have been used throughout this report:

ADHD	Attention Deficit Hyperactivity Disorder
ASRS	Automated Sexual Recidivism Scale
DHB	District Health Board
ESO	Extended Supervision Order
FGC	Family Group Conference
GLM	Good Lives Model
IQ	Intelligence Quotient
PCL-R	Psychopathy Checklist-Revised
PPO	Public Protection Order
RNR	Risk Need Responsivity Model
RoC*RoI	Risk of Conviction x Risk of Imprisonment Measure
SST	Sensible Sentencing Trust
STU	Special Treatment Unit

Chapter One - Introduction

Brief Introduction to the Study

In December 2016, the Christchurch High Court heard the case for Glen Anthony Douglas, jailed in January 2014 after falsifying a social media profile to contact a 13 year old boy for sex. Although Douglas had completed his prison sentence and was due to be released, the Department of Corrections applied for a civil order so that Douglas could continue to be detained within prison precincts. The Department of Corrections was able to make its application under the Public Safety (Public Protection Orders) Act 2014, which applies to individuals who have committed serious sexual or violent offences and completed a finite sentence, but in the absence of new offences nevertheless pose a risk to public safety. Douglas was the first individual in New Zealand to receive a Public Protection Order (PPO).

Application for a PPO must be accompanied by two reports, separately prepared by 'health assessors', at least one of whom must be a registered psychologist. A health assessor's report is used to assist the court in its decision-making jurisdiction, by providing a comprehensive 'risk assessment' in which an evaluation is made of the likelihood of an individual committing further sexual or violent offences. The Public Safety (Public Protection Orders) Act 2014 is the most recent of a number of legislative changes enacted in New Zealand in the last fifteen years that have made provision for psychologists to assume increasingly prominent roles in forensic contexts (Blackwell, 2011a; Wilson, Tamatea & Riley, 2007).

Forensic psychological roles share a level of complexity not found in other general/clinical psychological settings (Ward 2013, 2014). Ward (2013) notes that the inherent difficulty in correctional psychology for instance, is that it occurs at the interface between the criminal justice and mental health systems, the former concerning itself with security and custodial arrangements, and the latter with assessment and therapy in which psychologists have traditionally been schooled. According to Ward (2013), when the norms that govern the different systems to which a psychologist is bound are in competition with

one another, including legal, ethical, workplace and other norms, s/he may experience a conflict, also referred to as the ‘dual relationship problem’.

This thesis presents an exploration of the role of New Zealand psychologists whose work takes place in settings that manage individuals who have been involved in offending. It considers psychologists’ experiences in light of balancing the needs of society to be protected from undue harm, with the rights of clients who have criminally offended, in an increasingly risk averse legislative context (Pratt, 2013).

The current chapter presents a review of relevant literature, divided into three parts. Part One reviews ethical principles and codes of practice for psychologists, followed by a consideration of ethical principles as they relate more specifically to individuals who have offended. Theoretical ethical concepts that have been proposed to guide the ethics of forensic practice are also reviewed. Part Two provides a detailed exploration of specific ethical issues arising in relation to psychological assessment and treatment in forensic settings and a review of the few studies that have investigated psychologists’ experiences of such ethical issues. Part Two concludes with a brief review of proposed frameworks by which to address ethical conflicts in forensic contexts. In Part Three, the specific legislative and policy context in which psychologists in New Zealand carry out forensic practice will be described. The aims of the current study will then be presented.

Part One – Psychological Ethics

The field of practical or applied ethics is concerned with the implementation of generalised norms and theories to real world contexts (Beauchamp & Childress, 2009). Although the discipline of psychology is relatively new, attempts to regulate the conduct of members of the related field of medicine can be traced to Babylon in the 18th century BCE (Sinclair, 2012). Developments in medical ethics have continued across cultures to the present day as writers from the fields of philosophy, religion and the law have endeavoured to define the practitioner-patient relationship (Sinclair, 2012). The atrocities of experimentation on human subjects without consent during World War II however, highlighted a need for health professionals to formally adopt ethical principles (Sinclair, 2012).

Beauchamp and Childress's (1979) seminal work, *Principles of biomedical ethics*, offers an ethical framework that has become influential for practitioners of medicine and allied disciplines. The authors describe four moral pillars including beneficence, non-maleficence, autonomy, and justice, which they consider essential to ethical practice. The principle of beneficence relates to the practitioner's obligation to act in the client's best interests, while non-maleficence concerns the fundamental directive to 'do no harm'. The principle of autonomy establishes the importance of self-determination by clients in deciding what treatments they will receive. The justice principle seeks to ensure equality and fairness to different societal groups in the application of professional knowledge. According to Beauchamp and Childress (2009), all four principles are binding unless they come in to conflict with one another: for instance, the beneficence and autonomy principles might conflict if a client required a life-saving blood transfusion that was against his or her religion.

Within the psychology profession, post-war demands for ethical guidance by psychologists mobilised to provide treatment to returning veterans (Nagy, 2011) contributed to the publication of psychology's first formal ethical code by the American Psychological Association (APA, 1953). The APA's *Ethical standards of psychologists* (1953) has subsequently been revised many times, with the most recent version (2010) outlining enforceable standards of conduct, prefaced by five general principles that align with and expand upon Beauchamp and Childress's (2009) four pillars. Despite the APA's early codes (1953, 1959) having been adopted in many countries, the 1980s saw Canadian psychologists deeming the APA code too strongly reflective of American law and culture to be applied in Canada, leading them to advance a distinct local code. The Canadian code has proven integral to the development of the Universal Declaration of Ethical Principles for Psychologists (2008), and the codes of other countries including New Zealand (Pettifor & Sawchuk, 2006; Seymour & Nairn, 2012; Sinclair, 2012). Next, the *Code of ethics for psychologists working in Aotearoa/New Zealand* (New Zealand Psychological Society, 2002), hereafter referred to as the NZ Code of Ethics (2002) is used to exemplify the incorporation of broad ethical principles adapted to a unique cultural context (and the context of the current research).

The New Zealand Code of Ethics

The Health Practitioners Competence Assurance Act 2003 provides common legislation for health professionals practising in Aotearoa/New Zealand, and stipulates that professional groups must have ethical codes (Osborne, 2011; Seymour 2007, 2016). The NZ Code of Ethics (2002), a revision of its (1986) predecessor, applies to general, clinical and other psychological scopes of practice, across all professional and research endeavours. The explicit purposes of the code are to establish the profession of psychology, to provide guidance for ethical decision-making, and to offer the public a standard by which to assess the conduct of psychologists. Implicitly, the code also serves to regulate the profession (Seymour, 2007, 2016).

Consistent with the Canadian code, the NZ Code of Ethics (2002) is ‘aspirational’ rather than prescriptive of psychologists’ conduct (Seymour & Nairn, 2012; Sinclair, 2012). The code sets out four broad principles, with values and practice implications subsumed around each principle, in contrast to the APA’s separation of principles and standards (APA, 2002). A distinctive feature of the NZ Code of Ethics (2002) is the prominence of cultural considerations (Seymour & Nairn, 2012), reflecting the central place of Te Tiriti o Waitangi (The Treaty of Waitangi), a founding agreement between indigenous (Māori) and non-Māori, within New Zealand culture (Orange, 1987). The NZ Code of Ethics (2002) makes specific reference to the principles of partnership, participation, and protection which offer an accepted contemporary framework by which application of the Treaty may be guided (Tassell, Herbert, Evans & Young, 2012).

The first principle, ‘respect for the dignity of persons and peoples’, includes values in relation to basic rights, respect for client dignity and sensitivity to diversity, and outlines responsibilities in relation to obtaining consent that is informed, and maintaining privacy and confidentiality. Values associated with the second principle of ‘responsible caring’ include promoting wellbeing, for instance, through the appropriate choice of interventions and instruments, maintaining adequate professional competency, and recognising the vulnerability of some client groups including people with disabilities. The third principle, ‘integrity in relationships’, outlines the importance of conducting honest, unbiased and accurate assessments, being aware of one’s own values, and avoiding conflicts of interest.

The fourth and final principle, 'social justice and responsibility to society' concerns promotion of the welfare of, respect for, and benefit to society, and accountability for psychologists' work.

Despite the NZ Code of Ethics (2002) employing different terminology from the four pillars approach (Beauchamp & Childress, 2009), the aforementioned principles are nevertheless evident throughout the NZ Code of Ethics (2002): for instance, reference to 'active participation' (value 2.3) reflects the autonomy principle; endeavouring to 'benefit members of society, or at the very least, do no harm' (value 2.1) aligns with the beneficence and non-maleficence pillars; and 'social justice and responsibility to society' (principle 4) accommodates the justice principle. The authors of the NZ Code of Ethics (2002) specify that it should be used alongside workplace and other codes of practice, as well as legislation. The authors also recommend that, in situations in which codes provide different solutions to ethical conflicts, the code demanding the highest ethical standard be upheld. The application of psychological ethics in forensic settings, in which multiple conflicts present themselves, is considered next.

Forensic Psychological Ethics

Forensic psychology is defined by the American Psychological Association (2013) as: "Professional practice by any psychologist working within any subdiscipline of psychology (e.g., clinical, developmental, social, cognitive) when applying the scientific, technical, or specialised knowledge of psychology to the law to assist in addressing legal, contractual, and administrative matters" (p. 7).

In countries including the United Kingdom (UK) and Australia, forensic psychology is a regulated specialty, while in New Zealand, no official scope of forensic practice exists for psychologists. 'Criminal justice psychology', concerning the application of psychological knowledge within the correctional system and to a lesser extent the courts, and 'forensic mental health' in which specific emphasis is placed on mental disorder, are two key sub-specialities within forensic psychology (Polaschek, 2003, 2007; Tamatea, Lascelles &

Polaschek, 2016). These two sub-specialities as they pertain to the New Zealand context are the focus of this thesis.

The forensic context is more ethically fraught than most areas of psychological practice, arising from the interaction of a number of factors (Evans 2005; Ward, 2013, 2014). Firstly, throughout much of the western world, the broader social climate has changed in recent decades, to one in which risk and public safety are paramount (Pratt, 2013). Secondly, the settings in which forensic practice takes place are not typically health and welfare based (Evans, 2005). Conversely, the justice system is bestowed with the right to make decisions about individuals that have far-reaching consequences for their wellbeing, including the right to try and to detain (Allan, 2015; Ward 2013). In settings such as courts or prisons, psychologists are subject to an organisation's internal rules, and work alongside others including judges, lawyers, custodial staff, and other mental health employees, all of whom are likely to be subject to practice codes that may not align with the priorities or ethical principles held by psychologists (Allan, 2015; Ward 2013). Thirdly, by virtue of their offending behaviours, forensic clients are amongst society's most maligned, and working with individuals who have harmed others may invoke personal challenges (Evans, 2005). Finally, despite the dominant position of the law and institutional policies, psychologists' ethical codes typically deem that practitioners should adhere to higher ethical standards than those imposed by the setting (Allan, 2015).

Given the complex characteristics of forensic contexts, it is perhaps unsurprising that ethical challenges pervade many aspects of practice for psychologists, psychiatrists, and professionals from related fields (Evans, 2005; Ward, 2013). Perhaps the most illuminating example of such ethical demands involves psychologists' testimony in relation to the death penalty in countries such as the United States (US; Melton, Petrila, Poythress & Slobogin, 1997; Pirelli & Zapf, 2008; Shapiro, 2016). All states that have the death penalty specifically prohibit execution of individuals who are unable to understand that they will be executed and why. Although psychologists are not legal adjudicators, conducting a 'competency for execution' assessment, the findings of which may contribute to a decision to execute, presents obvious difficulties in terms of the principles of enhancing client wellbeing and avoiding harm. Similar ethical challenges are posed by a requirement for psychologists to

provide an individual with treatment that will restore his/her competency for execution (Melton et al., 1997; Pirelli & Zapf, 2008; Shapiro, 2016).

While few situations are as extreme as those involving the death penalty, many other forensic psychological tasks are nevertheless ethically burdensome. For instance, a psychologist may be required to assess an individual in relation to the sentence of preventive detention, whereby imposition of this penalty involves detention on the basis of future dangerousness, a possibility not likely to advance the client's autonomy or welfare aspirations (Evans, 2005; Ward, 2013). Ethical conflicts may also arise when forensic clients are instructed to partake in compulsory treatment, which conflicts with the psychologist's need to obtain consent in line with the ethical principle of autonomy. Further, psychologists may be requested to carry out evaluations of risk of re-offending for clients with whom they are engaged therapeutically, which threatens confidentiality and hence the sanctity of the therapeutic relationship, again potentially undermining a client's wellbeing and autonomy (Ward, 2013). As is evident from these examples, a further distinguishing feature of forensic practice in comparison with other areas of mental health is the extent to which the scope is expanded to consider third parties (Evans, 2005).

Theoretical Ethical Concepts in Forensic Psychology

While some authors endorse ethical codes as the appropriate lens through which to consider ethical conflicts (e.g., Allan, 2015), others note that broader concepts are more useful for tackling the wide range of ethical issues that a psychologist is likely to encounter in everyday forensic practice (Ward 2017; Ward & Birgden, 2007, 2009; Ward & Syverson, 2009). Ward (2017) has identified four theoretical ethical concepts with broad applicability including: 1) the dual relationship problem; 2) human rights; 3) punishment; and 4) moral repair.

The dual relationship problem

Ward (2013) describes the challenges of forensic psychological practice as a problem of dual agency, also referred to as the 'dual relationship problem' or 'dual relationship

conflict', defined thus: "The dual relationship problem in forensic and correctional practice emerges from conflict between two sets of ethical norms: those associated with community protection and justice versus norms related to offender/defendant well-being and autonomy" (p. 92).

According to Ward (2013, 2014), the norms that govern the mental health and criminal justice systems to which the forensic practitioner is bound are somewhat at odds with one another, the former emphasising wellbeing and autonomy and the latter prioritising community safety and justice or "beneficence to a society of unidentified persons" (Stone, 1984, p. 217). Ward (2013, 2014) further elaborates on the nature of the dual relationship problem, noting that it may manifest in a number of ways. Firstly, a conflict may emerge between two professional ethical codes, for instance, psychological and workplace codes. Secondly, a professional code may be in tension with a practitioner's own belief system, and finally, a conflict may be experienced between a practitioner's personal beliefs, and broader universal norms such as human rights. Such conflicts, particularly those involving one's own value system, have the potential to erode a practitioner's sense of personal integrity and ethical worth (Ward 2013, 2014). A psychologist required to carry out a competency for execution assessment might experience a conflict between principles of professional ethics (beneficence and non-maleficence), his or her own beliefs, as well as human rights concerns, so that the dual relationship conflict may in fact emerge as a multiple relationship conflict (Ward, 2014).

Moral and human rights

According to Ward and Birgden (2007, 2009), and Ward (2017), the concept of moral rights confers on individuals legitimate claims or entitlements, as well as duties that others are bound to make towards fulfilling those claims. Moral rights go beyond having basic human needs met, to include being treated with respect and having input into decisions that impact on one's own wellbeing. Alongside the idea of moral rights, Ward and Birgden (2007, 2009) also highlight the concept of human dignity and the equal moral status of all human beings. According to Ward (2017), moral rights that protect dignity are human rights, based on essential universal human needs, acknowledgment of which provides a 'defensive

zone' around individuals. Human rights are accorded to all persons under the Universal Declaration of Human Rights (1948).

With moral and human rights in mind, people who have offended are rights-holders (moral agents making claims), duty-bearers (able to pursue personal goals provided that they respect others' rights), as well as rights-violators due to their offending having infringed on the rights of others (Ward & Birgden, 2007, 2009). Ward (2017) notes that having rights-violator status does not lessen one's entitlements as a rights-holder. Ward (2017) notes for instance that the practice of putting individuals who have sexually offended in protection wings because other prisoners may pose threats to their safety for instance, undermines rights-holder entitlements by potentially limiting access to activities and resources. Ward (2017) argues that holding rights and dignity at the centre of one's practice (Ward & Syverson, 2009) may prove more useful in addressing a broad range of conflicts than ethical principles and codes alone.

Punishment

Ward and Salmon (2009) define punishment as "the intentional imposition of a burden on an individual following his or her violation of important social norms that are intended to protect significant common interests of members of the political community" (p. 240). According to Ward and Salmon (2009), the concept of punishment, given that it involves harming another, is ethically problematic and requires particular consideration. Ward and Salmon (2009) note that although forensic practitioners are typically employed to provide direct benefits to those being punished, their roles must be examined because they are in fact embedded within the criminal justice system.

Ward and Salmon (2009) outline three major theories used to justify punishment – consequentialist, retributive, and communicative/restorative. According to consequentialist theories, punishment is justified on the basis that detaining and reforming individuals provides benefit to society in terms of crime reduction. The retributive theory purports that punishment is a means by which to 'square the moral ledger' by imposing a burden that is approximately equal to the harm that has been inflicted. The communicative/restorative

approach to punishment embeds punishment within the overall goal of restoration between the individual who has offended and the community including victims.

According to Ward and Salmon (2009), retributive theories consider individuals who have offended to be moral agents who are responsible for their crimes and who are therefore owed the 'right to punishment'. Communicative/restorative approaches view crime as a community responsibility, whereby the individual is held to account for his/her offending and victims/the community are obliged to provide opportunities for his/her re-integration, affirming the equal moral status of all parties. Ward and Salmon (2009) argue however that consequentialist approaches to punishment may neglect to account for the moral status, rights, and dignity of those who have committed offences. For instance, the particular interests and aspirations of individuals who have offended may be over-ridden in the design of many treatment programmes, because their focus is solely on the community goal of reducing re-offending (Ward & Salmon, 2009).

Moral repair

The ethical concept of moral repair concerns the extent to which practitioners should account for the fact that clients who have offended may also have been victims of abuse themselves. Ward and Moreton (2008) argue that where individuals possess this dual status, they deserve to be treated in ways that acknowledge their own victimisation. Psychologists should thus be cognisant of their clients' entitlements in terms of repairing damage inflicted upon them, while punishment is also being legitimately meted out (Ward & Moreton, 2008).

Part One considered ethical principles for practitioners of medicine and related fields as proposed by Beauchamp and Childress (1979, 2009) and the application of ethical principles in codes of practice including the NZ Code of Ethics (2002). The unique characteristics of the forensic context were then described. Ethical challenges were found to pervade many aspects of forensic psychological practice, arising out of a need to balance the needs of the client who has offended against the interests of other parties (e.g., the community). Arising from the challenge of addressing complex ethical conflicts inherent in forensic psychological practice, a number of authors have proposed ethical concepts with broader applicability than principles proposed in practice codes (Ward, 2013, 2014; Ward &

Birgden, 2007, 2009; Ward & Moreton, 2008; Ward & Salmon, 2009; Ward & Syverson, 2009) which were subsequently described.

Part Two – Practice Implications

Given the potential for psychologists to experience multiple dilemmas when working in forensic settings, specific areas of ethical conflict will now be discussed. The four pillars, ethical practice codes, and theoretical frameworks presented in Part One will be referenced in relation to these conflicts. Where relevant, literature from forensic psychiatry and other related fields will also be cited. Particular attention will be paid to issues arising in the areas of criminal justice psychology and to a lesser extent forensic mental health, with the main psychological tasks of assessment and treatment (Ogloff, 1995, cited in Haag, 2006; Polaschek, 2007) providing a basic organising structure.

Ethical Issues in Forensic Assessment

Risk assessment measures

Ethical issues as they relate to risk assessment are given primary consideration given risk assessment constitutes a fundamental aspect of the role of the forensic practitioner (Polaschek, 2007) and informs many decisions made in relation to the individual who has offended. For example, the outcome of a risk assessment may impact upon the type and length of sentence, security classification if imprisoned, qualification for treatment during incarceration, and parole eligibility. Controversially, risk assessment is also used in the imposition of civil detention orders, including PPOs, whereby individuals are detained on the basis of the risk they pose to the public (Blackwell, 2011a; Vess, 2009a). Tamatea et al. (2016) define risk assessment as “a formal process of data-gathering and synthesis, with a view towards the optimal accuracy with which criminal behaviour can be predicted in an individual case, and appropriate classification and allocation of a given offender into particular intervention categories” (p. 469).

The evolution of risk assessment has involved four distinct stages, commencing with non-standardised clinical judgment by psychiatrists and psychologists (Bellve-Wack & Simpson, 2007; Casey, Day, Vess & Ward, 2012). The use of empirically validated actuarial instruments, the 'second generation' of approaches, allocates numerical weighting to 'static risk factors', which are variables demonstrated in follow-up studies to be related to recidivism over time such as age and number of previous offences (Blackwell, 2011a; Casey et al., 2012). 'Third generation' approaches additionally incorporate 'dynamic risk factors', which are behavioural and psychological features of individuals that are potentially changeable, such as emotional regulation (Andrews & Bonta, 2010). 'Fourth generation' approaches integrate established risk factors alongside individualised case management plans (Casey et al., 2012).

Predictive accuracy

Given that findings based upon risk assessment instruments are used to make determinations about individual liberty, the accuracy with which predictions may be made has been the subject of considerable scrutiny. In terms of predictive validity, 'first generation' approaches to risk assessment have been found to yield inconsistent and inaccurate results (Monahan, 1981; Edgeley, 2006), and are widely considered to be unethical on this basis (Bonta, 2002). While the use of actuarial measures has improved risk assessment accuracy, their application has not been entirely unproblematic (Bellve-Wack & Simpson, 2007; Gottfredson & Moriarty, 2006).

Risk assessment measures provide predictions of recidivism that are better than chance, but nevertheless provide very limited certainty. Sexual recidivism risk assessment instruments for instance typically offer AUC (area under the curve) values of around 0.7 (Fernandez, Harris, Hanson & Sparks, 2014; Hanson, Helmus & Harris, 2015; Wong & Gordon, 2006) where scores of 0.5 to 1.0 indicate no accuracy to perfect accuracy respectively (Vess, Ward & Yates, 2017). Risk assessment instruments share a common problem however, whereby improvements in 'sensitivity' (in this case a correct prediction of recidivism) come at a cost to 'specificity' (a correct prediction of non-recidivism). According to Ward (2017), the task of conducting a risk assessment is illustrative of the dual relationship problem (2013, 2014), requiring the psychologist to prioritise either the

autonomy of the individual by accepting more 'false negatives' (incorrect predictions of non-recidivism), or the safety of the community by accepting more 'false positives' (incorrect predictions of recidivism; Casey et al., 2012; Vess et al., 2017). One of the ethical challenges for the forensic practitioner in conducting a risk assessment therefore is that the client's best interests may be over-ridden (Ward, 2017) and liberty curtailed on the basis of predictions offering limited certainty (Bellve-Wack & Simpson, 2007).

While some authors assert that making adjustments to actuarial measures (as occurs with third generation approaches), can only diminish assessment accuracy (e.g., Quinsey, Harris, Rice & Cormier, 1998), others note that the failure of actuarial measures to account for an individual's unique circumstances undermines individual autonomy (Douglas & Ogloff, 2003), and "means that actuarial assessments may be considered arbitrary and thus a violation of the individual's legal rights" (Hart, 1998, p. 126). Overall, static risk measures demonstrate superior inter-rater reliability to dynamic risk measures given they are less objective (Cording, Beggs Christofferson & Grace, 2016). For example, given that scoring of dynamic measures is based on interview rather than official offence history, individuals being assessed are able to respond in ways that the psychologist may view more favourably, referred to as 'impression management' (Cording et al., 2016; Tamatea et al., 2016).

Individual prediction from group data

Actuarial approaches place individuals in groups with others who share similar characteristics, and for whom rates of re-offending have been evaluated. The difficulty of using group data to make an individual prediction however, is captured by the title: "Men in his category have a 50% likelihood, but which half is he in?" (Harris, 2003, p. 389). Harris (2003) goes on to say that clinical decisions are typically made on the basis of knowledge about groups, and that to treat every individual as completely unique would mean ignoring all previous scientific research (Blackwell, 2011a; Harris, 2003; Janus & Prentky, 2003). Harris (2003) nevertheless highlights the substantial ethical problems associated with restricting individual liberty based on information about groups.

An issue related to inferences made based on information about groups is that subgroups of individuals who have offended may be inadequately represented by the norm

group on whom the instrument was validated (Casey et al., 2012; Eatwell & Wilson, 2007; Vess, 2009a; Vess et al., 2017). Recidivism measures applied to the large proportion of indigenous individuals who present in the criminal justice system in Canada for instance, have proven less adequate than for non-indigenous individuals whose characteristics better parallel those on whom the measures were normed (Gutierrez, Helmus & Hanson, 2016).

Beyond risk instruments

Notwithstanding the limitations of risk assessment methods, a number of authors argue that actuarial and dynamic measures should form the basis for understanding risk, but that the role of the psychologist is to provide a formulation of risk (Glazebrook, 2010; Vess, 2009b), as well as a prescription for how risk can best be managed (Vess et al., 2017). Some authors have also highlighted the need for risk assessment practices to better consider an individual's strengths and protective factors that can mitigate risk (e.g., Coombes & Te Hiwi, 2007). Further, research has demonstrated that stable housing and employment upon release are associated with reduction in risk (Scoones, Willis & Grace, 2012; Willis & Grace, 2009).

Notably, the view that enhancing our ability to predict risk will lead to more just outcomes has not been universally endorsed (Brookbanks, 2002; Coombes & Te Hiwi, 2007; Maden, 2002). For instance, Hudson (1996) states that professionals' expertise "instead of prescribing treatment … is now being used to calculate risk" (p. 154). Similarly, greater emphasis on strengthening services related to managing, rather than simply predicting risk has been called for (Brookbanks, 2002; Heilbrun, 1997). According to Maden (2002), professionals seeking increasingly more accurate knowledge about risk "can merely serve to reinforce [the public's] pre-existing anxieties [about risk] rather than counter them" (p. 5).

Risk communication

In the notorious death penalty case of *Barefoot v Estelle* in the US, a psychiatrist testified that there was a "one hundred and absolute" likelihood that Mr Barefoot would "constitute a continuing threat to society" (cited in Evans, 2005, p. 28). Conversely, Vess (2009a) reports that psychologists are obliged to clarify the limitations of their predictions in order to uphold their clients' human rights. Similarly, psychologists are reportedly

responsible for ensuring that their information is conveyed in a manner that is clearly understandable if it is to be useful to consumers (Blackwell, 2011a, Glazebrook, 2010), as illustrated by the following:

> Improvements in the accuracy of predictions or in the effectiveness of risk reduction interventions will not yield a comparable improvement in risk-related decision-making unless communication is effective. Improper risk communication can render a risk assessment that was otherwise well-conducted completely useless – or even worse than useless, if it gives consumers the wrong impression. (Heilbrun, Dvoskin, Hart & McNeil, 1999, p. 94).

Further, international studies have demonstrated that the particular manner in which expert evidence is presented to decision makers can have a marked impact on outcomes. Scurich and John (2011) carried out an experiment to consider the impact of framing of risk information on civil commitment decisions. The authors reported that a risk statement framed as 26 percent probability of violence typically led to a commitment decision, whereas the equivalent statement re-framed as 74 percent probability of no violence generally conferred a decision to release. In New Zealand, Vess (2009b) has observed that no convention exists for risk framing in terms of the number of categories or their labels, for instance in relation to an 'extended supervision order' (ESO) which is a court order restricting the liberty of an individual deemed dangerous at the completion of a prison sentence. Vess (2009b) notes for instance that while the Department of Corrections in New Zealand employs a four category system in relation for ESOs (low, low medium, medium high, and high), a different convention might convey a different sense of risk level.

Janus and Prentky (2003) report that actuarial methods provide the best means currently available by which to predict recidivism and should therefore be relied upon by legal decision makers. However, Glazebrook (2010) notes that while a competently conducted and clearly communicated risk assessment is useful for the courts, the onus is also on judges to robustly scrutinise such information, rather than simply 'rubber stamping' it. As McSherry (2014) states in regard to making a sentence of preventive detention:

> In relation to sex offenders, it is very concerning that expert testimony in court regarding preventive detention and supervision is generally accepted by judges without challenge. It is one thing to accept the admissibility of such evidence, but another thing entirely to fail to question its reliability and validity (p. 232).

Assessor bias

Psychologists working in forensic settings are often required to provide an independent opinion to assist the court (Blackwell, 2011b). However, Tamatea et al. (2016) state that psychologists are often subject to explicit or implicit bias, the former of which is readily detected when a psychologist is engaged by one of the parties as a ‘hired gun’. According to Bush, Connell and Denney (2006), psychologists may be powerful advocates when hired by a particular party. Bush et al. (2006) note however that when a psychologist seeks to harm an opposing party’s case even if s/he believes that the opposing party deserves to win, the ethical principle of justice may be substantially undermined.

Implicit bias however, may be more insidious (Tamatea et al., 2016), a phenomenon studied by Murrie, Boccaccini, Guarnera and Rufino (2013) in the US. These researchers, suspecting adversarial allegiance effects, carried out an experiment in which they deceived 108 forensic psychiatrist and psychologist participants to believe they were consulting for either the defence or the prosecution. Participants who believed they were working for the prosecution tended to assign higher scores on two risk measures, the Static-99R (Helmus, Thornton, Hanson, & Babchishin, 2012) and the Psychopathy Checklist-Revised (PCL-R; Hare, 2003), than those who believed they were working for the defence. Scores were more disparate for the latter instrument which incorporates dynamic risk factors, indicating that allegiance effects are likely to impact on the inter-rater reliability of this instrument in real world contexts (Murrie et al., 2013).

In relation to ESOs in New Zealand, one health assessor, typically employed by the Department of Corrections, conducts an assessment to determine whether the risk is sufficient for the Department to apply for the order. Vess and Eccleston (2009) reported that out of 150 resolved applications, 145 of those applied for had been granted. The authors pointed out that: 1) the threshold of risk is a departmental standard which has not been independently reviewed because there is little risk expertise outside the Department of Corrections in New Zealand; and 2) once the order has been applied for, the health assessor may lose his or her neutrality because of an allegiance with the Department (Glazebrook, 2010; Vess & Eccleston, 2009). More recently however, Ryan, Wilson, Kilgour and Reynolds (2014) demonstrated that regardless of their employment by the Department of Corrections,

psychologists' health assessments conducted between 2004 and 2008 in relation to ESOs had been carried out impartially.

In light of ethical principles and human rights, some authors have pointed out the need to avoid a situation where all parties who contribute to an order being made proceed cautiously to avoid 'false negatives'. Tamatea et al. (2016) report that when a psychologist makes an assessment of low risk for an individual who re-offends, there are substantial consequences for victims and for the psychologist's reputation, while an erroneous assessment of high risk confers no particular consequence. As Gavaghan, Snelling, and McMillan (2014) state:

> … care should be taken to avoid an asymmetrical approach to risk assessment, whereby assessors, chief executives or judges feel compelled to "err on the side of caution" by avoiding potential false negatives at the expense of likely false positives. A decision to detain a "dangerous" person indefinitely is far less likely to become demonstrably the "wrong" decision, not least because the person in question will have very limited opportunity to *prove* it wrong. The same cannot, of course, be said of someone released to offend again (emphasis in original, p. 91).

Consent to assessment

As stated in Part One, the issue of consent received prominence following experimentation on human subjects in the absence of consent during World War II (Sinclair 2012; Knight & Linscott, 2007). Consent is the "freely given and continuing permission" (Knight & Linscott, 2007, p. 103) for assessment and treatment of competent persons. A psychologist's requirement to obtain consent is prescribed in the NZ Code of Ethics (2002) within the principle of 'respect for the dignity of persons and peoples', and underscored by broad principles of autonomy and non-maleficence (Knight & Linscott, 2007). Difficulties may arise however, in cases such as those involving clients with cognitive impairments, whom psychologists must view as compromised in their ability to give consent (Knight & Linscott, 2007).

The NZ Code of Ethics (2002) specifies that psychologists must endeavour to obtain consent that is not coerced, while also acknowledging that in forensic settings consent may not be "readily forthcoming" (p. 8). Psychologists are obliged to advise clients of the possible consequences of both participation and non-participation in an assessment interview,

where the former includes the possibility of negative information being held on file and used again at a later date, and the latter may involve the client being viewed negatively by decision makers and potentially suffering consequences such as parole delays (Tamatea et al., 2016; Wilson et al., 2007). Further, psychologists should advise clients that a report will be written even in the absence of consent (Wilson et al., 2007).

A number of ethical issues arise in relation to consent protocols. Firstly, some authors have questioned whether it is ethical to conduct an assessment based on file information which relies solely on static risk factors, and whether writing a report in the absence of consent undermines a person's rights and dignity (Haag, 2006; Vess et al., 2017). Secondly, the client's ability to comprehend the pros and cons of participating may be compromised, undermining the potential for meaningful consent to be ceded (Tamatea et al., 2016). Finally, several authors question how 'voluntary' participation is when an assessment is court ordered (Simpson & Evans, 2005; Tamatea et al., 2016). Some have noted that in a coercive prison environment, the client as well as the psychologist may be subject to 'obedience to authority' effects (Milgram, 1963), whereby the former fears the consequences of not participating, while the latter feels bound by a duty to perform the role accorded to him/her (Evans 2005; Simpson & Evans, 2005).

The challenges of obtaining meaningful consent in forensic assessments are underpinned by the question of 'who is the client' (Vess et al., 2017; Wilson et al., 2007). A psychologist is obliged to clarify who the information is being gathered for, and that s/he is not acting in the capacity of therapy provider (Wilson et al., 2007). Thus, according to Bush et al. (2006), the goal of the psychologist is not to assist the individual, and "the principle of beneficence as it relates to forensic psychological services may generally fall within the ambit of the justice system rather than the individual examinee" (p. 18). However, even when the psychologist makes an overt statement about the role that s/he is occupying, the client may not necessarily recognise that the psychologist is acting on behalf of another (Evans, 2005; Simpson & Evans, 2007; Vess et al., 2017; Wilson et al., 2007).

Confidentiality in assessment

The principle of confidentiality is at the cornerstone of psychological practice, with a trusting therapist-client relationship being considered essential for therapeutic change (Taylor & Dickson, 2007). With some exceptions relating to threats to the safety of the client or others as set out in ethical codes and legislation, information entrusted in the context of therapy remains protected. In New Zealand, specific consent must be obtained from the client when using such information in assessment reports (Osborne, 2011; Taylor & Dickson, 2007; Vess, 2009a; Vess et al., 2017). Where assessments are ordered by the court, no such 'privilege' exists, and a psychologist is obliged to inform the client of the party whom s/he represents (Wilson et al., 2007). According to Taylor and Dickson (2007), consent and confidentiality are inextricably linked in such circumstances, because informed consent can only be given when the limits of confidentiality are fully understood.

As noted by a number of authors, rapport and trust are required in order to provide a useful formulation that will inform the court, yet information confided may then be used in a manner that is arguably not in the individual's best interests, for instance, if he or she is one of the 'false positives' identified by a risk assessment (Simpson & Evans, 2005; Vess, 2009b; Vess et al., 2017; Wilson et al., 2007). Simpson and Evans (2005) outline the concept of one's 'private space' that is only shared with clinicians because they appear to be trying to help their clients in meeting personal needs. When conducting a risk assessment, the setup of a prison interview for example is far closer to a clinical than a legal scenario in terms of interpersonal influences. While legal spaces are open and able to be scrutinised, assuring fair process, a prison interview is private and unscrutinised. Simpson and Evans (2005) argue that because a risk assessment in a prison is, strictly speaking, a legal proceeding, it should be subject to legal standards of scrutiny, involving legal representation and the recording of interviews for instance. Otherwise the criminal justice system employs the skills of clinicians to access private space that would otherwise be unavailable, in order to meet its goals of holding people to account (Simpson & Evans, 2005). As Simpson and Evans (2005) state:

> The cloak of therapeutic possibility, or the double agency implicit in these conflicting roles, provides for the hope that an offender will tell a doctor more than they will tell a detective. This will allow the criminal justice system access to a rich vein of information about the person's inner self, otherwise unavailable to it…. The skills needed to gain this information, and the large body of science from which they derive,

> have been transformed from their origins in the study for health needs, to a means of delivery of security needs (p. 348).

Psychologists as agents of social control

As noted in Part One, some authors have highlighted the obligation of psychologists to act as 'duty-bearers' who uphold the legitimate human rights claims of their clients (Allan, 2015; Birgden & Perlin, 2009; Ward & Birgden, 2007, 2009). According to Birgden and Perlin (2009), this obligation was not met by psychologists allegedly involved in interrogation of detainees at Guantanamo Bay (Halpern, Halpern & Doherty, 2008), although laws and organisational policies allegedly permitted interrogation practices (Birgden & Perlin, 2009). According to Birgden and Perlin (2009), the psychologists' actions privileged community rights over detainee rights and international law to such an extent that psychologists may even have been acting in a manner incongruent with their own values.

In a further example of the appropriation of clinical expertise to meet the needs of the state, a proposal was mooted in the UK in recent decades aimed at detaining individuals with 'dangerous and severe personality disorders' (Hudson, 2002). The proposal, which was not enacted, sought to detain individuals who had not necessarily offended but who allegedly posed a threat to public safety, relying upon the co-operation of clinicians in conducting assessments of dangerousness (Eastman, 2002; Hudson 2002).

Similarly, psychiatrists Sullivan, Mullen and Pathe (2005) responded to requirements for them to assess individuals with propensities for sexual offending against children for civil detention in Victoria, Australia, stating that the role: "creates ethical and professional dilemmas for health professionals through the conflation of legal control of offenders with the medical management of disorders of sexual preference" (p. 318). Sullivan et al. (2005) stated that doctors' responsibilities to beneficence and non-maleficence are compromised by expectations that they act on behalf of the state, undermining their independence and rendering their roles to those of "agents of supervision, social control and monitoring" (p. 320). Others have argued however, that unwillingness by psychiatrists and psychologists to participate in evaluations with significant consequences for individuals by adopting a 'clean hands' approach, means that other less qualified professionals will inevitably undertake such roles (Allan, 2015; Deitchman, Kennedy & Beckham, 1991).

Issues of justice

Legislation allowing detention of individuals who pose a risk to public safety, including the Victorian legislation and PPOs in New Zealand, have been critiqued on a number of grounds. Firstly, such laws are deemed unlikely to improve the safety of the community as they are not based on empirical evidence, and are expensive to implement (Gavaghan et al., 2014; Moran, 2014; Sullivan et al., 2005). Further, the legislation has been criticised on the basis that it contravenes the 'innocent until proven guilty' and 'double jeopardy' principles of justice (Doyle, Ogloff & Thomas, 2011; Gavaghan et al., 2014; Sullivan et al., 2005), with potentially inhumane consequences for individuals who may have believed they were nearing the end of a sentence and subsequently received a civil order (McSherry, 2014). Preventive detention has been deemed to be directed at "classes of people rather than individuals" (Sullivan et al., 2005, p. 319), while the reasons for peoples' offending status, including social and cultural disadvantage, may reportedly be overlooked (Arrigo, 2013; Brookbanks, 2002; Coombes, Denne, & Rangiwananga, 2016).

As noted in examples involving interrogation of detainees (Birgden & Perlin, 2009; Halpern et al., 2008), 'dangerous and severe personality disorders' (Eastman, 2002; Hudson 2002), and civil detention orders in Victoria, Australia (Sullivan et al., 2005), challenges abound for professionals employed in forensic contexts, where their roles may require them to act legally but in a manner that some would not consider ethical (Evans, 2005). According to Eastman (2002), the existence of community protection laws, for instance, raises the broad question of "the extent to which medical ethics should be robust against social and political pressure or responsive to it" (p. 66).

Social justice in Aotearoa/New Zealand

Coombes et al. (2016) contend that contemporary forensic theories, for instance, concerning the dual relationship problem (see Ward, Gannon & Fortune, 2015), fail to adequately consider the role of psychologists in social power relationships, noting that psychology as a discipline has been complicit in the ongoing colonisation of Māori. Coombes et al. (2016) and Coombes & Te Hiwi (2007) note for instance, that the practice of risk assessment is likely to be directed at groups who are already marginalised including

Māori, justified by the mainstream majority to ease fears around public safety. The authors note however, that in conducting a risk assessment, the reasons for offending, associated with New Zealand's colonial history, poverty and disadvantage, are conveniently overlooked (Coombes et al., 2016; Coombes & Te Hiwi, 2007). Coombes and Te Hiwi (2007) state that the incorporation of the Treaty of Waitangi in the NZ Code of Ethics (2002) is meaningfully interpreted by psychologists challenging the supremacy of western dominated practices in order to enact the (Treaty) principle of *tino rangatiratanga* (self-determination) for Māori as part of a broader commitment to social justice.

Ethical Issues in Forensic Treatment

Models of treatment

A significant landmark in the historic debate between the merits of punishment versus rehabilitation (see Newbold, 2017) was the 1974 publication of a study by US sociologist Robert Martinson. Martinson (1974) examined the efficacy of prison rehabilitation programmes, coming to the conclusion that 'nothing works'. Martinson's (1974) findings were welcomed by politicians who used the study as the basis on which to abolish rehabilitation programmes and advocate for harsher sentencing. Some years later, a resurgence in the popularity of prison rehabilitation was spearheaded by research indicating that the 'risk need responsivity' (RNR) model proved effective in decreasing recidivism (Andrews & Bonta, 2010).

The RNR model proposes three principles: the 'risk' principle posits that because criminal behaviour can be predicted, more intensive treatment should be matched to clients posing the highest risk; the 'need' principle asserts that treatment should target those factors that are directly related to an individual's risk of re-offending (also referred to as 'criminogenic needs'); and the 'responsivity' principle proposes ensuring a good fit between treatments and the unique characteristics of each client (Andrews & Bonta, 2010). Most current correctional rehabilitation programmes in New Zealand for instance, are based upon the RNR model (Grace, McLean, & Beggs Christofferson, 2017; Reynolds, 2013). With prisoner numbers increasing in many western countries (Pratt, 2013; Wilkinson & Pickett,

2009) and low psychologist/inmate ratios (Boothby & Clements, 2002), issues of 'supply and demand' are deemed to be best met by implementing RNR principles (Andrews & Bonta, 2010). The RNR model may also resonate well with the security priorities of correctional institutions whose focus is also on recidivism reduction (Gannon & Ward, 2014).

Ward and Syverson (2009) and Ward and Birgden (2007, 2009) propose that punishment and rehabilitation overlap to the extent that both are underpinned by the concept of human dignity. For people who have offended, dignity is acknowledged by being held to account, administered in such a way that legitimate entitlements, for instance, to rehabilitation, are granted. As noted in Part One, consequentialist theories of punishment are underscored by a defence of punishment based on reduction in crime by means of deterrence and containment. Ward and Salmon (2009) contend that the RNR model is consistent with consequentialism because both are contingent upon an assumed agenda whereby the goal of public safety is of paramount importance. By adhering preferentially to the RNR model, Ward and Salmon (2009) believe that the client's own aspirations, and thus his or her rights and dignity, are merely a 'means to an end' in meeting community needs. Being denied treatment on the basis that one is classified as 'low risk' by the RNR model for instance, is deemed unacceptable if dignity and rights are central to practice (Ward, 2017). Treatments mandated with a justification that they are in the client's best interests ('paternalism') may similarly be seen to undermine rights and autonomy (Ward, 2017).

Moral repair

High rates of mental health problems are reported in prison populations. For instance, Indig, Gear and Wilhelm (2016) evaluated rates of mental disorder and substance disorder in 1200 inmates in New Zealand prisons. The authors reported that 62% of participants had 12-month diagnoses of either mental health disorder or substance use disorder, and that 20% had experienced comorbidity of both disorders over a 12-month period (Indig et al., 2016). According to Bell and Brookbanks (2017), the findings of Indig and colleagues' (2016) study "suggests a cohort of people who are poorly functioning and highly vulnerable to the stresses of carceral existence" (p. 69).

Further, imprisoned individuals are likely to have experienced high levels of childhood adversity themselves. For instance, using the Adverse Childhood Experiences (ACE) scale, Levenson, Willis and Prescott (2015) reported three times the likelihood of having been a victim of childhood sexual abuse in 47 females who had subsequently sexually offended compared to the general population. Similar rates of childhood sexual abuse had reportedly been experienced by 679 males who had sexually offended (Levenson, Willis & Prescott, 2016). Participants in both studies were also likely to have experienced multiple maltreatments including physical and verbal abuse and emotional neglect, and to have been raised in environments characterised by social disorder (Levenson et al., 2015, 2016).

As stated in Part One, Ward and Moreton (2008) describe clients' entitlements for their own victimisation to be accounted for in treatment as an ethical issue of 'moral repair'. Client rights may be undermined where trauma and other mental health symptoms are present (Levenson et al., 2015, 2016) but are overlooked on the basis that 'risk factors' are treatment priorities (Gannon & Ward, 2014). In a further critique of the RNR model, Gannon and Ward (2014) state that evidence-based practice is undermined because of a failure to consider a breadth of treatment options matched to complex treatment needs and a lack of individualised psychological formulation. Birgden and Perlin (2009) assert that the 'respecting diversity' ethical principle requires tailoring treatments to unique client needs, rather than a 'one size fits all' approach.

The therapeutic relationship

Rigid adherence to the RNR model may also represent a lack of acknowledgment of the role of the therapeutic alliance (Gannon & Ward), considered essential to therapeutic success. According to Gannon and Ward (2014), the psychologist/client relationship is undermined for instance by the delivery of manualised treatments by 'para-professionals'.

The therapeutic alliance may also be under threat where psychologists are required by employers to breach confidentiality (Gannon & Ward, 2014). In New Zealand, treating psychologists do not typically carry out assessment functions that will form the basis for decisions about their clients (Wilson et al., 2007). As stated in relation to confidentiality, psychologists are expected to breach confidentiality where clients pose a risk to the safety of

themselves or others (Taylor & Dickson, 2007), raising questions as to what constitutes an appropriate breach. Historically, the confidentiality debate has included the 'absolute' view that confidentiality should always be guaranteed because it is essential to the psychologist's role, juxtaposed with the opinion that the interests of psychologists do not accord with the needs of the general public who are entitled to be protected from harm (Clingempeel, Mulvey & Reppucci, 1980). Contemporarily, Gannon and Ward (2014) report that requirements by employers for psychologists to make disclosures about their clients in situations where no particular safety threats exist (e.g., about the brewing of 'hooch') have damaging impacts on the therapeutic relationship. Further, Sullivan et al. (2005) report that clients may be becoming less inclined to confide in forensic practitioners because they fear confidentiality breaches.

McSherry, Keyzer and Freiberg (2007) state that in their roles as assessors of risk and providers of expert evidence, clinicians are passed a burden by the community which demands that clinicians fulfil roles of community protection. McSherry et al. (2007) state however, that clinicians should primarily fulfil a treatment role. Some authors also contend that the risk focused activities of forensic psychologists represent a move away from therapies that improve the lives of clients (Mullen, 2001; Szmukler & Rose, 2013), but that "as health professionals, we are in the business of reducing the distress and improving the function of our patients" (Mullen, 2001, p. S75).

View of psychologists

> They'll find any excuse to keep me in prison and they're using their psychs to do it. It's just part of a continuing character assassination. You can't beat the system, coz it's there to protect itself. One mate's looking after the next mate (White, 2015, p. 51).

This quote from a man convicted on two counts of murder in New Zealand in 1998 suggests that psychologists may be viewed with some level of distrust by forensic clients. Gannon and Ward (2014) contend that psychologists in correctional settings are likely to be viewed as 'cops' whom clients are unable to differentiate from custodial staff, which is particularly the case if psychologists participate in security related tasks (Clingempeel et al., 1980; Gannon & Ward, 2014). According to Gannon and Ward (2014), psychology as a discipline has 'acquiesced' to the dual relationship problem, one cost of which has been a

compromise to the relationship with psychologists' traditional clients, and clients' trust in psychology as a profession.

Psychologists' Experiences of Ethical Dilemmas

In this sub-section, studies of psychologists' experiences of ethical dilemmas will be reviewed, beginning with a brief discussion of one early study conducted within the forensic context, but prior to the advent of contemporary risk instruments and models (as described in Parts One and Two of this literature review). One contemporary study conducted within a forensic context will also be presented. Subsequently, the few contemporary studies that have evaluated ethical dilemmas of psychologists will be summarised, none of which are specifically focused on issues arising in forensic contexts.

Psychologists' experiences of ethical dilemmas in criminal justice contexts

A US study by Clingempeel et al. (1980) specifically considered ethical dilemmas experienced by 203 psychologists employed in criminal justice contexts. Clingempeel et al. (1980) concluded that there were two over-riding themes which tended to shape psychologists' experiences. The first of these, 'custody versus treatment', concerned participants' struggle with their employers' view that the primary duty of all employees was to matters of security. The second over-riding theme, 'who is the client', concerned conflicting allegiances to multiple parties including the individual client, the institution employing the psychologist, and society as a whole. More specific issues identified were those of: 'inadequate tools, crucial decisions', referring to the challenge of making predictions of dangerousness using means offering limited accuracy (relating to instruments that are no longer used to predict recidivism); 'role bastardisation' concerning a conflict between having been trained as 'helpers' but believing themselves to be perceived by their clients as 'cogs' within the punishment system; and 'confounded intentions and balancing of values' whereby treatment (e.g., 'behaviour modification') might be misappropriated and used as a means of institutional control. Issues of confidentiality were highlighted as being significant for a substantial number of participants (Clingempeel et al., 1980).

More recently, Boothby and Clements (2000) conducted a study aimed at providing a comprehensive profile of the work of correctional psychologists in the US. A four page questionnaire was sent to 2000 psychologists working in the prison system, with 830 responses received. Questions focused on job responsibilities including assessment and treatment practices, and training recommendations. Although not explicitly concerned with ethical dilemmas, some findings were of relevance to the current study. In particular, issues of 'supply and demand' were highlighted, with psychologist to inmate ratios of 1:750 being cited. Boothby and Clements (2000) reported that despite these ratios, psychologists' work was predominantly carried out on an individual rather than a group basis. The cognitive model was most frequently employed in treatment, and depression was the problem most commonly addressed. The authors highlighted the potential for group based interventions, the need to treat serious mental illness and substance use, and the importance of employing instruments that relate directly to the referral question. In a later study by the same authors and using the same data, Boothby and Clements (2002) reported on correctional psychologists' levels of job satisfaction. The authors reported that participants had moderate levels of job satisfaction, and were typically more satisfied if working in facilities that were less crowded. Boothby and Clements (2002) reported that many correctional psychologists were required to carry out security related training, and the authors re-iterated the point made by Clingempeel et al. (1980), that psychologists are typically viewed by their employers as correctional employees first, and mental health professionals second.

No further studies could be located that have directly explored experiences of ethical dilemmas encountered by psychologists working in forensic settings, which provided the impetus for the current study.

General studies of psychologists' experiences of ethical dilemmas

In a general study of ethical dilemmas experienced by psychologists in the US, Pope and Vetter (1992) asked 1319 randomly selected members of the APA to describe an ethically challenging incident faced by themselves or a colleague. Of the 703 incidents described by 679 respondents, dilemmas of confidentiality (18%) and dual and conflictual relationships (17%) were the most prevalent, followed by payment sources/plans/methods (14%), academic settings including teaching dilemmas and concerns about training (8%), and

forensic psychology (5%). Examples of dilemmas in the area of forensic psychology included discomfort about fellow psychologists acting as 'hired guns' and/or providing testimony not based on scientific principles. For instance: "Another psychologist's report or testimony in a court case goes way beyond what psychology knows or his own data supports. How or whether I should respond" (Pope & Vetter, 1992, p. 403).

Pettifor and Sawchuk (2006) conducted an international review of studies investigating ethical dilemmas experienced by psychologists, which included data from the Pope and Vetter (1992) study, as well as from studies carried out in the UK, Norway, Finland, Canada, Sweden, South Africa, Mexico and New Zealand. The combined sample included 2698 participants. Pettifor and Sawchuk (2006) found that the distribution of dilemmas for the amalgamated sample was similar to that of the Pope and Vetter (1992) study, with dilemmas of confidentiality being the most prevalent, followed by dual relationships.

The New Zealand study (Davis, Seymour & Read, 1997) included in Pettifor and Sawchuk's review was carried out in the process of revising the NZ Code of Ethics (2002). In this study, all 778 psychologists holding an Annual Practising Certificate were asked to describe "an incident which you or a colleague have faced in the past year or two which was ethically troubling to you" (p. 8). A total of 200 examples of dilemmas described by 177 respondents were categorised, with some dilemmas being assigned to more than one category. The authors found issues of responsibility (such as potential professional misconduct by a colleague) to be the most prevalent (40%), followed by dilemmas involving confidentiality (37%).

Respondents in the New Zealand study (Davis et al., 1997) were also asked to comment on the 'type of setting' and 'type of work' in which they were involved. Overall few participants were employed in criminal justice contexts, with only seven respondents stating that the Department of Corrections was their work setting. The large number of private practitioners (*n*=72) may have included psychologists carrying out work with individuals who had offended however. With regard to type of work, 'forensic' and 'groups re sex and violent offending' were cited for some participants, although these were amalgamated in the 'other' category and numbers therefore cannot be ascertained.

Resolving and Managing Ethical Dilemmas

Although this thesis is primarily concerned with the nature of ethical dilemmas experienced by practitioners working with individuals who have offended, a secondary research question concerns the way in which such issues may be addressed. This section begins with a description of official guidelines for forensic practitioners. The role of the practitioner's own values in ethical decision-making is then described. The section concludes with a summary of models that have been proposed for addressing dilemmas encountered in forensic practice.

Ethical guidelines for forensic practitioners

In recognition of the unique challenges encountered by psychologists employed in forensic settings, the APA operates a law and psychology division and has recognised a 'forensic psychology' speciality since 2001 (APA 2013). The APA has also released 'Specialty Guidelines for Forensic Psychology' (2013) with the explicit purposes of enhancing the development of forensic psychology, improving the quality of services rendered, and acknowledging the rights of those whom psychologists serve (APA, 2013). These guidelines are informed by the US Code of Ethics, and are modelled around ten principles. Recommendations include the avoidance of multiple relationships wherever possible (APA, 2013). Informal guidelines for forensic practice have also been proposed by a number of authors including Grisso (2003), and Melton et al. (1997).

Ethics and values

In 'the parable of the black sergeant', psychiatrist Alan Stone described the case of his client, sentenced to five years' hard labour for stealing. Stone lamented that by developing rapport with his client during an assessment, the latter freely disclosed information that was incriminating, and that was instrumental in determining his fate. Stone asserted that ethics in forensic settings are questionable, because a doctor's traditional goal of beneficence cannot be maintained in contexts serving justice (Stone, 1984, 1994). Fellow psychiatrist Paul Appelbaum countered however, that only two principles are important to the forensic practitioner, truth telling and respect for persons, and coined the term 'forensicist' to describe

the role (Appelbaum, 1990). Appelbaum (1990, 1997) asserted that provided the practitioner is transparent in informing the client that s/he is working for the court, no particular dilemma exists.

As exemplified by the Stone (1984, 1994) versus Appelbaum (1990, 1997) debate, practitioners working in forensic settings hold highly variable views on what constitutes ethical practice and on how dilemmas should be addressed. Sarkar and Adshead (2002) point out that a forensic practitioner who sees him/herself as a healer will differ from one who views his/her role as that of a 'forensicist' in terms of what is considered ethical practice and how dilemmas should be addressed. Similarly, Clingempeel et al. (1980) identify that forensic practitioners employed in criminal justice settings may be 'system challengers' who tend to leave these contexts after a short period, 'system professionals' who remain in criminal justice contexts and attempt to negotiate the challenges presented, or a mix of these two positions. Several authors have thus highlighted the role played by an individual's own values in determining ethical behaviour (Clingempeel et al., 1980; Evans, 2005; Haag, 2006; Ward, 2014). In addressing the dual relationship problem, Ward (2014) contends that the issue is linked to the wider concept of 'value pluralism', reflecting the fact that multiple sets of values exist in society, none of which may be considered superior to others. The presence of differing values makes impossible the task of describing definitive 'decision rules' (Clingempeel et al., 1980).

Ethical blindness

One possible way in which practitioners may act when confronted with ethical challenges involves what Ward and Syverson (2009) have described as 'ethical blindness'. According to Ward and Syverson (2009), ethical blindness refers to clinicians overlooking matters of clinical importance that are outside one's frame of reference. As Bamao, Robertson and Ward (2012) state in relation to ethical blindness:

> Ethical dilemmas, conflicts, gaps and so on are simply not identified because the ethical framework relied on by clinicians does not contain the general theoretical resources, or specific standards, that flag them as issues to be noted and responded to (p. 83).

According to Bamao et al. (2012), in behaving in a manner that would be considered ethically blind, practitioners may act according to their personal biases without adequate reflexivity. Further, they may become socialised in to the practices of their workplace, and 'resolve' dual relationship conflicts by disengaging to the extent that they fail to consider that a conflict may in fact be present.

Models for addressing ethical dilemmas within forensic contexts

Ward et al. (2015) delineate the different sets of relationships pertinent to the forensic encounter. These include: (a) the forensic practitioner and the individual who has offended; (b) the practitioner and the criminal justice system representing the community and victims; and (c) the individual and the criminal justice system, community and victims. These authors propose that there are four models for addressing the dual relationship conflict. The first of these assumes that ethical principles and codes are adequate in managing ethical problems (Allan, 2015). For instance, the NZ Code of Ethics (2002) provides steps that psychologists should follow when conflicts occur between the ethical code and a workplace code for example. According to Ward et al. (2015) however, the first approach fails to capture the complex dimensions encountered in forensic practice, and considers only the practitioner/individual relationship.

The second means by which dilemmas may be addressed is primarily by criminal justice ethical codes (Ward et al., 2015). This position is exemplified by the 'forensicist' definition proposed by Appelbaum (1990). Ward (2013) asserts however, that this approach neglects the traditional healing aspects of a psychologist's role, and thus largely ignores the practitioner/individual relationship. Given the limitations of both approaches described, a third category of 'hybrid code' approaches has been proposed. For instance, psychiatrist Philip Candilis's (2009) 'robust professionalism' framework requires a consideration of the perspectives of all stakeholders in resolving ethical problems, taking in to account the personal values of all parties. Ward et al. (2015) note that Candilis's (2009) model considers all three sets of relationships described above, although they also point out that Candilis (2009) does not provide sufficient detail for this model to be implemented. Ward et al. (2015) note however that Candilis (2009), and Adshead (2014) have advanced the discussion

around the need for forensic practitioners to broadly conceptualise issues of justice and to highlight the particular complexities of their clients.

Ward (2013) proposes a fourth approach to managing dual relationships, the 'moral acquaintance' model. This model is underpinned by acknowledgment of the high moral status of all parties including those who have committed offences (Ward & Syverson, 2009), while also proposing that all parties are 'moral acquaintances' rather than 'moral strangers' because all share some common values. Further, the model considers all of the relationships above in addressing the dual relationship conflict. Building on this model, Ward et al. (2015) add the concept of restorative justice to propose the 'restorative justice informed moral acquaintance model' emphasising a need for restoration of relationships. This model sets out entitlements and duties for all parties (community, victim, and individual who has offended). The model aligns with concepts of moral repair discussed previously, so that restoration includes community responsibilities towards providing treatments for individuals who have offended that account for their own experiences of adversity. Under the restorative justice informed moral acquaintance model, no particular set of values may be seen to be prioritised over another (Ward et al., 2015).

In Part One, ethical principles and practice codes were described, and theoretical ethical concepts applicable to the complex forensic context broadly outlined. In Part Two, ethical dilemmas encountered in forensic psychological practice were considered more specifically. Ethical issues associated with the practice of risk assessment were particularly highlighted in the literature, as well as dilemmas related to obtaining informed consent, maintaining confidentiality, and preserving the therapeutic relationship amongst others. Despite the existence of a large body of literature detailing ethical challenges inherent in forensic psychological practice, very few studies have explored psychologists' experiences of such dilemmas, providing the impetus for the current study. Part Two concluded with a review of the various guidelines and models proposed to assist psychologists in managing ethical dilemmas.

Part Three – The New Zealand Context

In Part Three, the specific legislative and policy context in which psychologists in New Zealand carry out forensic work with individuals who have offended will be described in greater detail. The aims of the study will then be presented.

As briefly outlined in Part One, the distinguishing feature of the New Zealand context is the centrality of the Treaty of Waitangi. The Treaty, a founding document signed in 1840 by both the British Crown and 540 Māori *rangatira* (chiefs), sets out roles and obligations for relations between Māori and non-Māori in New Zealand. Under the Treaty's three main articles, Māori ceded *kawanatanga* (governance) to the Crown, and were guaranteed both *tino rangatiratanga* (self-determination) over their taonga (things of value), and the same rights as British subjects (Orange, 1987). Differences between the English and Māori versions of the Treaty have been the subject of considerable debate (Orange, 1987). While the Treaty was widely dishonoured by the British and other settlers, in recent decades governments have drawn greater attention to the need to uphold the Treaty, often contemporarily interpreted through the principles of partnership, participation, and protection (see Tassell et al., 2012). In healthcare settings for instance, the partnership principle involves working with Māori communities to ensure that Māori obtain necessary health and disability services. The participation principle posits that Māori must be involved in all healthcare decisions that apply to them. In accordance with the protection principle, Māori are entitled to the same level of health and wellbeing as non-Māori, while traditional cultural values must be safeguarded (Tassell et al., 2012).

Within the New Zealand justice system, prosecution and sentencing take place in the courts, while sentences are managed by the correctional system. Most criminal and many civil cases are heard in the District Court, and appeals elevated to a 'higher' court (High, Appeal and Supreme courts ascendingly). Specialist divisions of the District Court include the Youth Court (youth offending), and the Family Court (child and family related matters). Therapeutic or alternative courts, including the Alcohol and Other Drug Treatment Courts, also sit within the District Court system (Courts of New Zealand, n.d.). The Department of Corrections, established in 1995, operates three main service arms, including prisons, community probation, and rehabilitation and re-integration services. Independently of the

court or correctional systems, the New Zealand Parole Board is tasked with deciding whether an individual will be paroled under the supervision of a probation officer (Newbold, 2017).

As of 2017 New Zealand maintains 19 prisons, housing a population of around 10 000 individuals, of whom approximately 90% are male. Although Māori make up around 15% of New Zealand's population, about 50% of the prison population is of Māori ethnicity (Newbold, 2017). Approximately 28 000 individuals are managed by probation services on community sentences (Newbold, 2017). Incarceration rates in New Zealand have increased in recent decades, from 91 to per 100 000 of population in 1987, to 199 per 100 000 of population in 2011 (Pratt, 2013; Workman & McIntosh, 2013). While imprisonment rates in the US are substantially higher than elsewhere in the developed world (750 per 100 000 of population), New Zealand rates are amongst the next highest. Disaggregated rates for Māori (700 per 100 000 of population) closely approximate US incarceration rates (Workman & McIntosh, 2013).

The growth in New Zealand's prison population has paradoxically occurred against a backdrop of falling reported crime, and has been linked by some to the combined actions of politicians, the mass media, the general public, and the Sensible Sentencing Trust (SST), a community group that advocates for victims' rights (Pratt, 2013; Pratt & Clark, 2005). In the aftermath of a justice referendum in 1999, in which 91% of New Zealanders voted in favour of more substantive punishments for offending and greater restitution for victims, successive legislative changes took place that have contributed to the increased use of incarceration (Pratt, 2013). A particular feature of legislation enacted throughout this 20 year period has been a move towards 'preventive justice', in which detention has increasingly been used to prevent future offending by individuals deemed likely to pose a danger to society (Gray, 2015; Pratt, 2013).

The Sentencing Act 2002 substantially increased penalties for serious violent and sexual offences and expanded the scope for preventive detention (indeterminate) sentences for individuals deemed likely to re-offend if a finite sentence were imposed (Newbold, 2017; Pratt & Clark, 2005). The introduction of the Sentencing Act 2002 was accompanied by enactment of the Parole Act 2002, emphasising 'undue risk' to community safety as the basis for parole eligibility (Pratt & Clark, 2005; Wilson et al., 2007). Amendments to the Parole

Act introduced ESOs at the end of a sentence for those deemed to be at very high risk of committing sexual offences against children (Parole (Extended Supervision) Amendment Act 2004), and violent offences (Parole (Extended Supervision Orders) Amendment Act 2014). The Public Safety (Public Protection Orders) Act 2014 empowered the High Court to allow ongoing detention of individuals deemed to pose a risk to the public at the end of a finite sentence (Newbold, 2017). Notably, the legislation described delineated new roles for psychologists that few had previously undertaken in the criminal justice context (Blackwell, 2011a; Wilson et al., 2007).

Criminal Justice Psychology

Although some psychologists were employed by individual prisons in New Zealand as early as the 1950s, it was only in the late 1960s that the unified Psychological Service within the (then) Department of Justice was founded (Polaschek 2003; Riley & Rush, 2000). A subsequent landmark for psychologists working in the criminal justice arena was the formation of the Department of Corrections, heralding a new era in which reducing re-offending was to be the focus, and complementing empirical evaluations of risk factors associated with crime already underway within the Psychological Service (Riley & Rush, 2000; Wilson et al., 2007).

Of perhaps greatest significance however, the Sentencing Act 2002 mandated that, in making preventive detention decisions, the court must consider at least two reports about the 'likelihood of the offender committing a further qualifying sexual or violent offence' (s 88(1)(b)) if released after a finite sentence, completed by 'health assessors', defined in s 4(1) as follows:

> Health assessor means a health practitioner who-
> (a) is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine, and who is a practising psychiatrist; or
> (b) is, or is deemed to be, registered with the Psychologists Board continued by section 114(1)(a) of the Health Practitioners Act 2003 *as a practitioner of the profession of psychology* (emphasis added).

Assessment

Psychologists employed in criminal justice settings in New Zealand typically carry out two main tasks, assessment and rehabilitation (Grace et al., 2017; Polaschek, 2007). Pursuant to the Sentencing Act 2002 in relation to the sentence of preventive detention, health assessor reports, ordered by the Crown or the court, are typically carried out by psychologists working for the Department of Corrections, by private practitioners, or by psychologists employed in forensic units within District Health Boards (DHBs). Defence lawyers may instruct private practitioners to critique such assessments. Application for an ESO by the Chief Executive of the Department of Corrections is typically accompanied by a health assessor report completed by a psychologist employed by or contracted to the Department, while a PPO application is typically accompanied by reports from both a departmental and an independent psychologist. An assessment for presentation to the New Zealand Parole Board pursuant to the Parole Act 2002 for an individual seeking parole is typically carried out by a psychologist employed by or contracted to the Department of Corrections (Blackwell, 2011a; Vess 2009a).

Other assessments are carried out by psychologists to ascertain what risk factors need to be worked on, to assess motivation for treatment, and to evaluate whether suitable programmes exist to assist in making such changes (Grace et al., 2017; Polaschek, 2007). Reports on such assessments, and others, may be provided to aid the court (see Blackwell, 2011a for a comprehensive review).

In conducting the assessments just described, psychologists employed by the Department of Corrections are able to access computer-based risk assessment measures that have been developed in-house for the New Zealand context. The RoC*RoI (risk of conviction x risk of imprisonment) is a primarily static measure that was developed using historical criminal data from 133,000 people convicted of an imprisonable offence in the 1980s (Bakker, Riley & O'Malley, 1999). The RoC*RoI produces a score range from 0 to 1, representing 0 to 100% risk of re-offending (Blackwell, 2011a; Wilson et al., 2007). The Automated Sexual Recidivism Scale (ASRS; Skelton, Riley, Wales & Vess, 2006), also developed within the Department, aligns closely with the most widely used instrument for

predicting sexual recidivism, the Static-99 (Blackwell, 2011a; Hanson & Thornton 2000; Wilson et al., 2007).

Treatment/Rehabilitation

The RNR model described in Part Two is the primary treatment model employed within New Zealand correctional settings (Andrews & Bonta, 2010; Grace et al., 2017), so that psychologists' priorities are individuals assessed as being most likely to re-offend upon release (Polaschek, 2007). Other frameworks, including the strengths-based Good Lives Model (GLM; Ward & Maruna, 2007), are also applied in some New Zealand settings (Grace et al., 2017). Both group and individual treatments comprise psychologists' work, as well as providing plans for interventions that may be carried out by other professionals (Tamatea et al., 2016). Some of the highest risk clients with whom psychologists work reside in special treatment units (STUs) such as Kia Marama at Christchurch's Rolleston Prison, dedicated to those who have been convicted of sex offences against children. Notably, elements of Māori *tikanga* (culture and customs), appropriate for clients who identify as Māori, are a feature of the Kia Marama and other departmental programmes (Grace et al., 2017).

Forensic Mental Health and Disability

Forensic mental health services in New Zealand are tasked with the care of 'special patients'. Such patients have been detained under legislation and entered mental health services through their interactions with the criminal justice system. In 2016 there were 378 people with special patient status, 87% of whom were male, and 50% of whom identified as Māori (Ministry of Health, 2017). Five of New Zealand's DHBs offer secure inpatient facilities where psychologists and other mental health professionals offer treatment to special patients, and to others, (e.g., 'restricted patients') who are detained because of the risk they pose to others. 'Special care recipients' are individuals who have an intellectual disability and have criminally offended, and are also deemed to require care in a secure facility (Bell & Brookbanks, 2017; Webb, Duff & Reid, 2011).

The Mental Health (Compulsory Assessment and Treatment) Act 1992 (MH(CAT) Act 1992) empowered the courts to detain individuals with mental disorders who pose a danger to themselves or others (Bell & Brookbanks, 2017). Limitations within the MH(CAT) Act 1992, for instance, a lack of hospital dispositional options for individuals with intellectual disabilities, were addressed through two new pieces of legislation, the Criminal Procedure (Mentally Impaired Persons) Act 2003 (CPMIP 2003) and the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003 (IDCCR 2003). Working alongside the MH(CAT) Act 1992, the CPMIP 2003 and the IDCCR 2003 offer a legislative framework by which impairment on the basis of intellectual disability and/or mental illness can be determined, and make provision for disposition in facilities other than prison (Visser, 2011; Webb et al., 2011). A significant feature of both of the new Acts was the inclusion of psychologists as 'health assessors' (CPMIP 2003) or 'specialist assessors' (IDCCR 2003), from both the public and private sectors.

Under the CPMIP 2003, psychologists as well as psychiatrists now provide assessments to make determinations of 'fitness to stand trial' and 'not guilty by reason of insanity', and make recommendations on disposition options in secure or alternative facilities. Further roles for psychologists under IDCCR 2003 include determining whether an individual has an intellectual disability, and if so whether s/he could benefit from receiving care and rehabilitation in a supervised setting as a 'care recipient'. New infrastructure arising in response to the IDCCR 2003 provides options which psychologists may recommend including designated supported community homes, as well as secure facilities. Psychologists also carry out six monthly reviews for care recipients (Skirrow & Mathieson, 2016; Webb et al., 2011).

Forensic Services for Youth

Young people aged 14-16 years are responsible for a substantial proportion of criminal apprehensions in New Zealand, of which few are considered serious (Lambie & Becroft, 2011). The majority of young people who commit offences (about 80%), referred to as 'desisters', will 'age out' of their offending (Becroft & Norrie, 2017; Lambie & Becroft, 2011). A minority of youth who offend (5-15%) are described as 'persisters', and are

responsible for half of all youth offending. Persistent offenders are typically male (81%), while a significant proportion have drug problems, conduct disorder, and/or a history of abuse and neglect (Becroft & Norrie, 2017; Lambie & Becroft, 2011). Māori youth are over-represented at all stages in the youth justice process, with disproportionate rates worsening rather than improving (e.g., appearances in the Youth Court increasing from 44% in 2005 to 61% in 2014; Becroft & Norrie, 2011). New Zealand has four secure youth justice residences that are typically used as a 'last resort' for youth who have offended (Lambie, Krynen & Best, 2016).

The youth justice system in New Zealand has been described as world-leading (Wundersitz, 2000). Developments in youth justice in New Zealand reflect the evidence base suggesting that the less contact young people have with the criminal justice system, the better the outcome (Becroft & Norrie, 2017; Lambie & Becroft, 2011). Principles outlined pursuant to the Children, Young Persons, and Their Families Act 1989 (CYPTF Act 1989) specify that where possible, criminal proceedings should be avoided, the strengths of families should be harnessed, the young person should remain in the community, and the underlying causes of the offending should be addressed (Lambie & Becroft, 2011). These principles are upheld through the 'family group conference' (FGC) process, which provides a forum through which family, professionals and other stakeholders seek collaboration rather than relying on judicial decision-making in holding a young person to account (Becroft & Norrie, 2017; Lambie & Becroft, 2011).

At any stage in proceedings, the court may request a section 333 report under the CYPTF Act 1989. Section 333 reports are largely carried out by psychologists, and aim to provide the court with a means by which to understand the offending, to identify a pathway forward, and to make recommendations for mitigating the risk of re-offending. Psychologists employed in DHBs typically carry out section 333 reports, and some are also completed by private practitioners (Becroft & Lambie, 2011).

Expert Evidence

Specialist reports and evidence briefs for use by the courts and other authorities is referred to as expert evidence or expert opinion (Blackwell, 2011b). Psychologists began providing expert evidence in relation to the Guardianship Act 1968 followed by the CYPTF Act 1989, with the scope further expanded in relation to the Evidence Act 2006. In providing expert opinion, psychologists and other professionals are bound by the Code of Conduct for Expert Witnesses, which clarifies that the expert must remain neutral and assist the court, without advocating for the party who has engaged them (i.e., the prosecution, the defence, or the court; Blackwell, 2011b).

There are a number of different stages during court proceedings at which a psychologist may become involved. Before a trial, s/he may be required to assess a witness to advise on the best way for evidence to be given. During a trial, the psychologist may provide evidence, for instance, on intellectual disability. Post-trial, psychological reports are often used in relation to sentencing and disposition, for instance, those described above pursuant to the Sentencing Act 2002, with relatively few cases requiring the psychologist to actually appear in court (Blackwell, 2011b; Tamatea et al., 2016).

Research Aims

As discussed, forensic settings are fraught with multiple ethical conflicts for psychological practice. The reviewed literature describes these conflicts, although few studies have explored psychologists' experiences of such conflicts. As New Zealand has become more risk averse, the potential for psychologists to experience ethical conflicts is likely to have increased. The primary research question for this study is: what are the ethical conflicts experienced by psychologists who work with individuals who have committed offences in New Zealand? A second question is: how do psychologists resolve and manage these dilemmas?

Chapter Two - Methodology

The first section of this chapter provides a rationale for both the qualitative methodological approach used in the study, and the method used to analyse the qualitative data (thematic analysis). The latter section of the chapter provides a detailed account of methods employed in recruiting participants, collecting data and carrying out analyses. The chapter concludes with a description of the steps taken in endeavouring to maintain the quality of the research.

Methodological Approach

Rationale for Qualitative Methodology

The rise in popularity of qualitative methodologies in psychology began largely in response to dissatisfaction with the dominant positivist paradigm as a means to study human experience (Guba & Lincoln, 1994; Madill & Gough, 2008). Danziger (1990) contends that while research in psychology had initially begun as a subjective endeavour, the rise of the quantitative method rendered all other methods 'unscientific'. As part of a broader critique of established sources of authority in the late 1960s and early 1970s however (Madill & Gough, 2008), a number of challenges were levelled at quantification in psychology. Specifically, while meeting the quantitative study's requirement for scientific rigour, the stripping of context was purported to limit the relevance of findings except in similarly decontextualized circumstances (Guba & Lincoln, 1994). Further, critics of quantitative methods argued that unlike phenomena examined in the physical sciences, human behaviour is better understood with reference to the meanings and purposes that people attribute to their experiences (Guba & Lincoln, 1994; Willig & Stainton-Rogers, 2008).

Qualitative research has been defined as the "study [of] things in their natural settings, attempting to make sense of or interpret phenomena in terms of the meaning people bring to them" (Denzin & Lincoln, 2005, p. 3). Despite a plethora of approaches, Merriam and

Tisdell (2016) identify a number of characteristics common to all qualitative research. Firstly, understanding is sought of an *emic*, or 'insider' point of view, rather than an *etic* perspective, typically the researcher's, taken in quantitative research. Secondly, the primary instrument for the collection and analysis of data is the researcher him/herself. Employing a human instrument is seen as ideal given that the aspiration of qualitative research is to enhance understanding, although it also leads to biases and subjectivities which must be directly addressed (Guba & Lincoln, 1994; Lincoln & Guba, 1985). Thirdly, qualitative research is often *inductive*, and builds towards theories, rather than testing pre-conceived hypotheses. Finally, qualitative research is richly descriptive, relying on words as data rather than numbers (Clarke & Braun, 2013; Merriam & Tisdell, 2016).

Subsequent to the positivist and later 'post-positivist' traditions, numerous qualitative approaches have been developed, many of which are tied to a particular epistemological orientation. Three major perspectives can be identified: interpretivist/constructionist, critical, and post-modern/post-structural (Merriam & Tisdell, 2016), with the interpretivist/constructionist approach being the most common (Merriam, 2002; Merriam & Tisdell, 2016). The interpretivist/constructivist perspective (hereafter referred to as 'constructivist') rejects the idea of a single observable reality, and instead proposes the potential for multiple realities or interpretations of the same event. Further, researchers do not 'find' knowledge (Merriam & Tisdell, 2016), nor can they ever fully 'discover' the inner world of participants. Rather, the constructivist perspective holds that the researcher and the researched cannot be separated (Lincoln & Guba, 1985), and through their interaction, findings are created (Guba & Lincoln, 1994).

The taxonomy of constructivist methodologies includes phenomenology, ethnography, grounded theory, narrative analysis, and 'basic' interpretive studies, with the method of choice being dependent on the research question (Merriam & Tisdell, 2016). Whereas some constructivist approaches often have an additional dimension, for instance, grounded theory seeks to build a theory in relation to a phenomenon, the basic study simply provides the "researcher's understanding of the participants' understanding of the phenomenon of interest" (Merriam & Tisdell, 2016, p. 25).

Situating the current study

According to Bryman (2016), the exploratory nature of a qualitative study is ideal where little research has been carried out in a particular area, as is the case in this study. The current study employed a basic interpretive or basic qualitative methodological approach (Merriam & Tisdell, 2016). The methodological approach was adopted in order to privilege the insights of psychologists working in ethically challenging forensic roles.

Thematic Analysis

Thematic analysis is a method of qualitative data analysis that allows the researcher to identify, analyse and report on patterns or themes in the data (Braun & Clarke, 2006). Thematic analysis is a very widely used qualitative method (Guest, MacQueen & Namey, 2012), and its proponents argue that it offers a number of benefits (Braun & Clarke, 2006). Firstly, thematic analysis is a very flexible method, and unlike other qualitative methods, is not married to a particular theoretical orientation (Braun & Clarke, 2006). Further, thematic analysis allows the researcher to obtain a ‘thick description’, or a detailed and complex account of the entire dataset.

Braun and Clarke (2006) describe two major ways by which themes may be identified when carrying out a thematic analysis. According to the authors, a theory may be tested and data fitted in to a pre-determined framework (a theoretical approach), or coding and theme development may be directed by the data content (an inductive or ‘data-driven’ approach). Braun and Clarke (2006) point out that the former approach is more appropriate when analysing a specific aspect of a dataset, while the latter approach may be applied when endeavouring to obtain a rich description of the entire dataset. Braun and Clarke (2006) argue that although an inductive approach does not rely on a pre-existing theoretical framework, researchers will always be influenced to some extent by “their theoretical and epistemological commitments” (p. 84).

The current study

Braun and Clarke (2006) argue that thematic analysis can be particularly appropriate when the area under investigation is lacking research, or when working with participants whose views on a topic are little known, both of which are relevant to the current study. More specifically, an inductive or data driven method of thematic analysis was employed. The inductive approach was considered appropriate for analysing findings in relation to the study's exploratory nature and open-ended research questions. Further, the inductive approach was employed in order to obtain a rich description of the entire dataset.

Method

Ethical approval for the study was obtained from the University of Auckland Human Participants Ethics Committee (UOAHPEC) on 30 November 2015 (reference number 016507), for a period of three years.

Recruitment

The initial approach to recruitment was via an advertisement (Appendix A) which was distributed by email to all members of the New Zealand College of Clinical Psychologists (NZCCP), resulting in ten individuals contacting the researcher and expressing an interest in participating. Six of the ten individuals agreed to participate, and the remaining four were unable to participate because they worked for the Department of Corrections (and this research was not Corrections approved). The second approach to recruitment involved preparing a further advertisement (Appendix B) which broadened participation criteria (e.g., to include individuals working in youth settings). The second advertisement was emailed to all NZCCP members, and was also placed in the newsletter for the New Zealand Psychological Society (NZPsS). Twelve individuals responded to the second advertisement, of whom ten agreed to participate and two were excluded because they were Corrections employees.

Participants

Sixteen psychologists who had experience working in forensic settings in New Zealand took part in the study. The participants included ten female and six male psychologists, aged from 28 to 67 years of age, with a mean aged of 50. Eleven participants were residing in Auckland, where the researcher was based. The remaining five participants were located throughout New Zealand. In terms of ethnicity, eleven participants identified as New Zealand European and one as Māori. The remaining participants identified as South African (two participants), African (one participant) and European (one participant). More specific location and ethnicity information is not provided in order to protect participants' identities.

Fifteen participants were New Zealand registered clinical psychologists and the remaining participant was a New Zealand registered psychologist registered under the general scope of practice (refer to http://www.psychologistsboard.org.nz/scopes-of-practice2 for further information about New Zealand scopes of psychological practice). Thirteen had completed their training in New Zealand, and the remaining three had trained in their countries of origin. Five of the 16 participants held doctoral qualifications (Doctor of Philosophy or Doctor of Clinical Psychology). Of the remaining 11 participants, all held a Masters or equivalent qualification, while six also held clinical diplomas. Participants described highly variable levels of specific forensic content in their clinical/psychological training.

Forensic roles

Participants had between one and 35 years of experience in forensic roles, with a mean 15 years' experience. Notably timeframes did not always involve full-time work, nor an exclusive forensic focus (e.g., private practice). Overall, 13 psychologists also had experience working with non-forensic clients. Fourteen of the 16 participants had worked in multiple forensic settings, with the biggest employer having been the Department of Corrections (ten participants).

At the time of interview, seven of the 16 participants were primarily employed by DHBs. Four of these seven participants were employed within youth forensic services, two carried out forensic work within general mental health services, and one was employed in an inpatient forensic psychiatric service. One DHB employee also maintained a small private practice. Seven of the 16 participants worked in private practice. Private practitioners were typically forensic specialists, although three reported having some non-forensic clientele. The remaining two participants carried out roles with a forensic focus that could potentially identify them.

Participants described a large number of tasks that they currently undertook, including but not limited to: assessment and report writing (for instance, in relation to ESOs) for the New Zealand Parole Board or courts; carrying out specialist assessments and six monthly reviews for intellectual disability under the IDCCR/CPMIP; writing risk assessment reports for lawyers on the latter's clients; assessing for 'fitness to stand trial'; and providing reports to the court regarding rehabilitation recommendations. Only one participant said that his/her main task was to provide therapy. Twelve participants reported that they had presented information in person in court. Notably there was considerable overlap in tasks performed across different settings, for instance, both those working for youth forensic services and those in private practice completed reports for the Youth Court.

Interview Schedule and Procedure

Interested participants who had contacted the researcher were sent a Participant Information Sheet (PIS) which outlined the research aims and procedures (Appendix C). The PIS sent to those responding to the first advertisement contained a sentence referring to specific legislation which was deleted to reflect the broader participant based that was targeted by the second advertisement. Interviews were then scheduled at times convenient for those electing to proceed. Informed consent was obtained at the start of the interview. Participants were asked to sign a consent form (Appendix D) indicating that they had understood the contents of the PIS, or to provide consent verbally in the case of telephone interviews.

Eleven interviews were carried out face-to-face, and five by telephone. Face-to-face interviews took place at the University (*n*=3), at the participants' workplaces (*n*=4), or at the participant's home or home/office (*n*=4). All interviews were audio recorded. The interviews lasted for between 28 and 144 minutes, with a mean duration of 69 minutes.

A semi-structured interview format was employed. Aberbach and Rockman (2002) suggest that using open-ended questions allows a researcher to "probe for information" while "giv[ing] respondents maximum flexibility in structuring their response" (p. 673), which is considered important in under-researched areas. Given the exploratory nature of the study, interviews began with several open-ended questions about conflicts between the norms of their ethical codes, workplace policies, legislation, and individual belief systems. Specific topic areas that had not been raised were subsequently explored. Participants were also asked about how they had managed or reconciled particular conflicts and what barriers they had encountered in doing so (refer to Appendix E for full Interview Schedule). Participants were asked to comment on both their past and current forensic roles.

Interview recordings were transcribed by an approved university transcriber.

Thematic Analysis

Braun and Clarke (2006) provide a clear six-step method by which to conduct thematic analysis, including: familiarisation with data; generating initial codes; searching for themes; reviewing themes; defining and naming themes; and producing the report. Two thematic analyses were carried out, in relation to the first and second research questions. The steps taken for each research question were:

Step 1: Familiarisation with the data

Braun and Clarke (2006) point out that transcription can be a useful first step in becoming familiar with one's data. Given that transcription had been outsourced, familiarisation with the data was achieved by listening to recordings in order to amend

psychological vernacular and edit punctuation. Transcripts were read multiple times and preliminary ideas about patterns of interest in the data were recorded.

Step 2: Generating initial codes

All interview data were printed and brief summary statements were written in the page margins in relation to each basic unit of data, which Braun and Clarke (2006) refer to as 'initial codes'. A list of these codes was then compiled. Subsequently the entire data set was re-read. Each time a code was repeated, the name of the appropriate participant was written underneath the code on the list, with some accompanying notes. The process resulted in a comprehensive list of codes with incidences of each grouped together.

Step 3: Searching for themes

Braun and Clarke (2006) state that "a theme captures something important about the data in relation to the research question, and represents some level of patterned response or meaning within the data set" (p. 82). The list of initial codes was first examined, and attempts made to sort codes in to possible themes. Diagrams were used to sketch possible inter-relationships between themes. The list of initial candidate themes for research question one was: who is the client?; forensic clients are vilified yet vulnerable; forensic work is narrowly focused on risk; issues with consent are heightened in forensic contexts; issues with confidentiality are heightened in forensic contexts; the use of clinical skills seems anti-therapeutic; and professional autonomy is undermined in forensic settings. Initial themes for research question two were: accept, challenge or leave the setting; and ensure that my work is of benefit to the client who has offended.

Step 4: Reviewing themes

This phase involved the refinement of the candidate themes. Each transcript was again read in order to ascertain whether the initial themes offered a good fit with the data as a whole. Although the candidate themes for research question one largely captured the essence of the data, themes that were logically related around the nature of the therapeutic relationship (issues with consent are heightened in forensic contexts; issues with

confidentiality are heightened in forensic contexts; and the use of clinical skills seems anti-therapeutic) were collapsed in to one theme (therapeutic engagement is of a different quality in forensic settings). A further theme (forensic work is narrowly focused on risk) was very large and required further development. The theme was instead expanded in to two separate themes (the 'black and white' of forensic settings versus the 'grey' of psychology; and psychological knowledge is applied in a limited way in forensic contexts). The candidate themes for research question two were retained.

Step 5: Defining and naming themes

According to Braun and Clarke (2006), further refining and defining of themes takes place at this stage, in order to identify the 'story' that each theme tells, and how each fits in to the broader 'story' being told in relation to the data as a whole. This stage involved further considering themes and theme names, and finalising the names for each sub-theme. The thematic map was produced to depict relationships between themes.

Step 6: Producing the report

The final phase of the research involved writing up the 'story' of the data and using quotes as examples to illustrate the points made. In order to protect anonymity, participants' names were changed.

Quality of the Research

The concepts of validity and reliability are important in all research (Brink, 1993). Validity refers to the truthfulness of the findings, including the extent to which they represent they phenomena that they are claimed to represent, while reliability denotes the degree to which stable and consistent results are produced. Given that understanding rather than accuracy is the goal of qualitative research, validity and reliability criteria do not apply in the same way as in quantitative studies (Bryman, 2004). Quality and rigour are also important in qualitative research however, because researcher subjectivity, while an inherent and largely positive aspect of the research, can greatly influence findings (Brink, 1993; Merriam, 2009).

Thus the researcher must acknowledge that the investigation reflects both participants' perspectives, but also his or her interpretation of these perspectives, achieved through a process of 'reflexivity' (Bryman, 2004; Flick, 2009).

In order to facilitate reflexivity and ensure the 'trustworthiness' of results, Lincoln and Guba (1985), and Guba and Lincoln (1994) propose alternatives to validity and reliability criteria which are: credibility, transferability, dependability, and confirmability. These terms approximately map on to the quantitative concepts of internal validity, generalisability, reliability, and objectivity respectively (Bryman, 2004).

Credibility

The concept of credibility refers to the extent to which the researcher's accounts represent the participants' descriptions and interpretations of phenomena (Bryman, 2004; Merriam & Tisdell, 2016). Given that multiple accounts are assumed possible, the credibility of the researcher's account is determined by its acceptability to others (Bryman, 2004). One strategy to improve credibility is that of *respondent validation* (Bryman, 2004). This strategy was employed in the current study by offering participants the opportunity to review their transcripts. Two participants reviewed their transcripts and made minor changes to them. A further strategy involved documenting procedures used in thematic analysis for supervisor review.

Transferability

Transferability refers to the degree to which findings can be extended more broadly, in this case to other psychologists working in forensic settings. As Guba and Lincoln (1985) explain however, whether findings "hold in some other context, or even in the same context at some other time, is an empirical issue" (p. 316). These and other authors argue that a full contextual account should be provided by the researcher, to enable readers to judge for themselves whether findings are transferable or not (Bryman 2004; Guba & Lincoln, 1985). Details of participants' contexts have been provided in order to facilitate reader assessment of transferability.

Dependability

Dependability parallels reliability, and refers to the extent to which other researchers can replicate the procedures undertaken (Bryman, 2004; Merriam & Tisdell, 2016). Dependability of findings is addressed in qualitative studies by researchers transparently adopting an 'auditing' approach (Bryman 2004; Guba & Lincoln, 1985), or providing a complete record of all phases of the research. Accordingly, the methodology chapter provided full details of the procedures employed, including participant selection, interviewing, transcription, thematic analysis, and report writing.

Confirmability

Confirmability is concerned with recognising that objectivity is not possible in qualitative research, and with acknowledging the active role that the researcher takes in arriving at the findings (Braun & Clarke, 2006; Bryman, 2004; Merriam & Tisdell, 2016). A brief reflection follows detailing researcher background and biases.

Reflection

The researcher holds an 'outsider' position in terms of forensic psychological practice, having completed just one three month forensic placement throughout clinical psychology training. Knowledge of the area of study was thus largely obtained by engaging with the research literature. As an outsider, the researcher was largely able to occupy a 'naïve enquirer' stance and to engage in a flexible way with participants. However, the researcher's biases stem from a longstanding interest in issues of social justice, and a concern that New Zealand's law and order legislation is becoming overly punitive. The researcher was cognisant of subjectivities influencing all stages of the research. Biases were discussed in supervision and steps taken to manage them, for instance, by endeavouring to frame questions openly and by reviewing themes in supervision. The inclusion of quotes from participant data in the results chapters were a further attempt to ensure that participants' views, rather than the researcher's, were represented in the study.

Chapter Three - Results

Tensions of Forensic Psychological Work with Individuals who have Offended

This chapter presents the thematic analysis of data pertaining to the study's first research question. As outlined in the methodology section, participants were asked broadly about their experiences of conflicts between the norms governing the NZ Code of Ethics (2002), workplace policies, legislation, and individual belief systems in their forensic psychological roles. One over-arching theme was identified (i.e., who is the client?). Five further themes were identified which were: 1) Forensic clients are vilified yet vulnerable; 2) The 'black and white' of forensic settings versus the 'grey' of psychology; 3) Psychological knowledge is applied in a limited way in forensic contexts; 4) Therapeutic engagement is of a different quality in forensic settings; and 5) Psychologists' professional autonomy is undermined in forensic settings.

Detailed descriptions are provided for each of the themes and related subthemes, and quotes from participants are used to illustrate these themes and subthemes. The themes and related subthemes are summarised in Table 1. Relationships between themes are also depicted in a thematic map (Figure 1) as recommended by Braun and Clarke (2006).

Over-Arching Theme: Who is the Client?

The focus of the over-arching theme was on the many different stakeholders that participants could identify as 'clients'. Participants identified that their individual clients who had offended should always be their clients according to the NZ Code of Ethics (2002). Other clients/stakeholders identified by participants included the courts, judges, the New Zealand Parole Board, and the employer. Many participants identified the community/the public as a client, with a number of participants discussing their own responsibilities towards maintaining public safety. In relation to the question of 'who is the client', some participants described the difference between working in forensic versus general mental health settings, noting the need to consider a greater number of parties in the former case.

Table 1

Tensions of forensic psychological work – themes and subthemes

Themes	**Subthemes**
Who is the client?	
Forensic clients are vilified yet vulnerable	
The 'black and white' of forensic settings versus the 'grey' of psychology	Categories of risk Diagnostic and other categories
Psychological knowledge is applied in a limited way in forensic contexts	Models are risk focused Assessment and reporting supersede therapy
Therapeutic engagement is of a different quality in forensic settings	Forensic consent processes impact engagement Workplace confidentiality requirements impact engagement 'Paradoxical' use of therapeutic skills Psychologists are seen as 'deciders of fate' by clients
Psychologists' professional autonomy is undermined in forensic settings	

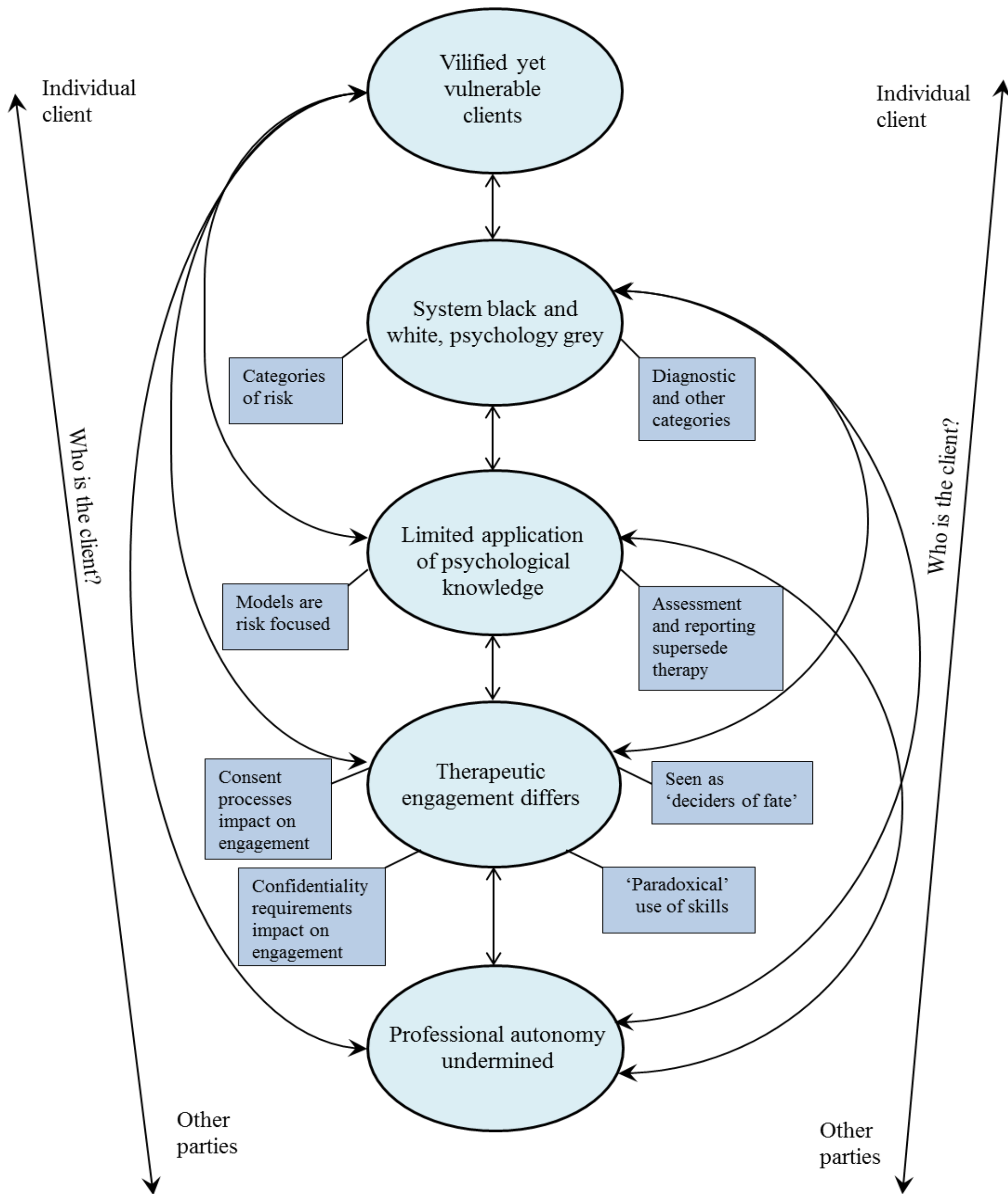

Figure 1. Tensions of forensic psychological work – themes and subthemes

As illustrated in Figure 1, the over-arching theme included a vertical dimension. It was considered that participants' focus for theme one was primarily on the needs and wellbeing of their individual clients in line with psychological knowledge, with considerations of other stakeholders being less prominent. For each subsequent theme however, it was considered that the requirements of other identified clients/stakeholders became increasingly more predominant as individual client wellbeing/psychological knowledge was gradually subsumed. For instance, the first theme focused on participants' descriptions of the psychological vulnerability of their clients; the second theme considered the requirements of the context to classify clients into diagnostic and risk categories; the third theme emphasised risk and reporting requirements which superseded the provision of therapeutic benefit to clients; the fourth theme focused on compromises to the therapeutic relationship; and the fifth theme described situations in which professional autonomy was undermined, and individual client wellbeing was almost completely displaced in favour of the requirements of other parties.

Theme One: Forensic Clients are Vilified yet Vulnerable

The first theme focused on what participants expressed as a disparity between public versus their own perceptions of forensic clients. Participants reported that they considered their clients to be much vilified by the public, while they (participants) were more inclined to view their clients as highly vulnerable.

To varying extents, many participants in the study expressed concerns about aspects of New Zealand's legislation and the implications for their clients' liberty. Legislation was described by many as being overly punitive, particularly in the case of the most recent legislation (i.e., PPOs/civil commitments). One participant reported that s/he believed that the earlier (i.e., 2002) legislation had struck a reasonable balance in terms of addressing both public safety and fairness to clients, in contrast to more recent legislation:

> There has been an increasing punitive aspect to legislation, and I think in the first cut back in 2002 there were probably more checks and balances there, and so it kind of kept the legislation fair and safe, whereas 10 years on it's a totally different political situation I think. (Margaret)

The same participant expressed particular concerns about the PPO legislation, citing the issue of double jeopardy. As illustrated by the following quote, the participant questioned the fairness of the court having decided that an indefinite sentence was not warranted for an individual at the time of sentencing, but re-visiting the case at the end of his/her sentence and deciding on a civil commitment:

> And then somehow 10 years later we have another go at the cherry and say…. "Now we think this person really is a high risk and we are going to do, essentially a preventive detention order, but not under the corrections system, but under a civil system", and … I just really feel uncomfortable with that. (Margaret)

Most participants commented that New Zealand has become increasingly risk averse. Some discussed the origins of the current legislative direction, with one participant commenting that "our legislation has responded to critical incidents" (Mark). Other participants variously described the roles of public servants, politicians and the media in contributing to the current legislative climate, as illustrated by the following: "[Corrections custodial staff] are all under a cloud really, from the top, you know, and the top is under a cloud from the Minister and the Minister is under a cloud from the media" (Rose).

The same participant articulated the following about the influence of the media on the Department of Corrections: "There was no effort to back themselves against the media… the fear is always, 'well the Department's reputation is at stake'" (Rose). A number of participants spoke specifically about the role of the SST in vilifying forensic clients. However, many participants expressed a view that the much maligned prison population is in fact highly vulnerable, as illustrated by the following:

> We know the stats about people in prison, about mental health issues, about literacy rates, about the backgrounds, we know all of those things. So despite the fact that the Sensible Sentencing Trust would have us believe that there's a lot of monsters there, actually we have a very vulnerable population. (Leo)

This participant and a number of others emphasised a view that clients' disadvantaged backgrounds have typically contributed to their offending. The following quote illustrates a similar viewpoint, and the participant's belief that the reasons for committing offences are typically poorly understood by the general public:

> If any kind of offending comes up, people straight away say[ing], "yeah just throw away the key, shoot them, blah, blah, blah". There is just so [*sic*] minimal understanding of how people can have different backgrounds, and if you were raised in this background maybe you [would] be offending too. (Connie)

A number of participants also expressed the opinion that the publics' views of their clients (e.g., as "monsters") had contributed to increasingly punitive sentences and thus a growing prison population. A common basis for participants' objections to increasing rates of imprisonment, in line with participants' recognition of the vulnerability of their clients, was a view that prison is not effective. Further, participants articulated various concerns about the effect of imprisonment on increasing the likelihood of re-offending, noting that prison provides the opportunity to meet with others who have also offended, but limited opportunity to receive rehabilitative treatments unless the individual is of the highest risk. The following quote illustrates one participant's observation about the negative impact of prison, particularly on younger clients:

> So prison is a totally different world, and all the evidence … we know prison doesn't work. You put men into prison for a day and you are actually increasing his [*sic*] risk, and we've seen that especially with the 17 year olds. (Maya)

The same participant also reported that a tendency for clients to be vilified and to receive punitive sentences was exacerbated in the case of Māori clients, observing that "with Māori I think it starts at the court. I think my experience has been that Māori come with heftier sentences, more punitive conditions" (Maya), while another made the point that s/he believed that prison now accommodates Māori perspectives better, but asked the question: "Why are there so many of them in there?" (Rose).

While many participants considered that legislation had become increasingly punitive, a number commented positively about the youth justice system in New Zealand, noting that it has a strong rehabilitative focus, and is effective in: "optimising a young person's strengths and supports" (Ben). The youth justice system was also reported to align well with the psychological evidence base for how best to treat offending, with one participant reporting that "a lot of the literature has been embedded in the way in which the Youth Court operates" (Kirsten).

Theme Two: The 'Black and White' of Forensic Settings versus the 'Grey' of Psychology

> The law tries to impose that sort of black and white process on to a profession that actually works in shades of grey. (Kirsten)

The second theme focused on what participants identified as a fundamental difference in paradigms for human understanding between the legal and the psychological, with the former reportedly privileging definitive answers (i.e., 'black and white') classifications of risk or diagnostic categories, and the latter conceptualising clients' difficulties occurring across a continuum (i.e., 'grey'). Two subthemes were identified, the first involving the tensions inherent in consigning individuals to categories of risk, and the second relating to the use of diagnostic and other categories.

Subtheme one: Categories of risk

Almost all participants in this study were current users of risk assessment instruments and many reported that risk assessment was one of their routine tasks. Many of these participants described significant developments both internationally and in New Zealand in the field of risk assessment. Participants reported a reasonable level of research support for the instruments they used regularly, and an improvement on the previous practice of applying clinical judgment alone. Those who had worked for the Department of Corrections described a very solid knowledge base, excellent training, and good support in instrument use within the Psychological Service. Most participants in the study also spoke of substantial reservations about aspects of many risk instruments, and highlighted limitations overall in terms of both predictive validity and reliability of instruments. Underlying participants' misgivings was the fact that psychologists' risk assessment findings ultimately contribute towards decisions made about their clients' liberty, about which many expressed acute awareness.

In terms of placing individuals in categories (e.g., 'high risk of re-offending'), several participants emphasised the point that classifying an individual in a group in which a known proportion will re-offend did not answer the question of whether s/he would be one of the re-offending proportion. The following quote illustrates this difficulty, and the potential for

making an incorrect prediction that an individual will re-offend (i.e., a 'false positive'). It makes salient the fundamental ethical challenge for psychologists in making risk determinations, that of balancing the safety of the community against individual freedom:

> We never identify specific risk … that that specific individual poses, because no-one can know that for sure. So we often tend to work out whether they belong within a category, where maybe 70% of prisoners who fell into the same category re-offended, but not all of them, so that the trick is to work out if they are going to be one of the 70 or one of the 30, and that is hard…. Some people who would end up being slapped with the order … would not have offended, like the false positives. (Sally)

More specifically, in terms of static risk instruments, while some participants reported on the utility of the ROC*ROI and the ASRS in enabling them to immediately identify a client's risk bracket and thus prioritise clients for treatment more effectively, some were concerned about the predictive validity, in particular, over-prediction problems, of these heavily utilised measures:

> [Paul Gendreau] suggested that the ROC*ROI was over predicting, it was really huge … and also we know in terms of the automated risk assessment instrument that there was a review by a statistician which suggested … that that needed re-calibrating…. So what Gendreau suggested [was] that we really focus on dynamic risk assessment more. (Leo)

The importance of understanding and highlighting the highly dynamic nature of risk when conducting assessments was discussed by many participants. Some reported however on the greater subjectivity of incorporating dynamic risk factors, and in turn more problems with inter-rater reliability, compared to static only assessments. Participants variously reported that static and dynamic measures might not yield the same outcome for an individual, or that users of dynamic scales, such as the PCL-R, might reach different conclusions: "The [PCL-R] for instance.… You find that different people will look at the same person and come up with a completely different rating. So your assessment is not always that objective" (Rose).

Participants working across multiple settings also discussed the highly negative and deficit focused nature of risk assessment protocols generally, and commented that many factors, such as community supports for instance, might help to mitigate risk in a way that was not always adequately represented in their assessment. A number of participants cited a

growing body of literature supporting the role of protective factors. Participants reported that while contemporary risk assessment approaches are increasingly likely to account for the role of protective factors, a greater focus on strengths is still needed:

> I think also too we can be quite risk focused, and … that might seem like kind of part and parcel of working in a forensic service, [but] good management of risk and a good treatment plan includes focusing on protective factors as well, and they can get overlooked. (Patricia)

One participant observed that an emphasis on protective factors was particularly relevant for Māori clients. S/he stated that and emphasis on protective factors was more consistent with a Māori perspective because the strengths of the whānau (family) and/or supports, rather than just the individual, are better encompassed:

> I think more recently they've started including protective factors. I think with Māori that's more important, looking at it more from a collectivist point of view and not just that individual point of view. That sort of gives it more validity. (Maya)

Several participants described difficulties in fitting risk assessment classifications as derived from assessment instruments into categories defined in legislation, noting that at times these were 'mismatched'. Further, legal definitions, such as 'imminent risk' (i.e., in the Public Safety (Public Protection Orders) Act 2014) were observed to have no equivalent correlate when applying a risk instrument:

> None of the risk assessment instruments tell us about imminent risk, they tell us about five years, 10 years and so on … And then we've got the definition of what is imminent risk. 'Imminent' usually means it's going to happen at first available opportunity, but you know, we've got no way of knowing that, and unless you look at somebody's past history, if they did that at first available opportunity in the past.… So we've got the law setting out terminology which doesn't fit with psychological understandings. (Leo)

Several participants discussed the complexity of statistical concepts associated with risk assessment instruments, and the challenge of conveying risk findings to the New Zealand Parole Board, the court, and other consumers of risk information. Participants variously reported on helpful developments in the field of risk communication, and on upskilling efforts, particularly by judges, in this area. Nevertheless, some participants indicated that risk

information remains confusing and may at times be misconstrued, again, with enormous consequences for an individual's autonomy, as illustrated by the following quote:

> People start seeing like 'high risk' as being almost, "oh ok", and especially like with the ROC*ROI, you know if somebody has got a ROC*ROI of .8, even I think judges are starting to think, "oh so there's an 80% chance that he's going to reoffend". Well, not necessarily … we don't know. But yeah, I think the interpretation, decisions are made too quickly, on almost like a diagnostic thing, that it's not a probability, it's actually, "oh he's high risk so he will offend, so we're not going to let him out, slap all of this on". I think it could be written differently. (Maya)

This participant and others suggested that use of risk assessment measures, while inexact in nature, can be over-valued, noting for instance that the Department of Corrections and the New Zealand Parole Board "believe in those things better than the Bible" (Rose). The same participant referred to the efforts of some psychologists to articulate that risk information has limitations, despite such limitations not always being acknowledged by the courts:

> Nowadays I think there are more psychologists who are, who have experience with these things and have worked for the Department and are now willing to stand up and say "this instrument has a lot of defects, it's not so perfect", and that message is coming through, but the courts are very reluctant to accept that because it's a safe place for them if they can quote something. (Rose)

A number of participants stated that consumers of risk information may selectively attend to only some aspects of the information provided, particularly that which confirms their opinion. Further, one participant explained that although consumers may hear the limitations of instruments outlined by experts like psychologists, the information gets disregarded, because the expert's conclusion is given more importance in consumers' minds:

> So I think that when an expert says "this chap is at very high risk", well that is what I heard, and the fact that you said "apply caution and be careful here and here" … that doesn't get the same kind of weight as the ultimate conclusion. (Matthew)

Another opinion, expressed by several participants in relation to risk assessment, was that once their clients had been 'branded' (e.g., as 'high risk'), this classification tended to be retained beyond the time for which it was warranted, which in part related to those participants' assertions that risk assessments in general are highly 'static-loaded'. Some

participants reported that it was disheartening for both themselves and their clients if, having completed rehabilitation programmes and made significant changes in their lives, their gains were not recognised by decision-makers. The following quote illustrates this point, and the psychologist's belief that the situation raises questions about human rights:

> You find that the Parole Board is extremely cautious, won't let him go, the Department itself is very sceptical, and even though your report may say, "this guy is good", you find that other disciplines would say, well, they're blinded by the background … [which] works quite against everything you know about therapy and about human rights. (Rose)

The following quote sums up the inherent differences between one participant's views about the complex nature of human behaviour versus the categorical/linear nature of the criminal justice system in making determinations of risk:

> I think human behaviour is more dynamic and it doesn't follow a straight line, so the system is methodical and follows a straight line and it takes, you know, one step every hundred years, whereas human beings take, you know, many different steps at all times and it's a bit chaotic, but vibrant and it's alive and it moves. (Maya)

Subtheme two: Diagnostic and other categories

> [The court] have a different kind of world view really, essentially, and it's a legal system so things are categorical, you're guilty or you're not guilty, you're fit or you're unfit, whereas that's not how we see things as clinicians, and there's spectrums and there's degrees of severity, and then, people don't exist in categories. (Patricia)

In addition to categorisation based on risk, psychologists across settings reported that there was a preference within their work settings for definitive diagnoses and clear answers (e.g., 'fit' or 'unfit'), which did not necessarily accord with psychologists' own world views. One participant also stated that: "You're sort of expected to answer questions that can't always be answered" (Ben). A preference for definitive answers was observed to be greater than in non-forensic settings, and particularly the case within the courts. Some commented however, that judges' knowledge of psychological models has improved in recent decades, and that they (participants) themselves have had a role in helping to educate the courts.

A number of participants, particularly in relation to forensic roles in DHBs and at times within the court system, stated that the medical model tended to dominate, and was

perhaps better understood by, and more compatible with, the legal system. Some participants reported that there were times where psychiatric rather than psychological input was more appropriate, for instance in relation to the insanity defence, as illustrated by the following quote: "[Psychiatrists] are perhaps more knowledgeable [about the insanity defence] anyway, at least in my area, than the psychologists are, around where the bar sits and how best to report those things" (Matthew).

One participant also observed that while the medical model was dominant and was very different from psychological models which could get overlooked, s/he appreciated that psychiatrists at times had an extraordinary level of responsibility (e.g., in 'signing off' clients for release):

> I know there's a difference between the medical model and a good, psychological one, and you know, you can easily become so subservient to the medical model that you lose sight of the rest. But the system, again, prescribes how things work. So the system says "the psychiatrist is the guy who signs off when the guy goes out and he takes the responsibility". I'll tell you what, I don't mind that. (Rose)

Other participants reported that there were times when the input of psychiatry was privileged over psychology, and that this was not appropriate. For example, the following participant reported that in determining competency, it was important to determine an individual's intelligence quotient (IQ). However, the participant noted that although carrying out IQ assessments is typically a psychological speciality, psychiatrists' opinions seemed to carry more weight with the courts. This was particularly problematic where psychiatrist and psychologist did not agree, as illustrated by the following: "[The court] take the view that the doctor said x and the psychologist said y, and quite often they go with the opinion of the psychiatrist, even though the psychologist has produced evidence to support the opinion" (Kirsten).

Participants across a number of forensic settings described a pattern of "*diagnoses du jour*" (Participant 13), or diagnoses which had been highly favoured by the courts at various times. Within the Youth Court for instance, some participants reported that attention deficit hyperactivity disorder (ADHD) and fetal alcohol spectrum disorder had been or were currently popular diagnoses that were not necessarily appropriate, and that a young person's presentation might be better explained by family and social difficulties:

> What is perceived to be ADHD for example, might be about significant family disruption, and how the client relates to family members in terms of this dysfunctional process, and what contributes to their impulsivity and their attitudes and their belief systems. (Thomas)

Participants commented that there were many different reasons why such diagnoses were made. For instance, within a youth setting, some remarked that it was often easier for the courts, as well as for other parties including a young person's family, to locate the problem with the individual rather than the family or wider systems.

Psychologists observed that the court could at times make inaccurate assumptions based on a diagnosis. For instance, one participant reported that the courts had previously held the view that "if it is a personality disorder, it is untreatable" (James), while others reported that care was needed with the term 'psychopathy', because it was stigmatising, and they were aware that it was more likely to confer a harsher sentence.

Participants in this study discussed various other examples of the categorical or linear nature of forensic systems, and ways in which this impacted on their clients, often negatively. For instance, one participant discussed a difficulty within the youth justice system in terms of treating as absolutes the capacities of persons of a certain age: "They might be 17 or 16 by age, but developmentally they're only 12 or 14, and that is difficult for a court to fully understand" (Kirsten).

Theme Three: Psychological Knowledge is Applied in a Limited Way in Forensic Contexts

The third theme concerned the way in which psychological knowledge was applied in forensic versus non-forensic contexts. Two subthemes were identified, the first considering the risk focused models that tended to dominate participants' work. The second and related subtheme concerned the use of psychologists' time which was reportedly largely spent carrying out assessments and writing reports at the expense of carrying out more traditional therapeutic work.

Subtheme one: Models are risk focused

Many participants in the study, and almost all of those working primarily with adults, said that risk assessment was a major focus of their forensic work. Several participants had worked in adult forensic settings for more than 15 years, and were able to describe how their role had changed over time, particularly following the implementation of the Sentencing Act 2002 and the Parole Act 2002, followed by the Parole (Extended Supervision) Amendment Act 2004. One participant suggested that the legislative changes had re-established correctional psychology as a worthwhile profession, noting that prior to this time, "we didn't know anything about risk, we didn't know how to assess risk, and in fact nobody really knew that that is how we could actually move forward" (Margaret). All of the participants who had gone through this transitional time explained that their forensic work had previously been focused on ameliorating mental health difficulties and had been "formulation and treatment focused" (Mark). Participants reported that the legislative changes had brought about a radical re-defining of their role, also in line with international trends, towards determining risk and reducing re-offending.

> All of a sudden the psychologists were coming in to do an assessment and saying, "this is what this assessment for, we have to determine whether you are one of these people that the risk is such that this piece of legislation applies to you". (Margaret)

Many participants acknowledged that they could broadly appreciate the value of an increased risk focus. Almost all participants who conducted risk assessments regularly however, observed that the practice has come to "dominate the profession" (Liz) at a cost to more psychological and individualised aspects of their work. One example, provided by a number of participants, was that the use of particular risk instruments, and the way in which these are reported on, has become somewhat prescriptive/standardised. This uniformity was justified by some participants however, as they noted the practical utility of using measures that consumers of reports would understand:

> Corrections have decided this is the tool of choice then everybody is told to use it, and they use it. The courts instantly, that becomes the expectation of the referrers as well, and so if a junior [psychologist] started coming along and using another tool I don't know how useful that would be, even if that tool was more internationally recognised. The Parole Board or the court or the judges or whoever it was might be like "well, I don't know anything about what this means". (Liz)

This participant explained that procedures around how to use certain instruments had typically been worked out by others within the Department, which, as a junior psychologist, had provided a sense of reassurance. S/he also acknowledged, in relation to ethical procedures more generally, that: "I think there is a bit of a level of, that the decisions are made for us" (Liz). Similarly, several participants described a somewhat passive role for psychologists in terms of the choice of instrument and how to report on it, with the following participant describing a 'safety in numbers' approach taken by psychologists: "I think there is also a reluctance for anybody to stand against what everybody has done before, because there's a bit of a sheep mentality, so if you flock together nobody can single you out" (Maya).

Another participant stated that Psychological Service (within the Department of Corrections) does an excellent job of providing "good clinical oversight and being appropriately flexible" (Matthew). The same participant also pointed out however that s/he would report on the ROC*ROI or the ASRS, noting that "the thinking will be 'I will report on it because that is sort of the expectation here', even when it might not be clinically judicious to do so" (Matthew).

In addition to the use of approved measures, many participants reported on the non-individualised nature of Department of Corrections' assessment reports, variously describing them as: "templated", "formulaic", "circumscribed", "topographical", "automated", "tick boxes", "paint by numbers", and "cut and paste" from other reports. The 'formulaic' nature of reports was said to be exacerbated if reports were written based on file information, in situations in which clients did not consent to interview. Many participants expressed that in risk assessment reports generally, the focus on risk meant that it was possible for psychologists to omit to consider their clients' uniqueness. One participant noted that it "becomes hard to see the person behind the risk filter" (Rose), while another made the following observation:

> I think [psychologists] lost the ability to perhaps look at the whole person … and didn't take into account some other things, like kind of personality or even sometimes physical circumstances.… [The psychologist] is saying, "oh this person is really high risk of sexual reoffending", they write that into their report, and then you actually see that this person is actually now a quadriplegic. (Margaret)

Several participants reported that they felt that the application of risk measures could be substantially improved by using risk information to make a comprehensive formulation, or to address questions, for instance, in relation to dynamic needs: “why those dynamic needs are present, not just that they are present” (Mark), rather than being “forever busy assessing people and pinning them down to a risk factor” (Rose). A further participant summarised the non-individualised nature of assessment reports thus: “Where is the psychology in all of this? Have people become sort of technicians ticking boxes, and where is the humanity and the understanding and the formulating? It certainly doesn’t come across in those reports” (Leo).

Most participants who had worked in Corrections identified issues of “supply and demand” (Mark), in that there were many more individuals requiring treatment than psychologists were able to treat. Several of these participants discussed the Department’s approach, in terms of prioritising treatment for those at highest risk of re-offending in accordance with the RNR model as being understandable in many ways, but also having some disadvantages. As discussed by the following participant, some identified a focus on criminogenic needs as being too narrow, missing important aspects of what had contributed to a client’s difficulties, and less in keeping with psychological knowledge:

> I think treatment shouldn’t be just be about criminogenic need, I think criminogenic need is a bit of a red herring actually, it is a bit of a diversionary tactic, because I think the factors, that condition people to offend, to break the law, are many and varied, and determined by psychosocial development over the years. (Thomas)

Similarly, one participant observed that by gearing treatment towards mitigating risk factors, psychologists were seen as being more objective. Like the discussion of assessment reports earlier in this subtheme, the participant described how a criminogenic needs focus to treatment might come at a cost to a client’s uniqueness: “I think psychologists are scared of [being seen to have lost their objectivity] so they just steer away and the treatment is always addressing risk factors. Where’s the person? The person is in there” (Maya). This participant and others suggested that there was a certain uniformity to treatment in relation to a risk factors focus, and that differently focused models, such as the GLM, were perhaps under-utilised. Another participant reported that working exclusively with high risk individuals may be disadvantageous, because in not working with those of lower risk, psychologists are less likely to see success and desistance:

> We equally need to see the low risk people, because we still need to understand what those protective factors are, or how people can engage in kind of quite serious behaviour, but actually against a backdrop of no dynamic factors, or very few dynamic factors … That then gives us the ability to see the spectrum … I think we become better clinicians for it, because then you also see what success and desistance can look like. (Mark)

Some participants spoke about the employment of para-professionals to carry out treatment programmes given that psychologists typically worked primarily with the highest risk individuals. A number of participants said that they felt that the place of psychology within the Department had been undermined some years ago, and that psychologists latterly had "much less clout" (James) and were less valued than they had been previously. Some also said that there was a belief by some staff that other disciplines could carry out the work of psychologists:

> Corrections has become more a generalist service. So I think beforehand psychology … we were the experts and we were seen as specialists in our fields, so there was a lot of consultation, people deferred to psychologists and you know, I think professional respect was there. And I don't think it's fully there anymore and … I think it's gotten to a point where people think, "oh why do you need a psychologist? Case manager can do that, probation officer can do that, custodial officer can do that. Why do you need a psychologist?" (Maya)

Subtheme two: Assessment and reporting supersede therapy

While it was recognised by participants that within forensic contexts there is a considerable amount of therapeutic work being carried out by psychologists, particularly within the Department of Corrections' STUs, across settings most reported that assessment currently constitutes the main application of their own and their colleagues' time and expertise.

Most participants stated that while several hours might have been spent carrying out assessments face-to-face with an individual, all contacts with clients generated paperwork, and a very significant proportion of their time was spent on report writing. Participants noted that their reports would typically be read by the courts or the Parole Board, and that in a climate in which public safety is considered paramount, a high level of accountability and high reporting standards were required of psychologists. As one participant employed in a

youth setting noted that "everything you write is going to be submitted to court, and that puts a lot of pressure on what you're doing" (Ben).

Several participants raised questions as to whether spending much of their time assessing, and in particular furnishing extensive reports on their assessments, constituted optimal use of psychologists' time and skills, a problem reportedly exacerbated where a more individualised report was produced (rather than a 'formulaic' assessment as discussed in the previous subtheme). One participant explained that although each aspect of his/her work seemed ethically justifiable (i.e., carrying out a thorough assessment and producing a quality report), in a 'big picture' sense these activities might not necessarily offer the best value for psychologists' time:

> It's of value to have a full report, but I think yeah, on balance if you really step back and look at the number of hours of [psychologist] time you've got, and how that divvies up in terms of a pie graph kind of format, between assessment contact hours versus report writing versus everything else and then versus treatment, which should be bigger? All of the other things take away from the rehabilitation hours available. So it's about … how do you weigh up what value that offers? (Liz)

Many participants said that, having spent much of their time on a report, it was often difficult to get feedback about it, and they were frequently unsure to what extent their recommendations had been utilised by the party the report had been written for. Some said that where they were able to follow up, they could find out that recommendations, (e.g., for a particular treatment) had not been taken up. Given the reservations expressed by many in relation to their focus on assessment and report writing, one participant said: "Is it the work that as a society we actually want to fund [psychologists] for?" (Liz)

Almost all participants in this study discussed the obvious implication to being dedicated assessors that most spend relatively little time carrying out therapeutic treatments. Many participants pointed out that it had probably been their expectation when they were training that they would enter a mental health field and provide therapy, and that a desire to help people make change had motivated them to enter the psychological field in the first place. In the words of one participant: "Most psychologists come from a therapeutic background and a background of wanting to engage and help" (James). Many participants expressed the view that, compared to assessment, "treatment is more satisfying and rewarding

as a practitioner" (Liz), and some who had come from therapeutic backgrounds reported having found it difficult to adjust to having a different focus upon entering the field.

Many participants reported that, at various points throughout the duration of their forensic employment, they had been concerned that they were losing their therapeutic skills. A number of participants observed that they, or colleagues with whom they had worked, had left forensic roles because they wanted to focus on treatment more, and/or felt that this was how they could best benefit clients. One participant contrasted two of his/her forensic roles with working therapeutically in private practice which was described as being a better fit with his/her idea of psychological best practice:

> As a private psychologist I feel that I've got more leeway to do psychological treatment. That's the benefit of it in terms of … what I think best practice and the models psychologically is [*sic*]. And so, which I was always restricted in some ways working for [one forensic service] and in other ways working for [another forensic service] … you've got to stay in the role that you were doing and you've got to do the task.… Independently, it's just between you and your psychology Code of Ethics and your client. (Teresa)

In their forensic assessment roles, most participants frequently made treatment recommendations to a range of other providers. Many expressed frustration that, for various reasons, the treatment they would ideally recommend was not available to the client. For instance, one participant reported that there were very few programmes addressing criminogenic needs for youth, particularly in some areas of New Zealand. Others raised the question of what to recommend if they knew the required treatment would not be available, or of a poor quality. One participant reported that s/he had frequently felt that programmes s/he recommended were a poor fit for the individual needs of his/her clients. S/he discussed his/her decision to leave Corrections because his/her role consisted of carrying out assessments and report writing, but conducting little treatment and making what s/he deemed to be unsuitable recommendations:

> What I can't stand the thought of, is that I have to write Parole Board reports and health assessment reports, the higher level that you go the more higher level reports, the more intensive, and really, I do these assessments and ... I recommend that they do these programmes that I don't think are a good match for them. I can't keep doing that if that is all I am going to be doing. (Teresa)

Theme Four: Therapeutic Engagement is of a Different Quality in Forensic Settings

The fourth theme focused on the quality of the therapeutic relationship in forensic settings and how engagement differed from working in non-forensic contexts. Four subthemes were identified. The first subtheme considered how consent processes in forensic contexts impacted upon client engagement, while the second subtheme focused on psychologists' responsibilities in breaching confidentiality and the impact of breaches on the therapeutic relationship. The third subtheme was concerned with what participants described as a 'paradoxical' use of therapeutic skills to elicit information that may subsequently be incriminating for clients. The fourth and final subtheme focused on participants' assertions that psychologists in forensic contexts may increasingly be viewed as 'deciders of fate' by their clients.

Subtheme one: Forensic consent processes impact on engagement

Within the youth system, a number of participants described situations in which participation in an assessment interview had been presented to a young person as optional, when in fact the court would mandate him or her to participate if s/he declined. As illustrated by the following quotes, from the beginning of a psychologist's engagement with the young person, this dynamic often impacted on rapport:

> We send a letter to the court saying that the young person declined to participate. And then the judge says: "You have to, you have to do it, go back, see the psychologist, you have to do it"…. How do we do an assessment with a young person who doesn't want to? It's an ethical problem. (Connie)

> [A court ordered assessment] is certainly very different to a straight mental health service, where [participation] would be voluntary. So that creates I think first off a difficulty in terms of the client's engagement, your rapport, and relationship with them. (Ben)

Similarly, in adult settings, participants reported that there were diverse reasons for clients not wanting to participate in forensic assessments, including not wanting to discuss negative aspects of their lives, and legitimate concerns that information would be held on record or used in a pejorative manner. Given that clients were sentenced persons, several participants reported that clients may have felt coerced in to participating, particularly in the

prison setting, as illustrated by the following: “I think right from the get go, in that setting, you are looking at these issues of informed consent, and already there is already a kind of coercive nature to that in some way” (Matthew).

Some participants described a client’s agreement to participate as simply an expectation within forensic settings that s/he would co-operate rather than a choice per se, despite the psychologist presenting the option of non-participation. Some reported that the consent form they used was generic and complex, but that completion of the consent process was somewhat of a formality, as illustrated by the following: “Even if they can consent, most people just go ‘yeah, yeah’… through this incredibly complex consent form … ‘yeah I will agree’” (Mark). In some cases, a client’s agreement to be interviewed seemed to reflect a sense of obligation towards the psychologist him/herself: “[Clients] will say “I don’t want to waste your time, you have come all this way, I will speak to you”, as though they had some sense of obligation to me … when in fact they have none” (Matthew).

The same participant also reported that, when presenting the consent form at the commencement of the interview, s/he made it clear to clients that s/he would be required to write the report in the absence of consent, and that s/he clarified to him or her that “it is possible that the Parole Board will take a dim view of their choice not to participate” (Matthew). S/he and other participants reported that clients might have consented to interview because they believed it would be helpful for them, or that in being compliant, they may be able to ‘talk their risk down’, therefore requiring psychologists to clarify to the client that participation may or may not be in his/her best interests.

A number of participants explained that, while a ‘forced’ interview was non-optimal, other issues were raised by preparing a report in the absence of interview. One participant commented that s/he believed that writing a report based on file information without “understanding them as a person” (Leo) was unethical. Several participants reported that clients almost always consented, while others reported that they consistently found that some clients declined.

Across settings, issues were raised by many participants about the difficulty of obtaining meaningful consent in situations where there were barriers to clients fully

comprehending the consent process, particularly clients in youth settings, and/or those with intellectual disabilities. Some psychologists reported a particular difficulty when they felt participation was in the client's best interests, but wanted to ensure that s/he understood participation to be voluntary. Most participants who discussed this issue observed a tendency for individuals with intellectual disabilities and/or youth to "acquiesce immediately" (Matthew) and to make full and open disclosures, sometimes raising confidentiality issues, as the following quote illustrates:

> You always make sure there is informed consent, but having said that, you are also aware that with a lot of these kids, that that makes no difference at all … they weren't going to remember that 10 to 15 minutes into the interview, and they could well disclose all sorts of stuff which might be not to their advantage. (Kate)

Several participants also highlighted issues of consent in relation to treatment, which may have been either recommended or mandated. Within the youth setting, one participant identified that: "It's other professionals working with them who make the referrals on their behalf, so it's not the young person in most cases has identified an issue and asked for help" (Ben). Another psychologist working in a youth setting reported that the courts do not always understand that psychologists want their clients to consent to treatment, and have an approach, typically well-intentioned, of: "Just make them do it" (Patricia).

As previously noted, changes in legislation in 2002 meant that for adult clients, completing treatment programmes became a significant factor in the granting of parole. While treatment remained voluntary in theory, some participants noted that clients "might begrudgingly or not, go along and engage in treatment" (Mark). In other cases, participants reported that some clients would enter rehabilitation programmes with low motivation, because they believed that their risk classification would be unlikely to change even if they completed the programme.

> I've heard some clients … say, "oh they just said I'm high risk and I can't change that". And I guess I'm talking, like clearly they would have had static risk assessments done, but you can see how demoralising that can be, like, what's the point of doing this programme? (Patricia)

One participant reported that, from the psychologist's point of view, the consent process had been 'taken care of by the system'. A similar point was made in theme two in

which a participant reported that decisions are made for psychologists in relation to instrument choice. Decisions being made on behalf of psychologists was again described as being both beneficial in terms of assuring the psychologist that due process had been followed, while also consigning the psychologist to a less active/independent ethical role:

> You don't have to … work through exactly everything that you need the client to know about.… It's good, but it also means that ... that might be the extent of your knowledge "oh well I've got to give them this consent form and get them to sign that and then that is all done". (Liz)

Subtheme two: Workplace confidentiality requirements impact engagement

As illustrated in subtheme one, situations in which meaningful consent was difficult to obtain reportedly sometimes gave rise to tensions related to confidentiality. In the case of individuals with intellectual disabilities, if information about offending or other safety concerns were naïvely disclosed, the psychologist might recommend that the individual become a compulsory care recipient under IDCCR and might subsequently renew this status for a period of years:

> So essentially, that person, once they become subject to that legislation, could be subject to indefinite detention, and that could eventuate, that whole process could arise because of a burglary or could arise because of theft or a misuse of a telephone or something. (Matthew)

A number of participants discussed similar difficulties, for instance providing examples of situations in which a client had made a disclosure that s/he then requested to be omitted from the report. Several participants reported tensions in that, having elicited information deemed important for completing aspects of an assessment, the information would be compromising for the client if it was exposed. For instance, one participant working in a youth setting observed that: "I can be more helpful if I know the full story" (Patricia), for instance, in enabling him/her to better understand the young person and provide a useful formulation, but s/he did not want to risk prejudicing the court by sharing this information. In this case, the participant described a dual role difficulty, given the psychologist's responsibility to the court who ordered the report and to the individual client. Similarly, another participant provided the following example, reporting that having asked

about prior offending to complete a risk assessment on a young person, it was then difficult to know what to do with the information disclosed:

> You might be asked to an assessment of some person's risk of reoffending, and … you ask people about offending behaviour they have been involved with, and some of that might include offending behaviour that the authorities don't know about, so then there is a real problem with what you do about that. (Kate)

This participant reported that as a result of having obtained potentially compromising information about clients when s/he began forensic work, s/he then began to ask questions more cautiously in order to avoid obtaining incriminating information. However the participant observed that s/he was then less well equipped to carry out some tasks (e.g., completing an accurate risk assessment).

The challenge of attempting to strike a balance between protecting clients from the consequences of their information being shared while being a useful professional in whom clients were able to confide was also discussed by several participants in relation to therapeutic treatments in forensic settings. While information confided during treatment is protected under the NZ Code of Ethics (2002) except under specific circumstances, several participants described workplace guidelines obliging them to breach confidentiality. Some participants who reported having been confronted by this challenge said that they did not necessarily personally believe that such breaches were necessary, but had been obliged to do so, with significant consequences for the client, and for the therapeutic relationship:

> You have a guy in therapy and he's, he tells you "well someone last night offered me a joint, cannabis". Strictly speaking you're now supposed to go and tell. And we did, we always did, with devastating consequences for the guy.… And he wants to talk to someone and he wants to get a view on.… "Is this alright? Is it not alright?"… Again you're doomed if you do and doomed if you don't.… Your trust is gone. (Rose)

Another participant observed that in one workplace, guidelines had changed, so that reporting of drug use by psychologists was now mandated where it had not been previously. The participant explained that lower breaching thresholds meant that psychologists were confided in less, and were potentially less able to work on issues that they had previously provided help with:

> So now we say: "The rules used to be this and now they are this. So if you tell me … [that you have been taking drugs] or you know of drugs coming into the prison in any way, then we will be telling". And the difference is we don't get told now.… So what it means is we can't work on any problems in the same way if they're using. (Teresa)

The same participant reflected on another example in which s/he had provided a client whom s/he was seeing in treatment with insufficient warning about what a treatment report would contain. The participant reported that the therapeutic alliance was impacted by negative information that the client had confided being written about in a report, as illustrated by the following:

> I wasn't clear enough at the beginning through the treatment of how I would be writing this up in a report, that's the difference. And she got a bit of a shock, and I can see why, therapeutic trust had developed.… Because I wasn't saying "oh you're delusional" to her face, she didn't expect me to have in the report, "significant cognitive distortions". (Teresa)

Subtheme three: 'Paradoxical' use of therapeutic skills

Many participants observed that the period of engagement with clients was frequently short for psychologists working in forensic settings, with assessments reportedly being carried out in a single session (or more depending on their purpose). One participant observed that, in order to conduct a useful assessment, a certain level of rapport was required:

> You need to establish a bit of a rapport in that context to conduct a useful assessment where the person thinks they have been listened to and they have been able to do their best, cause that is kind of the point. (Matthew)

Almost all participants however, reported that they had experienced difficulties, to varying extents, in determining the appropriate level of rapport between themselves and their clients. One participant expressed this difficulty as: "how much and how deep to go?" (Connie). This challenge was typically underpinned by the question of 'who is the client?' because participants were typically endeavouring to serve clients such as the court or the New Zealand Parole Board as well as the individual who had offended. The following quote illustrates the importance of taking care not to engage to such an extent that client expectations (e.g., of receiving therapy or being advocated for) were raised, while also trying to offer some empathy to the individual:

> I think there's a fine balance between being objective but neutral for the court, and still being a human being who is, you know in the room with someone with a lot of difficulties. And at the same time … you're not in a treatment role, so you're not in an advocate role, so you've got to be mindful. (Patricia)

Almost all participants, carrying out both assessment and treatment roles, reported that as psychologists they were typically good at building rapport, and that clients frequently disclosed information to them, as illustrated by the following quotes: "When you treat somebody respectfully, when you're pleasant to them, when you develop a rapport with them … they tell you stuff and that's an ethical issue" (Leo).

As discussed in subtheme two, disclosure sometimes resulted in significant consequences for the client. As illustrated in the quote below, disclosure sometimes occurred even if warnings had been provided:

> One guy, he would go "just off the record"…. No there is no such thing ... you cannot assume that "oh let's not tell anyone". But even despite that, his urge to tell would overcome and then he would tell me stuff that I would have to go, "I need to be calling the Police". (Teresa)

One participant noted that when a psychologist stated upfront that an assessment may or may not benefit the client or that s/he was not required to answer, the client's resistance to disclosing personal information could in fact decrease rather than increase, described as "paradoxical intention" by the participant. While a number of explanations for the tendency for clients to disclose were possible, two participants summed up the difficulty thus: "You may be using therapeutic skills to elicit information from an offender, but then use it in a way which they may not experience as being very therapeutic" (James). Similarly, another participant provided the following reflection:

> It is difficult, because he is opening up and he is sometimes telling you because he wants help, not so much [because of] some of the restrictions that would then come as a result of him opening up to you. (Sally)

The two previous quotes illustrate the profound difficulty in the way that psychologists' therapeutic skills were used in terms of the ethical principles of beneficence and non-maleficence. Similarly, in a youth setting, where restrictions were less significant but nevertheless pertinent, one participant expressed his/her initial misgivings about the

benefit to his/her client of having engaged with him/her. S/he observed that the client may not have confided in a professional before, but that the experience might not have felt positive for the young person, as engaging with the psychologist resulted in a fairly negative report, no intervention, and the relationship then ending:

> Having to write a report which is not therapeutic, it's a forensic report.… I feel bad about how they might feel reading my report.… And after that our relationship is finished because we don't offer treatment to them.... And some young people also say "what's the point [of] talking about [my] problems all the time and then nothing happens?" And they are right. Everybody asks them about it, write it down in their report, submit the report and say "bye bye". (Connie)

Subtheme four: Psychologists are seen as 'deciders of fate' by clients

Many participants in this study spoke of the clear distinction between the role of decision-maker (i.e., judges, courts, the New Zealand Parole Board) and their own role in providing an opinion which was typically used to guide decision-makers. In discussing his/her role, one participant said that: "With any of that forensic work I am clear that I am not the decision maker … and at the same time what I write is highly influential". (Kate)

Several participants discussed the implementation of the Sentencing Act 2002 and the Parole Act 2002 in relation to the changing roles and responsibilities of psychologists at that time. One of these participants observed that shortly after the changes, psychologists found it "unfathomable that they would have that level of responsibility" (Liz), but that in fact a significant amount of work was done to clarify that the role of the psychologist was not to make decisions, but merely to provide opinions about likely recidivism risk:

> It was made very, very clear that psychologists wouldn't be deciding whether somebody would get this order or not. They would do the risk assessment and they would do the psychological assessment around it but they weren't the [decision maker]. (Liz)

Nevertheless, a number of participants reported that in the wake of the Parole (Extended Supervision Orders) Act 2004, the Chief Executive of the Department of Corrections could apply to the court for an ESO at the end of an individual's prison sentence, reporting that the court's decision invariably aligned with the Department's application.

According to the participant, it was probably at this point that clients began to recognise that applications hinged to a considerable extent on psychological opinions:

> Applications were made in cases where the offender was a really high risk and really dangerous and so those ones went through court.… And [for] all of the applications, the court's decision was that an application was made and the order was made. (Margaret)

All participants in the study who had worked at or alongside Corrections throughout the implementation of the new legislation reported on a changing view of psychologists by their traditional client base. Psychologists reported that, as a profession, they had previously been viewed by their clients as 'helpers', but that this changed considerably, to the point where psychologists working in the correctional system were viewed as 'deciders of fate'. The following quotes illustrate the way that participants believed the image of psychologists changed and has continued:

> So all of a sudden we went from being the people who helped people to people that kept people in prison and that is how prisoners saw it. They saw the [psychologist] was coming to keep them in prison and so that was a huge shift so it kind of made all the work that psychologists did difficult. Because there was a perception that if you tell the [psychologist] anything you might be kept in prison for longer. (Margaret)

> Psychology, within the Corrections field, could well be seen as less of a helper and more of a determiner. And we had a helping role, you know, before the legislation changed. And I am not saying the legislation change was a wrong thing, but before that they saw us as those helpers.… I think they see us as assessors first and foremost, and assessors of risk, and therefore determinant of their freedom. (Mark)

Contemporarily, a number of participants, across settings, reported that the opinion of the psychologist was often singled out and made explicit. In the case of New Zealand Parole Board reports, one participant reported that decisions were often communicated so as to locate the responsibility for the decision with the psychologist, which could place him/her in a vulnerable position: "Sometimes [the New Zealand Parole Board] will say 'because of the psychologist, they believe his risk is A B C, therefore we are not releasing him at this point in time', which then obviously leaves the psychologist open" (Sally).

Further, another participant reported that there may now be a mistrust of psychologists completing risk assessment reports, as some clients may regret having participated in interviews, given that restrictions may have followed as a result:

> I would suspect that there's probably quite a mistrust of psychologists doing these reports by now, because people talk amongst themselves … and some of them can't read, so of course, going through reports is problematic for some of them, or some of them might have thought better of having been involved in the process by the time they get to do that, and so some of them don't sign them off at all, won't attend a sign off thing, so I think the Corrections people are maybe hampered in that. (Leo)

Similarly, in the case of the participant who had completed a treatment report that the client found to be unexpectedly negative (discussed in subtheme two), the client reportedly signed off on the client report as follows: "'Fuck it, this is fucking bullshit'. That was her signature" (Teresa). The way in which the relationship between psychologists and their forensic clients has changed over time led one participant to pose the following question: "Are we helpers or are we officers of the state in upholding [the needs of the state]?" (Mark).

Theme Five: Psychologists' Professional Autonomy is Undermined in Forensic Settings

The final subtheme was concerned with participants' assertions that professional autonomy may be undermined for psychologists employed in forensic settings. A number of participants reported that they had at times felt pressure, with varying levels of subtlety, from particular agencies employing the psychologist's services, as illustrated by the following:

> There could be a lot of bias, there could be a lot of persuasion put, before you have even assessed on what the outcome should be, because your referral agent has already answered the question for you, be that a lawyer, be that a government agency or government sector. (Mark)

Some participants reported that pressures to satisfy the safety requirements of the general public impacted on their work in forensic settings. For instance, psychologists might have conducted psychometric tests and determined that an individual's risk of re-offending was low, but might nevertheless have reported on a higher classification of risk because of public safety requirements, as illustrated by the following:

> In terms of telling the general public, it is hard because there are often times as well where it hasn't been about what our psychometrics are telling us, but we end up doing things because that is what the public would want, especially with child sex offenders. You know he now is in his 60s and he was more of an incest offender, research tells us, unless they get more younger children coming into their care … it is very unlikely

> that they would reoffend. But then we tend to get swayed by public opinion, and sometimes we even put them into groups just so … the perception is we have done something about it, not necessarily that is linked to their level of risk. (Sally)

One participant reported that as a private practitioner s/he was better able to work autonomously than psychologists employed by the Department of Corrections, who were more likely to be subject to subtle pressures to meet their employer's objectives:

> I think the advantage to working to sort of one side … is that … you're less able to be accused of bias I suppose, not toeing the party line. So some agencies might wish for a particular outcome for some things, and sometimes that can be kind of implicit, and I am probably not subject to quite the same pressures that a staff psychologist might be at times. (Matthew)

Similarly, where multiple psychological assessments were made of an individual's risk, one participant reported that, in completing the assessment for the defence, his/her risk ratings were typically lower than the departmental psychologist's rating. S/he reported that it seemed at times that clients were "scraped" into a higher risk bracket by departmental psychologists and made the following comment: "I have heard anecdotal stuff about people having pressure put on them to push their scores up into the high risk category" (Leo). Further, the same participant suggested that the Department of Corrections might be making ESO applications as a 'back covering' exercise, stating that: "I think that the Department is making applications for extended supervision orders pretty willy nilly and I fear that psychologists working in that area have become rubber stamps for that.… It's a back covering exercise" (Leo).

A number of participants reported that psychologists lack professional integrity and are expected to 'toe the line' in order to meet their employer's objectives, with one participant observing that: "The Department's reputation weighs more than the psychologist's ethical responsibilities" (Rose). Similarly, another participant reported that the professional integrity of psychologists working for the Department of Corrections was undermined when their views conflicted with those of their employer:

> [Some of my colleagues at the Department of Corrections] weren't supported because they were the outliers. They didn't mind sticking their necks out, so then they got chopped off, and I think "oh that's dangerous". As a practice of psychology you need to be able to have that integrity. (Maya)

Further, it was reported by some participants that it required confidence to defend psychological knowledge and that it was career limiting to challenge practices in the systems in which they worked, as illustrated by the following:

> They don't have that seniority, they don't have the professional confidence to challenge and to actually stand strong on what the psychological paradigms are in Corrections. People want to further their careers I think, so if you do challenge a system it's career limiting. (Maya)

Similarly, one participant reported that s/he could appreciate that colleagues would not challenge the systems of their workplaces because doing so would be personally limiting for their careers. The participant noted however that by accepting the status quo, psychological ethics are compromised:

> I know for a fact that none of my colleagues will take that risk, nobody, it's just not, never [*sic*] going to happen and I don't blame them. I mean, you pay too much of a price for that. But by not taking a risk, you compromise everything you know about your own ethics and your own reason why you became a psychologist. (Rose)

Chapter Four - Results

Managing and Reconciling Tensions of Forensic Psychological Work with Individuals who have Offended

This chapter presents the thematic analysis of data pertaining to the study's second research question. In the previous chapter, results were presented outlining participants' experiences of conflicts between the norms governing the NZ Code of Ethics (2002), workplace policies, legislation, and individual belief systems in their forensic psychological roles. As detailed in the methodology section, participants were also asked about how they reconciled and/or managed the tensions identified in Chapter Three, the results of which are the focus of the current chapter.

One over-arching theme was identified which related to different positions that participants took in managing and/or reconciling conflicts they encountered (i.e., 'accept, challenge or leave the setting'). One further main theme was identified (i.e., 'ensure that my work is of benefit to the client who has offended').

Detailed descriptions are provided for each of the themes, and quotes from participants are used to illustrate psychologists' views. The themes are summarised in Table 2. Relationships between themes and subthemes are also depicted in a thematic map (Figure 2) as recommended by Braun and Clarke (2006).

Over-Arching Theme: Accept, Challenge or Leave the Setting

In managing the tensions they had described in Chapter Three, participants in the study described various positions that they had adopted. In broad terms these positions involved either accepting, challenging or leaving the settings in which they had worked. Individual participants were not definitively classified on the basis of these three positions however, as most described having adopted different positions at different times, depending upon the particular tension experienced.

Table 2

Managing and reconciling tensions of forensic psychological work – themes and subthemes

Themes	**Subthemes**
Accept, challenge or leave the setting	
Ensure that my work is of benefit to the client who has offended	Use the assessment as an intervention
	Offer a plan for the future
	Develop a transparent consent process
	Educate key stakeholders about the client
	Use consultation and reflexivity

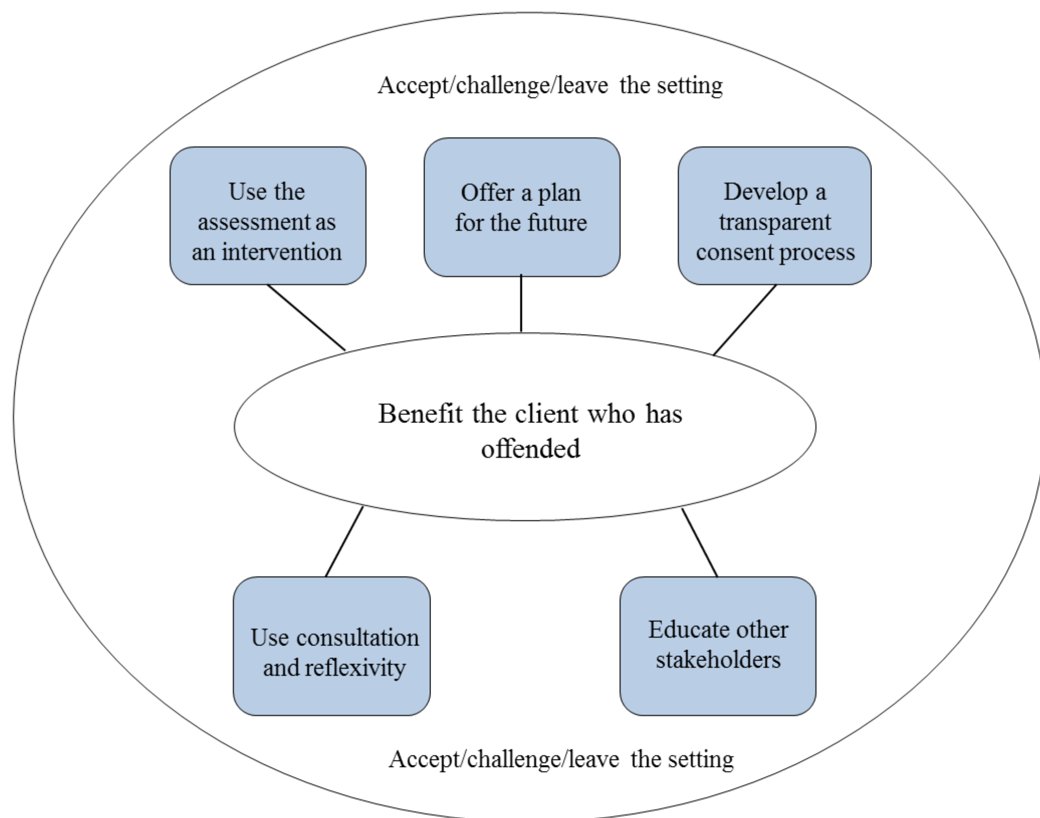

Figure 2. Managing and reconciling tensions of forensic psychological work - themes and subthemes

As detailed in Chapter Three, some participants had reported that psychological knowledge was sometimes applied in a limited way in forensic contexts, for instance, in terms of a dominant focus on risk and risk assessment. Participants in this study reported that they considered that some colleagues managed this tension by accepting the requirements of their employer without question. As one participant stated in relation to colleagues who had been employed at the Department of Corrections for a long period: "Institutionalised is a good word, socialised with the whole thing after a while … 'well that's what the risk assessment says and that's it'. You know, you don't [ask questions]" (Rose). Another participant noted that new psychologists were inclined to "toe the line immediately because they don't know about the problems with the practice, they're just trying to make their way in that job" (Leo). As detailed in Chapter Three, one participant reported that instrument choice tended to be dictated to by others' expectation rather than what was clinically indicated: (i.e., "I will report on [a particular risk instrument] because that is sort of the expectation here", even when it might not be clinically judicious to do so (Matthew)).

Another participant reported that s/he had resolved some conflicts by recognising that s/he was not fulfilling a traditional psychological healing role, and that it was necessary to follow the rules made by his/her employer:

> I say to myself "I've signed up for this" … and where other colleagues would say they didn't want to follow a certain rule or do something and I would be quite flippant and I would say, "if you don't want to follow the rules don't work for the Department of Corrections". (Teresa)

Several participants articulated the view that they had accepted aspects of their role by considering that psychologists were the best placed professionals to undertake the assessments required by contemporary legislation, because psychologists employ robust measures and processes:

> I think that if we have clinicians who are hopefully well educated in relevant matters, like risk assessment that is, then there is something to add, because there is no other profession that can. And the government have chosen to do this, and it is fortunate in many ways I think that psychologists can be involved. And … we do have these robust processes and we have supervision and we should be able to demonstrate the sources of any opinions that we have. (Matthew)

One participant reasoned that while legislation had become increasingly punitive and prison sentences longer, clients might consequently undertake treatment that would benefit them and reduce their risk of re-offending. In relation to the 2002-2004 legislation, the participant stated that:

> There definitely are some people who are an extraordinarily high risk, and the likelihood of them committing a serious offence within a short order of time is very high. And so if those people could spend another year or two years in prison, and hopefully be motivated to do some treatment, then I saw that for everybody there was a potential positive in that, including for the offender. (Margaret)

A number of participants reported that they were able to accept/adapt to working in a prison setting by viewing it as providing an opportunity to work with a population of individuals who would be otherwise unreachable. One participant reported that although s/he considered prison to be ineffective, his/her only option for benefitting the prison population was to challenge the system from within:

> The way I reconcile it for myself is, until our society becomes more sophisticated, we have prison.... I've got one option. I mean I can stand on the sidewalk, and look at it and you know, bemoan and weep how terrible it is, or I can be inside it and try and make a difference, and so that's what I did. I'd be in the prison… and work relentlessly and challeng[e] to make it a better world. (Maya)

As described in Chapter Three (subtheme five) however, this participant and others had reported on the difficulties of challenging the systems within which they worked (e.g., "if you do challenge a system it's career limiting" (Maya)). One participant reported that psychologists' attempts to challenge the system from 'within' had been ignored, but that it was also difficult to challenge from an 'outsider' position. The participant concluded that academics were in a better position than psychologists to challenge legislation and policies within the justice sector:

> While you're in the Department … you can't do much. You either have to grin and bear it or you leave and you talk about it…. Some of us did speak up but they just ignore it, so the only way is if you step out…. [But] if you are outspoken, the media will hear about it … and you'll have to really know your stuff, because if you're not, they've got such deep pockets and such good legal teams behind them, that you've got to be very careful what you say…. So psychologists are not in a very good position to speak out. Academics have a better chance. (Rose)

A number of participants reported that they had felt that psychological ethics had been compromised too greatly in the contexts in which they had worked, prompting them to leave the workplace. One participant had reported that s/he considered PPO legislation to constitute double jeopardy which s/he found unacceptable. When asked how this tension was reconciled the participant said: “Well I left” (Margaret).

Theme One: Ensure that my Work is of Benefit to the Client who has Offended

> This is for the court but I am keen on how it benefits them…. That is where I feel like I am balancing off the community needs with that individual. (Mark)

All participants in the study spoke about the ways in which they endeavoured to ensure that their work would be of benefit to their individual clients through particular processes that they undertook, represented by five subthemes which were: 1) Use the assessment as an intervention; 2) Offer a plan for the future; 3) Develop a transparent consent process; 4) Educate key stakeholders about the client; and 5) Use consultation and reflexivity.

Subtheme one: Use the assessment as an intervention

> The assessment itself is in effect an intervention. (James)

Participants varied in the extent to which they were content with a primarily assessment focused role, yet all participants discussed the ways in which they could use the assessment as an intervention while also meeting other responsibilities (e.g., providing a report for the court).

Almost all participants in the study reported that they considered that there was considerable overlap between psychological assessment and therapeutic treatment. One participant stated that: “I didn’t really totally differentiate therapy and assessment, although the functions are different” (Maya). Many participants reported that the assessment was a means by which to offer the client a psychological formulation that would help him/her understand how their life experiences might have contributed to their current difficulties:

> To track them right back to their childhood origins and look at the factors that conditioned them, as to how they created that picture of themselves, all the psychosocial psychological factors that impacted on their development over the years, for example, if they had developed a severe alcohol addiction in adulthood, where did that come from? (Thomas)

Many participants reported that their roles enabled them to assist clients in understanding historical factors that had contributed to their offending. The following quote illustrates how a participant felt s/he was able to provide an explanation for how a client became involved in offending, rather than seeing offending in terms of his/her deficits:

> They go "oh gee whizz. I have had this pattern of behaviour for all these years and now you have kind of given me some insight as to why. I just thought I was a bad bugger but it turns out there is [are] a whole lot of explanatory things". (Matthew)

Almost all participants in the study spoke about treating their clients respectfully and compassionately throughout an assessment process. Participants variously described separating a person from the action s/he had committed, as well as communicating hope for the future. As illustrated by the following quote, participants reported that it was important to be sensitive and respectful when communicating a negative message about the outcome of an assessment:

> You can give anyone the worst possible message about his fate. But you can do it in a way that's still respectful of him as a person and still gives him a little bit of hope for the future and still makes him feel, "ok, I was, I did a bad thing but it's the thing that is being, that, my action that is being judged here, not me, and I'm paying for the action that I did, I'm not discarded as a person". (Rose)

A number of participants highlighted the benefit of countering risk and other negative information by including strengths and protective factors in formulations and reports. One participant stated that there are always positive aspects of a person that the psychologist could draw on, noting that "even the worst child sex offender you can find something good about" (Leo), while another expressed her approach thus: "So for me I always have to say… 'What are the things we can build on?'" (Patricia). A further participant, discussing reporting on a client's relapse and subsequent offending, described the way that s/he had framed negative information so as to emphasise the progress a client had made:

> Even though it might be all about relapse and that's why he's back there and it's all bad, bad, bad, he feels terrible, he's relapsed and then he's hurt somebody else, I'll say that he did manage four months being clean in the community which is progress from the last time when he only made one week. (Teresa)

A number of participants reported that they consistently tried to include some therapy in the assessment (e.g., "weaving in a bit of therapy" (Thomas) when feeding back a report). One participant reported that interventions included "really quick little things that you can just drop in and they pick up on it" (Maya). Similarly, another participant emphasised that it was often very simple things that s/he might say that would have a big impact on a client's thinking, as illustrated by the following: "The smallest word or phrase can actually change the way a person thinks" (Thomas).

One participant emphasised that by making his/her brief time with the client as positive as possible, s/he might be more likely to engage with mental health services at a later stage: "If you can create a positive relationship, even if the 16 year old won't follow up now, maybe they will one day because of a small seed you've planted" (Ben).

Subtheme two: Offer a plan for the future

Most participants reported that through the assessment process they were not only able to help their clients to better understand themselves, but that they were also able to help clients to see a different future for themselves, as illustrated by the following:

> The stories you hear, the trauma you hear … that for another human being you can hold that for them, and that you can help make sense for them, you can help them make sense of themselves through drawing that together. And then I think from there, help them kind of create some new vision about their future. (Mark)

The same participant reported that following an assessment, it was important to ask him/herself: "What do I leave that client with that can be the beginnings of their intervention?" (Mark). Another participant reported that after conducting an assessment, s/he had been able to harness the client's strengths to illustrate a clear stepwise plan for the client: "Strength based reports are better, because you are telling them what they can do to change or how they can get from the point where they are now to the next one" (Sally).

Although a number of participants had reported that they would have liked to pursue therapy with clients but that their roles were typically assessment focused, several said that they found it useful to consider the future benefits of their efforts. In relation to his/her recommendations, one participant said that “hopefully the majority of them will be picked up, then you know you’re still doing your part” (Ben). Similarly one participant working in a youth setting reflected that his/her treatment recommendations might have a positive impact on the individual but also on his/her wider family: “You know if you’re making a recommendation for a family intervention, that’s going to benefit the little ones as well” (Patricia).

Another participant said that a forensic assessment of a young person provided an opportunity to ensure that a client was able to better access the services that they needed: “You want to make it useful for the young person in the context of their life and not just offending but also getting the best services they can in their life” (Kate).

Other participants spoke about how they had helped clients to make longer term plans when clients were still in prison or subject to an ESO. One participant reported that his/her goal was typically “not to get him out of prison but to keep him out of prison” (Maya). Another participant discussed how s/he helped clients to identify potential benefits of being on an order: “If you’re doing an assessment of somebody, you can sort of talk about, ‘what if [you] did do an order, how could you make the best of that, what would be the good things about that for you?’” (Leo).

Subtheme three: Develop a transparent consent process

A number of participants described particular procedures that they found helpful in managing the consent process. In particular, participants reported that they communicated in a very clear and direct manner with their clients prior to the start of the assessment, as illustrated by the following:

> I reckon it is about having a really frank conversation with the person concerned, and saying, “now listen, this is a choice, in the end you can choose whether or not to talk to me today, there are some pros and cons to doing both”. And being very free about what some of those pros and cons are.… My role is to make sure that people are

> properly informed, and walk into the room, in that context I have no expectation that they will participate. (Matthew)

Several participants spoke of the need to manage client expectations and to state clearly that they would not be providing therapy. For instance, one participant stated that s/he specified that her report was for the court and that s/he was not meeting with the client in a therapeutic capacity: “I make it clear that I’m not there to do therapy with them, that this is for the court and that there may be a negative impact” (Leo). The same participant stated that important aspects of his/her consent process involved asking the client to repeat the information back in his/her own words, and documenting the consent process:

> I spend a lot of time on that and I get them to say that to me in their own words … and talk about the possibly negative impact of the report and the positive one and how I don’t [know] what that will be, and who will see the information … and you document every single little bit of it. (Leo)

Some participants said that for clients with intellectual disabilities, they sometimes felt that it was necessary to steer a client towards participation or non-participation depending on what they perceived to be in the client’s best interests. One participant said that s/he might encourage a client to consent to assessment if non-participation could result in the court deciding to put the individual in prison. The same participant said that s/he had also at times encouraged non-participation in the assessment until an individual had sought legal advice:

> I end up taking a paternalistic approach really, where you are basically making a decision, “listen, it is in your interests to talk to me so you are just going to talk to me”, or much less often, “it might not be in your interests for you to go through with this assessment at this time”. (Matthew)

Some participants said that having engaged in a robust discussion prior to the start of the assessment, they did not typically continue to provide warnings throughout the interview. One participant said that it would be disruptive to continue to provide reminders and to re-iterate that the client could stop the interview at any time:

> Once they have agreed to participate, and part of the consent process is that you can pull the pin at any time and stop, but I don’t continue to reiterate that, because I think the difficulty would be that if you began doing that you are going to really interrupt the flow. (Matthew)

Participants working with youth and/or those with intellectual disabilities typically reported that after explaining the consent process at the start of the assessment, they continued to provide warnings and reminders as the interview proceeded, as illustrated by the following: “You have to remind them about that, and so just keep an eye on that in case they forget that or they sort of just want to tell you everything, and it’s not necessarily in their best interest” (Patricia).

Subtheme four: Educate key stakeholders about the client

Several participants reported that it was important to talk in person to the consumers of reports they had written about their clients and specifically about the recommendations they had made. For instance, participants working in youth settings reported that it was considerably more likely that their recommendations would be actioned if they (psychologists) attended the FGC: “Sometimes reports will get used in an FGC process and having a psychologist go along for an FGC and talk to their report is a lot more helpful than just having people read out the recommendations” (Kate). This participant and a number of others emphasised the need to avoid language that was specific to psychology and to “always use language which was very general” (Kate).

Participants reported that they viewed it as an important part of their role to educate other stakeholders such as the courts about the nature of their clients’ difficulties. For instance, in relation to the use of diagnostic categories, one participant reported that “it’s part of our job to educate them that things are not as clear cut” (Patricia). Many psychologists reported on the importance of clarifying the limits of one’s diagnostic opinion openly, given that psychologist opinions were often very influential.

> You need to always be able to have an appropriate degree of caution in interpreting the results that you have. I guess if you are reporting on a psychometric then you are giving the confidence intervals for that very reason, and as something of an analogy, you need to provide confidence intervals for a clinical opinion that you give. (Kate)

A small number of participants also reported that they endeavoured to educate other staff at their workplace, such as custodial staff in the prison system. One participant reported that s/he had worked hard to teach custodial staff about the importance of focusing on client strengths, and about the need for collaboration between psychologists, custodial staff, and

clients: “[I tried to] get people to see things a little bit differently. See it from a strength based way, see it from a collaborative way” (Maya). Similarly, another participant reported that s/he had found that there was plenty of scope within the prison system to collaborate with other disciplines in order to achieve better outcomes for his/her clients: “Sometimes it means getting alongside Corrections officers, and getting someone, or a case manager, getting them to maybe work with the same client” (Sally).

One participant said that s/he and colleagues had managed the tension of recommendations not being followed up by being more proactive in trying to ensure that recommendations were followed: “So we would either make an appointment or we would phone them or email and we would just do that little extra, regarding, not just assuming that they would read the report and carry out the recommendations” (Liz).

Subtheme five: Use consultation and reflexivity

Participants reported that they found that both supervision and consultation with colleagues were a particularly critical part of their practice. As one participant said: “There is always supervision. So at the end of the day no matter what dilemma you are in you don’t feel like you have to carry it on your own” (Sally). Similarly, another participant reflected that all psychologists needed to consult, even those who were very knowledgeable about the field:

> Nobody, even the people who spend their lives with the most updated research, nobody always knows the right decision at every time in terms of the risk to disclose something versus the risk not to disclose something…. Nobody gets it perfectly right and everybody always consults (Teresa)

Some participants reported that consultation and reflexivity were important because there were not typically clear answers to dilemmas, requiring psychologists to consider dilemmas on a case by case basis: “I suppose, it was always a case by case in discussing with other people, you know with supervisors and other clinicians, about what the ethical dilemmas would be”. (Mark)

Participants reported very positively on the benefit of working alongside psychologist colleagues, with one participant stating that at many workplaces in the forensic field, there

were “big bodies of psychological collegiality” (Maya). Participants reported that it was useful to debate issues with one another, and to attend seminars and workshops to remain well informed about forensic psychological best practice: “[Psychologists are] continually conversing and debating with one another about it [and] attending the various seminars” (James).

A number of participants had discussed tensions in terms of managing bias in their work (e.g., the referral agent’s bias). Participants spoke of employing rigour in terms of supervision and consultation, as well as being reflexive about one’s biases:

> You then as a clinician need to observe your own practice as to whether you are being biased, how you manage not to be biased, whether you are overcompensating because you are recognising that they are trying to persuade you in a particular direction.… And that might be one you absolutely definitely get through supervision so that you are not being clouded. (Mark)

Chapter Five – Discussion

This thesis aimed to investigate the experiences of New Zealand psychologists working with individuals who have offended. Two major research questions were put forward, the first and primary question concerning the nature of ethical conflicts experienced by participants, and the second considering the ways in which such conflicts were managed and/or reconciled. A total of 16 psychologists employed in a range of forensic contexts were interviewed, resulting in a rich and complex dataset.

This study appears to be the only one of its kind carried out in Aotearoa/New Zealand, and one of only a few conducted internationally. The current chapter begins with a consideration of the first research question's findings in light of these few studies and clinical writings on forensic psychological practice reviewed at the start of this thesis (Chapter One). A similar discussion follows in relation to the second research question. Next, implications of findings for psychologists working with individuals who have offended, both in New Zealand and internationally, are discussed. The chapter concludes with a description of the study's strengths and limitations, and suggestions for future research.

Tensions of Forensic Psychological Work with Individuals who have Offended

In relation to the study's first research question, one over-arching theme and five further main themes were identified. The over-arching theme, 'who is the client?', highlighted the key challenge for psychologists working in forensic versus general mental health settings, that of balancing responsibilities towards multiple clients including the courts/judges, the New Zealand Parole Board, the psychologist's employer and the community alongside the needs of one's individual clients. The question of 'who is the client?' and associated issues in relation to role obligations impacted on all aspects of forensic practice and was thus integral to all of the remaining five themes which were: 1) Forensic clients are vilified yet vulnerable; 2) The 'black and white' of forensic settings versus the 'grey' of psychology; 3) Psychological knowledge is applied in a limited way in

forensic contexts; 4) Therapeutic engagement is of a different quality in forensic settings; and 5) Psychologists' professional autonomy is undermined in forensic settings.

Who is the Client?

The finding that the question of 'who is the client?' underpins many ethical conflicts encountered by psychologists working with individuals who have offended is broadly consistent with the existing literature. The major study specifically considering ethical dilemmas of psychologists employed in criminal justice contexts, carried out in the US some four decades ago, similarly presented the issue of 'who is the client?' as one of two over-riding themes (Clingempeel et al., 1980). The second and related over-riding theme identified by Clingempeel et al. (1980) reflected a requirement for psychologists to prioritise employers' security-related concerns, a finding similarly echoed in a study aimed at profiling the work of correctional psychologists in the US (Boothby & Clements, 2000, 2002). In the current study, employers' security priorities were incorporated within the 'who is the client?' theme, as the employer was considered to be one of the many client parties served by psychologists. Given that the existence of multiple client parties appears to set forensic psychological practice apart (Evans, 2005), it is perhaps unsurprising that the issue of 'who is the client?' was not amongst the most prevalent issues in studies of psychologists' experiences of ethical dilemmas in predominantly mainstream settings (Davis et al., 1997; Pettifor & Sawchuk, 2006; Pope & Vetter, 1992).

The identified issue of 'who is the client?', framed in multiple ways by participants in this study, is also implicitly linked to the central theoretical ethical concept of the 'dual relationship problem' (Ward 2013, 2014), in which the challenge of marrying the norms governing the mental health and criminal justice systems has been explicated. Ward's (2013, 2014) assertion that the former system's emphasis on individual wellbeing underscored by pillars of ethical practice (e.g., beneficence and autonomy; Beauchamp & Childress, 2009) occupies an uneasy relationship with the community safety and justice priorities of the latter system (Ward, 2013, 2014) was supported across all subsequent themes.

Impacts of Legislation and Policy on Psychologists' Work

Firstly, participants' descriptions of the vilification of their clients (e.g., as 'monsters', theme one), delineating the roles of a number of constituent groups contributing to an increasingly punitive legislative environment (i.e., the media, the general public, and lobby groups), have been described by a number of authors (Gray, 2015; Pratt, 2013; Pratt & Clark, 2005). Participants' reports that legislation is not necessarily effective and may undermine legal principles (e.g., double jeopardy) have similarly been discussed in the research literature (Doyle et al., 2011; Gavaghan et al., 2014; Sullivan et al., 2005). Participants' perspectives were that vilification of their clients was also problematic for failing to account for the vulnerability of their clients. Psychologists' concerns about many of their clients' histories of trauma as well as current mental health difficulties reflected current knowledge about incarcerated and offending populations in New Zealand and abroad (Indig et al., 2016; Levenson et al., 2015, 2016). Further, consistent with previous writings from New Zealand and overseas, participants reported that vilifying representations tended to ignore the reasons for their clients' offending including socioeconomic disadvantage, and societal and systemic discrimination against Māori (Arrigo, 2013; Brookbanks, 2002; Coombes et al., 2016).

Although not explicitly referenced by participants, tensions described as part of the vilification versus vulnerability theme can also be linked to the remaining theoretical ethical concepts proposed by Ward (2017) and outlined in Chapter One. Participants' assertions that prison itself is ineffective, particularly when individuals do not qualify for rehabilitation, implicitly highlighted a perceived difficulty with a consequentialist justification of punishment (i.e., that crime is reduced by deterring and reforming individuals; Ward & Salmon, 2009). Retributive theories advanced on the basis that individuals who have offended are moral agents who are responsible for their crimes were qualified to some extent by participants, who suggested that broader influences on their clients' offending warrant consideration, also linked to the concepts of 'moral repair' (addressing clients' own victimisation; Ward & Moreton, 2008) and client rights and dignity (Ward & Birgden, 2007, 2009).

The second theme, concerning the challenge of fitting psychological knowledge within the definitive and categorical constraints of the systems in which psychologists

worked, was comprised of subthemes related to risk and to diagnostic/other categories. In relation to both subthemes, participants' descriptions of the requirement to classify individuals (e.g., into diagnostic categories) was found to accord poorly with psychologists' own understandings of human behaviour. For instance, participants tended to favour complex explanations for their clients' presentations and to view difficulties as occurring across spectrums. This challenge has been extensively discussed in writings about forensic psychological practice which have identified that criminal justice settings are not health and welfare based (Evans, 2005). Instead, the requirement to categorise (e.g., 'guilty'/'not guilty', 'high risk of re-offending') is linked to the function of the forensic setting and thus based on legal decision making and holding people to account (Allan, 2015; Ward 2013). Further, actors within criminal justice settings fulfil roles that are reflective of these adjudicative and retributive functions, and are subject to codes of practice that may not align with the traditional priorities of psychologists (Allan, 2015; Evans, 2005; Ward, 2013).

Some challenges communicated by participants in relation to the second theme were not described in the reviewed literature. Participants reported that definitive diagnoses (that tended to locate problems within individuals), sometimes following particular trends (e.g., ADHD), were highly favoured by the New Zealand courts. Participants also reported on instances in which the testimony of psychiatrists was favoured over that of psychologists, sometimes appropriately (e.g., regarding the insanity defence), and at other times inappropriately (e.g., in relation to intelligence testing, a traditional area of psychological expertise). Brown (2016) has noted that: "Dominant among the preoccupations of psychiatry has been diagnosing and classifying mental illness while psychology has a wider brief, engaging in aspects of the investigation and prosecution of crime as well as searching for causes and treating offenders" (para. 1). The apparent privileging of the medical model both in New Zealand and overseas may arguably reflect greater resonance of the law with the diagnosing/classifying approach of psychiatry compared to psychology, although the latter discipline also fulfils such functions. Differences in the acceptability of psychiatry versus psychology in New Zealand may also reflect the relatively recent provision for involvement of the latter's testimony in some legislation (e.g., IDCCR and CPMIP, see Webb et al., 2011).

Some four decades ago, Clingempeel and colleagues (1980) described the issue of 'inadequate tools, crucial decisions' in reference to the challenge of making predictions of

dangerousness using instruments offering limited accuracy. The measures referenced by Clingempeel et al. (1980) are now outdated, with participants in this study reporting rapid developments in the field of instrument development as outlined in the research literature (e.g., Bellve-Wack & Simpson, 2007). Despite such advances, the limitations of contemporary risk assessment measures have been comprehensively described (Bellve-Wack & Simpson, 2007; Cording et al., 2016; Gottfredson & Moriarty, 2006; Vess et al., 2017). The current study provided psychologists' accounts of the utility of their tools, while also highlighting perspectives on a number of drawbacks. Such issues were considered to be important because many participants reported that risk assessment was a significant everyday task (theme two, subtheme one).

The well-established difficulties of making individual predictions from group data (Harris, 2003; Vess, 2009a; Vess et al., 2017), and of employing both locally developed and international risk measures offering limited predictive accuracy (Casey et al., 2012; Gottfredson & Moriarty, 2006; Vess et al., 2017) were highlighted by participants. As detailed in Chapter One, the use of risk assessment measures pits the autonomy of the individual by accepting more 'false negatives' (incorrect predictions of non-recidivism) against the safety of the community by accepting more 'false positives' (incorrect predictions of recidivism; Casey et al., 2012; Vess et al., 2017), with significant consequences for the liberty of those qualifying as 'false positives' (Ward, 2017). While not legal decision-makers themselves, many participants in this study expressed acute awareness about their own role within the risk assessment process and the consequences of 'getting it wrong' in terms of the liberty and autonomy of their clients.

Other well documented difficulties associated with risk assessment (Douglas & Ogloff, 2003; Gottfredson & Moriarty, 2006; Hart, 1998) were discussed by participants, including the consequences of assessments being highly 'static-loaded'. For instance, psychologists perceived their clients' inability to change their 'high risk' status despite efforts towards rehabilitation to be an issue of human rights. Participants' accounts of the incorporation of dynamic risk factors being important while also introducing greater subjectivity (e.g., users of the PCL-R reaching different conclusions) are also consistent with the reviewed literature. For instance, some authors have discussed such issues as 'impression management' (Cording et al., 2016; Tamatea et al., 2016) and adversarial allegiance effects

(Murrie et al., 2013) in the application of the PCL-R and other dynamic measures, potentially leading to non-equivalent outcomes. Further, consistent with the literature, participants reported that risk assessment tended to be very deficit focused, but that strengths, protective factors, and community supports, could all help to mitigate risk and should be accounted for more (e.g., Scoones et al., 2012; Ward & Maruna, 2007), especially for Māori clients (e.g., Coombes & Te Hiwi, 2007).

A number of authors have reported that even a well-conducted risk assessment is only useful if its limitations are clearly stated (Blackwell, 2011a; Glazebrook, 2010; Heilbrun et al., 1999). The impact of framing of risk information on outcomes has been highlighted, for instance in relation to civil commitment decisions in the US (Scurich & John 2011) and categories employed for ESOs in New Zealand (Vess, 2009b). Vess (2009a) has also highlighted the need for psychologists to clarify the limitations of risk predictions in order to protect the human rights of their clients. Participants' concerns that it was difficult to convey complex concepts associated with risk assessment (e.g., sensitivity and specificity just described) had been alleviated to a limited extent by developments in the field of risk communication. What psychologists in the current study considered to be particularly problematic was that having made a classification of risk and explained the limitations, their information might be poorly scrutinised or over-valued by risk consumers (e.g., viewed as being concrete rather than as a probability) as discussed by some authors (McSherry, 2014), again with enormous consequences for client liberty.

The involvement of psychologists in risk assessment practices has been critiqued on a number of grounds, including that psychologists are complicit in practices that perpetuate further marginalisation of their clients (Coombes et al., 2016), and that seeking more accurate knowledge about risk may have the impact of further fuelling the public's anxiety about risk (Brookbanks, 2002; Maden, 2002). Perhaps unsurprisingly given that risk assessment was reported to be a key task of many participants, psychologists in this study tended to endorse a view that given the requirements of New Zealand's current legislation, and despite the imperfections highlighted, the development of contemporary risk measures had enhanced their practice and should not be rejected altogether. A similar view has also been advanced by Janus and Prentky (2003). However, beyond the use of risk measures themselves,

participants identified multiple ways in which a narrow risk focus impacted on their work, apparent in all subsequent themes.

One area highlighted by participants that was closely linked to risk classification (theme two, subtheme two) concerned the ways in which psychological knowledge was applied in forensic contexts (theme three). The documented convergence of legislative changes and initiatives targeting risk factors related to re-offending occurring about 15 years ago (Riley & Rush, 2000; Wilson et al., 2007) was discussed in ambivalent terms by participants who were able to compare their experiences prior and subsequent to the implementation of the Sentencing Act 2002. As described by a number of authors (e.g., Gannon & Ward, 2014), some participants reported that the work of Andrews and Bonta (2010) had provided the impetus that re-established correctional psychology as a legitimate profession. Yet the requirements of the new legislation, and accompanying policies, as also discussed by Wilson et al. (2007), brought about a radical re-framing of the psychologist's role that were not viewed positively in all aspects.

Participants who had worked in criminal justice contexts both historically and contemporarily resoundingly reported on the non-individualised nature of both instrument choice and assessment reports (theme three, subtheme one). Participants' comparisons of the role of the psychologist to that of a 'technician', whereby the key psychological task of formulation could be side-lined and unique client characteristics poorly represented provided support for contemporary theoretical claims. In their paper, "Where has all the psychology gone? A critical review of evidence-based psychological practice in correctional settings", Gannon and Ward (2014) similarly critiqued an apparent over-reliance on the RNR model, lamenting a lack of individualised psychological formulation. Participants' arguments against the reliance of correctional institutions on the RNR model as the predominant means by which to prioritise clients for treatment were similarly consistent with Gannon and Ward's (2014) claims. Participants noted for instance, that while the prioritisation of high risk clients made sense in terms of 'supply and demand', a 'risk factors' focus could detract from important psychosocial factors, while working with exclusively higher risk individuals could preclude useful opportunities for psychologists to see desistance.

Gannon and Ward (2014) further highlighted the preferential application of the RNR model as failing to consider a breadth of treatment options in line with evidence-based guidelines. The authors stated for instance that clients might present with needs associated with symptoms of post-traumatic stress disorder (see also: Levenson et al., 2015, 2016), but that such needs might be overlooked because of inflexible risk-focused correctional practices. While not framed in such terms by participants in the current study, Ward and Salmon (2009) contend that adherence to the RNR model fits with a consequentialist defence of punishment with an assumed agenda of crime reduction as a priority rather than the client's own aspirations. Such an approach however reportedly fails to account for the client's entitlements for his/her own victimisation to be addressed (Ward 2017; Ward & Moreton, 2008), while human rights may be undermined where treatment decisions are based on offence type (Ward 2017; Ward & Birgden, 2007, 2009).

Another aspect of the limited application of psychological knowledge concerned the dominance of report writing in forensic psychological roles (theme three, subtheme two), linked by participants to the high standards required by the courts and the New Zealand Parole Board amongst other client groups. Participants' accounts of the volume and standard of reports ultimately coming at a cost to other aspects of their role, particularly that of treatment provider, were consistent with some claims from the research literature. As reviewed in Chapter One, some authors have noted that psychologist expertise has been misappropriated towards predicting risk and away from therapies that alleviate client distress (Hudson, 1996; McSherry et al., 2007; Mullen, 2001; Szmukler & Rose, 2013). Further, McSherry et al. (2007) assert that clinicians should be able to fulfil a treatment role, rather than being 'burdened' with the role of community protection. The findings from the current study indicate that despite a number of exceptions (e.g., at STUs), some participants felt personally constrained by the balance between assessment and reporting versus therapy. Some also said that they, and their colleagues, had left particular roles in order to undertake more therapy. A related issue not identified in the extant literature was that not only were psychologists unable to work therapeutically with clients themselves, referral options were often limited, leading to psychologist feelings of frustration.

An issue related to the re-positioning of psychological knowledge highlighted by Gannon and Ward (2014) concerns the use of para-professionals to undertake therapeutic

treatments with lower risk individuals in line with RNR principles. Gannon and Ward (2014) contend that the use of para-professionals, while perhaps understandable given issues of 'supply and demand', results in a lack of attention to the therapeutic alliance and to individualised treatment implementation. Some participants in the current study discussed the implementation of psychological treatments by para-professionals. Perhaps related to the appropriation of psychological knowledge by other disciplines, participants in the current study particularly emphasised that regard for psychology by other disciplines had eroded in correctional settings.

In a prevailing climate of risk, the over-arching question of 'who is the client?' and a requirement for psychologists to consider the needs of multiple parties were also apparent in terms of engagement with forensic clients (theme four). As previously noted, linked to the autonomy and non-maleficence pillars (Beauchamp & Childress, 2009; Knight & Linscott, 2007), the need to obtain informed consent is upheld within the 'respect for the dignity of persons and peoples' principle in the NZ Code of Ethics (2002), although in forensic contexts consent may not be "readily forthcoming" (p. 8). Reports from the literature that participation in an assessment is not truly 'voluntary' when it is court ordered (Simpson & Evans, 2005; Tamatea et al., 2016) were echoed by participants in the study. Given the seemingly non-voluntary nature of participation in forensic assessments, it was unsurprising that participants described a different quality to client-psychologist relationships from the outset of their engagement.

The findings that there could be a 'coercive' aspect to an interview (e.g., in prison), an underlying expectation that the interview would proceed, or that the client might feel obligated to the psychologist him/herself were together consistent with the reviewed literature. Some authors have reported that in a prison settings, both assessor and assessee may be subject to 'obedience to authority' effects (Milgram, 1963), whereby the latter feels obligated to partake, while the former feels s/he must complete the task assigned to him/her (Evans, 2005; Simpson & Evans, 2005). Yet while participants in this study reported that a coercive interview was not ideal, some also asserted that it was unethical to write a report in the absence of consent, an issue linked to 'static-loaded' assessments and highlighted in relation to client rights and dignity (Haag, 2006; Vess et al., 2017).

As noted in Chapter One, consent and confidentiality are linked to the extent that consent can only be ceded when the limits of confidentiality are fully understood (Taylor & Dickson, 2007). Studies carried out in mainstream (Davis, Seymour & Read, 1997; Pettifor & Sawchuk, 2006; Pope & Vetter, 1992) as well as forensic (Clingempeel et al., 2010) settings indicate that issues of confidentiality are amongst the most prevalent of all psychological ethical dilemmas. Consistent with the findings of Clingempeel et al. (2010), participants' experiences of dilemmas of confidentiality were linked to the security-related priorities of other parties. The finding that information naïvely disclosed in an assessment could subsequently be used to restrict liberty (e.g., as a compulsory care recipient under IDCCR; theme four, subtheme two), has similarly been identified by a number of authors (Simpson & Evans, 2005; Vess, 2009b; Vess et al., 2017; Webb et al., 2011; Wilson et al., 2007). Further, the finding that workplace requirements increasingly required participants to breach confidentiality in the protected context of therapy in cases that did not necessarily present security threats have also been discussed by some authors (Gannon & Ward 2014; Sullivan et al., 2005). Gannon and Ward's (2014) contention that breaching confidentiality in such cases could have damaging impacts on the therapeutic relationship were supported in this study, with some participants' assertions that workplace reporting requirements sometimes presented a barrier to working on client difficulties.

Related to issues of confidentiality, the role of the application of participants' clinical skills in eventual unwanted consequences for their clients (theme four, subtheme three) have also been discussed within the literature (Evans, 2005; Simpson & Evans, 2007; Vess et al., 2017; Wilson et al., 2007). Simpson and Evans' (2005) assertion that the criminal justice system employs the skills of clinicians to access 'private space' that would otherwise by unavailable to it was supported by participants. For instance, psychologists provided descriptions of clients making naïve disclosures or 'opening up' because they actually wanted help but ended up with liberty restrictions. That disclosures occurred despite clients having been informed of the party the psychologist represented suggests that psychologists are trusted because they are recognised by clients as health professionals. The findings provide support for the claim of Simpson & Evans (2005) that, in some situations at least, skills needed to meet clients' welfare needs have been transformed for the purpose of meeting security needs.

The fourth and final subtheme in relation to therapeutic engagement (theme four) concerned psychologists' claims that their clients considered them to be 'deciders of fate'. In considering why clients might view psychologists in such a way, participants offered a number of explanations including that prior to 2002 psychologists were clearly viewed as 'helpers' who had more typically provided therapy to their clients. Some further noted that while psychologists were not legal decision makers, ESO decisions, at least in the early days of the legislation, had almost invariably aligned with psychologist opinion, as similarly documented by Vess and Eccleston (2009). Perhaps in part related to participants' claims that their information might be poorly scrutinised by risk consumers as described in the literature (McSherry, 2014) and viewed as being 'absolute' as previously discussed (theme two), it appears that clients considered psychologists to be implicated in outcomes that were unfavourable for them.

Considering a number of other issues discussed (including static loaded risk assessments, confidentiality breaches, and the appropriation of clinical skills for instance), it was perhaps not surprising that participants highlighted client mistrust in the profession of psychology. The finding provides empirical support for the claim that forensic clients may no longer strongly differentiate psychologists from custodial staff, and that trust in the profession of psychology within criminal justice contexts may have eroded, both in New Zealand and internationally (Clingempeel et al., 1980; Gannon & Ward, 2014; White, 2015). Some participants in the current study opined that not only did forensic clients perceive them to be determiners of their freedom, they themselves questioned whether they indeed were 'officers of the state', consistent with a number of authors' descriptions of clinicians acting as agents of social control (Eastman, 2002; Hudson 2002; Sullivan et al., 2005).

A further issue potentially contributing to a negative perception of psychologists by forensic clients concerns the issue of bias. Tamatea et al. (2016) differentiated between explicit and implicit bias in forensic contexts, noting that the former could be readily detected when a psychologist was engaged as a 'hired gun' (see also: Bush et al., 2006). Supporting the accounts of these authors, in the fifth and final theme, participants reported that there was often pressure (e.g., from a lawyer) to reach a particular conclusion (i.e., explicit bias), and discussed their experiences of instances of implicit bias. Linked to the first theme's discussion around the impacts of New Zealand's risk averse legislative climate, some

participants reported that clients might be placed in higher risk categories in order to satisfy public safety requirements. Participants who had worked at the Department of Corrections or alongside correctional psychologists reported that the psychologist might be unable to exercise professional integrity and might instead act as a 'rubber stamp' in meeting his/her employer's needs (e.g., in applying for an ESO).

The findings support the claims of some authors, who have noted that once an ESO has been applied for, a health assessor may lose his/her neutrality because of his/her employment with the Department of Corrections (Glazebrook, 2010; Vess & Eccleston, 2009), although more recently Ryan et al. (2014) found no evidence of impartiality in relation to ESOs conducted between 2004 and 2008. A number of authors have pointed out that when a psychologist makes an assessment of low re-offending risk for an individual who subsequently re-offends, there are significant consequences for victims and for the psychologist's reputation. An erroneous assessment of high risk confers no particular consequence however (Gavaghan et al., 2014; Tamatea et al., 2016). Further, what may arise is an 'asymmetrical' approach to risk assessment whereby "assessors, chief executives or judges feel compelled to "err on the side of caution" by avoiding potential false negatives at the expense of likely false positives" (Gavaghan et al., 2014, p. 91). The current study provides support for the contributing role of the psychologist in this 'asymmetry', and indicates that in the current legislative climate, professional independence may be sacrificed as demands for community safety increasingly take priority. In such a scenario, psychologists may indeed be seen to act as agents of the state (Eastman, 2002; Hudson 2002; Sullivan et al., 2005).

Summary and Integration

In explicating the vertical dimension to the over-arching theme ('who is the client?'), it was considered that themes could approximately be viewed across a continuum. With regard to the first theme, participants appeared to be particularly cognisant of psychological paradigms in understanding their clients. For each subsequent theme however, the requirements of other parties appeared to become increasingly more predominant while individual client wellbeing and associated psychological knowledge were eventually

subsumed. Within the second subtheme, psychologists were required to classify their clients, albeit using well-validated measures and classification systems (e.g., diagnostic classification), but not altogether fitting with a more ecological psychological perspective. In relation to the third theme, the demands of the setting appeared to move the psychologist further still from his/her traditional 'helping' role, stripping client complexity into simplistic 'risk factors', and reducing time spent alleviating client distress in favour of assessing and report writing. The sanctity of the therapeutic relationship was undermined further within the fourth theme, for instance requiring the psychologist to breach confidentiality in case of non-emergencies, and to use clinical skills to meet security-based needs. In the fifth and final theme, psychologists' professional autonomy was undermined, for instance, by placing clients in higher risk categories than were warranted to meet the needs of the setting, significantly compromising the role of the psychologist and undermining the fundamental 'do no harm' (non-maleficence) ethical principle (Beauchamp & Childress, 2009). To an increasing extent across themes, the findings appeared to confirm the claim of Gannon and Ward (2014) that: " … psychology, as a discipline appears to have acquiesced to the dual-relationship problem" (p. 435).

Managing and Reconciling Tensions of Forensic Psychological Work with Individuals who have Offended

In relation to the study's second research question, one over-arching theme and one further main theme were identified. The over-arching theme, 'accept, challenge or leave the setting', highlighted the different positions that participants had adopted in managing the tensions of their role. From the three positions identified, psychologists described the various processes that they undertook as they endeavoured to provide benefit to the client who had offended, reflected in the remaining main theme (i.e., 'ensure that my work is of benefit to the client who has offended') and five subthemes.

The finding that participants tended to adopt the positions of accepting, challenging or leaving the setting was consistent with the conclusion of Clingempeel and colleagues (1980). These authors identified psychologists working in correctional settings as either 'system challengers' who tended to be involved in a number of confrontations before leaving the

system, or ‘system professionals’ who stayed and endeavoured to work through the difficulties presented to them. Clingempeel et al. (1980) reported that most participants viewed themselves as occupying a mixed stance between each of these two definitions. Similarly, in the current study, participants did not occupy clearly demarcated positions, but appeared to occupy a particular position depending on the tension they were faced with.

Clingempeel and colleagues (1980) also reported on the difficulty of making clear ‘decision rules’ and noted the challenge of balancing a number of different sets of values in resolving ethical dilemmas in criminal justice contexts. Similarly, Ward (2014) has described the concept of ‘value pluralism’ in reference to the multiple sets of values in existence within society and impacting on the forensic practitioner. Further, Sarkar and Adshead (2002) note that a forensic practitioner who perceives him/herself to have a healing role will differ from one who considers him/herself to be a ‘forensicist’ in terms of how ethical challenges are faced.

Unsurprisingly given their ongoing employment in forensic roles, none of the participants in the current study unequivocally advocated for a ‘clean hands’ approach (i.e., rejecting working within the setting altogether) as discussed by Allan (2015). The existence of different values and different conceptions of ethical practice were evident in all participant rationales for accepting aspects of their role, including: that having ‘signed up’ for a workplace it was necessary to recognise that the role was not a traditional psychological healing one and that one should follow the employer’s rules; that one could still benefit clients by working within a system despite its imperfections; and that psychology as a profession was better placed than any other to carry out the task of risk assessment, the merits of which have been similarly discussed by some authors (Allan, 2015; Deitchman et al., 1991).

Participants’ reports that the very high risk status of some forensic clients provided justification for workplace policies may also be linked to the reviewed literature (e.g., Ward, 2017). The rationale of some participants, that clients could benefit from spending longer in prison by receiving more treatment, has been critiqued as an instance of ‘paternalism’. According to Ward (2017), where the psychologist justifies particular actions on the basis

that they are in the client's best interests, client rights and autonomy may be undermined in meeting the community's (rather than the client's) goal of reducing re-offending.

Participants' accounts across multiple themes in the current study suggest a further means by which ethical matters might be managed, involving deferring to other parties. Participants' reports for instance, that instruments might be selected based on the expectations of other parties rather than on clinical judgment alone, that consent processes might by employed because they had been worked out by departmental legal teams, and that new colleagues might 'toe the line immediately' in following established protocols, collectively illustrate that psychologists' ethical decisions may involve roles for other parties. While participants reported that having pre-established protocols had practical utility (e.g., using an instrument that would be recognised by consumers of risk information), such processes nevertheless appeared to consign psychologists to a less active/independent and more passive ethical role (i.e., 'ethical passivity'). Participants also reported that they had observed that some colleagues had 'resolved' ethical conflicts by becoming 'socialised' or 'institutionalised' in to aspects of the role without adequately questioning their own practice.

Similarly, Ward and Syverson (2009) have described the notion of 'ethical blindness' whereby matters of clinical importance may be overlooked as the requirements of the criminal justice context take precedence. Bamao et al. (2012) state that ethical blindness "may result from acculturation in a system that suppresses or punishes ethical reflection, especially if it raises questions about an organisation's philosophies and practices" (p. 83). Whether ethical reflection is suppressed/punished in forensic settings in New Zealand remains unclear. However, participants' reports that clients appeared at times to be 'scraped' in to a higher risk bracket for instance, tend to suggest that there are occasions when psychologists prioritise adherence to workplace practices at the expense of ethical considerations, and that there may be little incentive for ethical reflexivity, while adopting an ethically passive approach may be the most 'acceptable' course in the case of new employees. If ethical myopia occurs across a continuum as proposed by Bamao et al. (2012), unjustifiably placing an individual in a category of higher risk may represent the 'high end' of such a continuum, while instances of 'ethical passivity' might fall at the 'low end'. Reported difficulties in terms of challenging workplace protocols similarly appear to support the claims of Bamao et al. (2012).

Participants in the current study were able to identify examples of ethical passivity and ethical blindness in the colleagues with whom they worked. Were participants in the current study ethically blind? As reported in relation to the study's first research question (Chapter Three), participants identified almost all of the ethical issues described in the research literature and reviewed in Chapter One. It is possible that participants in the current study possessed higher awareness of ethical tensions than other psychologists who occupied similar roles. Certainly participants in the current study identified that an awareness of many tensions coupled with constraints on ways of resolving such tensions had together contributed to them leaving particular settings. Ward (2013, 2014) has identified that an inability to resolve the dual relationship problem can lead to an eroded sense of ethical worth, against which participants in the current study may have attempted to protect themselves by leaving the setting. Participants identified however, that having reflected upon the ethical tensions within their roles, they had previously and currently focused on ethical processes they could undertake in endeavouring to better meet the needs of their forensic clients.

Participants in this study strongly endorsed the idea that the balance had swung away from the needs of their individual clients towards the interests of community safety. The main theme in relation to the second research question identified the ways in which psychologists had personally endeavoured to redress this balance and to provide benefit to their individual clients, none of which had been specifically discussed in the reviewed literature (Chapter One). Participants emphasised a desire to make the client's interactions with the psychologist worthwhile, by incorporating therapeutic elements into their assessments including a formulation (subtheme one), helping the client to envisage a different future harnessing capacities and strengths (subtheme two), communicating clearly and transparently (e.g., in obtaining consent; subtheme three), being an 'educator' who could help others including the courts to understand the client (subtheme four), and reflecting and consulting around one's practice (subtheme five). Such processes implicitly reflected a strong desire and effort to act in accordance with ethical pillars (e.g., beneficence), the NZ Code of Ethics (2002; e.g., 'respect for the dignity of persons and peoples'), and other theoretical ethical concepts (e.g., human rights) and to provide benefits to forensic clients.

Ward et al. (2015) have identified four means by which ethical dilemmas may be managed in forensic contexts, involving 1) ethical principles and codes, 2) criminal justice

codes, 3) hybrids including the ‘robust professionalism’ model, or 4) the ‘moral acquaintance’ model (reviewed in Chapter One). Participants in this study were neither asked about particular guidelines, codes or models, nor did they specifically mention any such models referenced in managing ethical challenges faced in their work. Within Ward and colleagues’ (2015) framework however, the second method (criminal justice codes alone) appears evident throughout many of the themes identified in this study in which participants identified that psychologists frequently defer to the rules of the criminal justice setting. In describing the processes that participants undertook in endeavouring to provide benefit to their clients, the first method (ethical principles and codes) was implicitly apparent. For instance, participants appeared to attempt to offer beneficence to their clients by including formulations and other therapeutic elements, and to consider client autonomy in optimising the consent processes they adopted. The question as to what models (if any) participants internally reference as they attempt to navigate the complex ethical challenges of the forensic setting remains largely unanswered.

Implications

The findings of the current study present a number of implications for psychologists working with individuals who have offended. In keeping with the title of the study, the findings highlight how a period of significant legislative change has correspondingly brought about a transformation in the way in which psychological skills are applied in forensic contexts in New Zealand. Legislative changes have provided what some psychologists considered to be new opportunities, for instance, in the fields of risk assessment and risk communication. Yet the study also suggests that the legislative changes have raised complex challenges that many continue to grapple with. The findings offer a perspective that is distinct to the New Zealand context, although developments here have also mirrored those occurring elsewhere in the world.

The findings indicate that few areas of forensic practice are immune from the impacts of a prevailing societal and systemic preoccupation with risk. While participants described some exceptions, in particular, the restorative focus of the youth justice system, and the rehabilitative focus of the Department of Corrections’ STUs, the study presents a profile of a

role in which risk considerations impact upon what activities psychologists are primarily involved in, what models their practice is based upon, and the nature of their relationships with their clients. Most concerning from an outsider perspective are the findings that so predominant are concerns of risk that psychologists find it difficult to challenge aspects of practice that they find unacceptable, may readily occupy positions of ethical passivity, and may lose sight of their professional integrity, apparently without penalty.

The findings are all the more alarming in light of psychologists' assertions that the legislation and policy that determine psychologists' activities appear to exist to alleviate public concerns about risk rather than because they are demonstrably effective, impacting disproportionately on Māori clients. A significant cost for psychologists involved in forensic work appears to be that while they were previously viewed as 'helpers', they may now be perceived to be 'deciders of fate' by forensic clients. As such, one implication of the findings may be that a challenge is presented to restore the trust of clients in the profession of psychology. The possibility of psychologists employed in correctional settings being able to focus on the mental health needs of their clients for instance could represent a positive step towards this end.

The findings also indicate that participants in the study were cognisant of many complex ethical challenges and were endeavouring to weigh them up. Participants tended to consider that despite the many imperfections of the role, the work could still be highly rewarding and offered access to an otherwise unreachable client population. Participants described a number of processes and principles that they had adopted in order to provide maximum benefit to their individual clients. One further implication of the study therefore is that it offers the some suggestions provided by participants in order to enhance client wellbeing through each psychologist-client interaction. Examples included using the assessment process itself as an intervention by helping the client to understand him/herself, and viewing oneself as an educator who could help to change the way that others understood forensic clients. It should be noted however, that while discussing such beneficial measures, participants nevertheless still identified tensions as being present, suggesting that measures taken could only address difficulties to a limited extent.

Given that psychologists faced with conflicts between a workplace and an ethical code (e.g., in being required to breach confidentiality) are required to follow the code offering the higher ethical standard according to the NZ Code of Ethics (2002), how does the psychologist realistically proceed? Whether models already in existence (e.g., robust professionalism or moral acquaintance) might facilitate the resolution of ethical difficulties warrants consideration. Guidance for those in clinical and forensic training programmes and for those entering forensic settings could be enhanced to highlight clinicians' awareness of the multiple ethical tensions of the context, and in particular, the potential for ethical myopia that does not result in enhanced wellbeing for forensic clients.

Endeavouring to employ the proposed processes to benefit forensic clients, as well as considering models to facilitate the resolution of ethical dilemmas may ultimately address underlying ethical tensions to a limited extent only. In terms of broader implications, forensic clients have typically experienced high levels of social and cultural disadvantage before entering the criminal justice setting. The factors associated with such disadvantage in the New Zealand context, including increasing levels of inequality (Wilkinson & Pickett, 2009), as well as the legacy of our colonial history and ongoing discrimination against Māori, remain largely unaddressed.

As previously cited, Eastman (2002) notes that the existence of community protection laws raises the question of "the extent to which medical ethics should be robust against social and political pressure or responsive to it" (p. 66). A further implication of the current study might be to consider how psychology could be robust against practices that participants have themselves identified as promoting neither the wellbeing of its clients nor the ethical principle of social justice. Some participants stated that they had participated in the study because they felt there were few ways in which their perspectives be considered. Given participants' expressed eagerness to be of benefit to forensic clients, how else could the strengths of psychologists (e.g., 'psychological collegiality' discussed in relation to the second research question) be harnessed in achieving this end? Perhaps a final implication is that psychologists could fulfil roles in making submissions when new legislation is proposed, and could contribute more actively to media discussions about law and order legislation, including drawing attention to the over-representation of Māori in New Zealand's prison

population. In fulfilling such roles, psychologists might better meet obligations to the ethical principle of social justice.

Strengths and Limitations

That the researcher occupied an 'outsider' position was both a strength and a limitation of the study. In acknowledging that all researchers bring bias to an area of study, as discussed in Chapter Two the researcher holds concerns about the punitive nature of New Zealand's law and order legislation. Despite having reviewed the research literature however, the researcher was largely unsure about what experiences psychologists would present with, and was as such able to occupy the position of 'naïve enquirer'. That the researcher cannot personally claim to understand the challenges of addressing ethical conflicts may also be a limitation, given that the researcher has never had to work through such challenges through direct engagement with them.

A significant limitation of this study was that it did not include any participants who were current employees of the Department of Corrections. Accounts relating to correctional practice were therefore limited to the experiences of psychologists who had already left, and/or were working in a different capacity (e.g., in private practice for the courts) alongside correctional psychologists. Whether the views and experiences of psychologists working inside the Department differ from those working outside cannot be readily ascertained, and it should not be assumed that those of the former can be extrapolated from those of the latter.

The study also considered psychologist experiences that were relevant to the unique legislative and cultural climate of Aotearoa/New Zealand. This is a strength in terms of applying the findings to the New Zealand context, but may also be viewed as a limitation in terms of wider generalisability. While many western countries have similarly become increasingly risk averse, the experiences described are likely to differ in some aspects from those of colleagues working elsewhere in the world. Further, the study considered the perspectives of just 16 psychologists, whose views may also differ from others working within the New Zealand context. For instance, as previously highlighted, participants in the current study volunteered to participate, and possessed awareness of many ethical tensions.

Constraints on the way in which such tensions could be resolved had often led to them leaving particular roles. Participants in the current study may thus be those who are more inclined than other psychologists to see a need for change in forensic psychological practice.

Another limitation of the study was that psychologists' experiences of tensions were addressed separately from the way in which tensions were resolved/managed. In practice, the two are perhaps less separable, and it appears highly likely that the way in which tensions are viewed is linked to the way in which they are resolved. For instance, in the examples suggestive of 'ethical passivity', largely provided by participants about their colleagues, tensions appeared to have been 'resolved' by a failure to see them as ethical problems in the first place, as also discussed by Ward et al. (2015). Another related difficulty was that it was impossible to ascertain what dilemmas were 'unseen' and hence unreported by participants in the study.

Further, the current study makes extensive reference to the theoretical framework provided by Ward (2017), proposed to conceptualise the concerns of forensic practitioners beyond the use of ethical principles and codes alone. Central to the theoretical framework is the concept of the dual relationship problem (Ward, 2013, 2014), with a failure to address the problem linked to the notion of 'ethical blindness'. Proponents of the framework highlight ethical issues associated with a number of forensic practices, such as psychologists' preferential adherence to the RNR model in correctional institutions without adequate consideration of a range of treatment options in line with evidence-based guidelines (e.g., Gannon & Ward, 2014; Ward et al., 2015). Yet Coombes et al. (2016) contend that framing ethical dilemmas as a problem of dual roles without accounting for the positions of psychologists in terms of social power relationships is in itself a form of ethical blindness. Thus the frameworks for understanding ethical dilemmas as referenced in the current study are by no means unanimously agreed upon.

Future Research

The study provided a fairly thorough explication of the tensions experienced by psychologists working in forensic contexts in Aotearoa/New Zealand. The study included a

small, self-selecting sample of only 16 participants. Further studies with a larger and more diverse sample would thus be warranted. In particular, future studies should include the perspectives of psychologists currently employed by the Department of Corrections. As previously discussed, the findings of the study are likely to offer a perspective that is distinct to the New Zealand context in some aspects. However, given that legislative developments in Aotearoa/New Zealand have paralleled those occurring elsewhere in the world, studies of the experiences of psychologists fulfilling forensic roles abroad would also be of benefit.

As previously noted, less consideration was given to the study's second research question, involving the ways in which tensions were managed and/or reconciled by psychologists. Future studies might consider what (if any) models and/or frameworks psychologists use as they endeavour to navigate the complex ethical challenges of the forensic setting. Future studies could use a vignettes approach for instance in determining how psychologists tackle particular ethical quandaries. Such research might then inform whether existing models (such as the moral acquaintance model; Ward 2013; Ward et al., 2015) could be better utilised, and/or whether new integrative frameworks are needed. Future studies could also consider how well equipped junior psychologists feel for navigating the tensions inherent in forensic contexts, with a view to addressing knowledge gaps in training programmes. Future studies should ultimately help to identify ways in which the profession of psychology can provide benefit to vulnerable forensic populations.

Conclusion

This study offers some insights into the ethical tensions experienced by 16 psychologists working in forensic psychological practice, at the interface between the criminal justice and mental health systems, in New Zealand's unique and changing legislative and policy context. The forensic psychological role was found to have changed from a more traditional helping role to one in which issues of risk have become predominant, and in which psychologists are increasingly required to consider the needs of multiple client parties.

Psychologist participants considered their clients to be a highly vulnerable population, yet reported that because of high demands for community safety, considerations of risk

impacted on most areas of forensic practice which required them to: classify clients into risk and diagnostic categories; focus less on therapeutic treatment and formulation and more on reporting; provide treatment predominantly on the basis of 'risk factors'; compromise the therapeutic relationship, for instance, by confidentiality breaches; use clinical skills in the service of security demands of the criminal justice context; and undermine professional integrity. Psychologists were at times found to occupy a role within a system in which parties including judges and employers tended to 'err on the side of caution'. Psychologists were reported to be seen by their clients as 'deciders of fate' whom clients did not strongly differentiate from custodial staff. The findings were consistent with theories proposed by Ward (2013, 2014), suggesting that psychologists are subject to a dual relationship problem as they endeavour to marry the norms governing psychological practice more generally alongside those of the criminal justice context.

Participants had managed the ethical tensions inherent in their roles in a number of ways, including accepting, challenging, or leaving the setting. Psychologists were found to hold different values in relation to forensic psychological practice and to exercise their values in order to negotiate working in the context. Some participants indicated that psychologists might neglect ethical considerations for their individual clients and become 'institutionalised' into prioritisation of their employers' security concerns. All psychologists participating in the study identified a desire and efforts to optimise benefits to their forensic clients. Such benefits however may be embedded within broader processes by which clients believe they have been harmed, and as a consequence of which clients nevertheless identify psychologists as 'deciders of fate'.

The study's findings should sound a warning that the practice of psychology in forensic contexts appears to be moving in a direction dangerously far from its traditional healing roots, and that solutions are urgently sought if this direction is to be reversed. As such the study presents a challenge – that psychologists can choose to accept and acquiesce to a system that undermines psychologists' inherent belief systems and their ethical codes, or they can rally together to make changes for the benefit of our clients *and* our communities.

Appendix A – Advertisement 1

SCIENCE
SCHOOL OF PSYCHOLOGY

Are you a psychologist employed in a correctional or other forensic setting?

Is any of the following legislation relevant to your work?

- Parole (Extended Supervision Orders) Act 2014
- Public Safety (Public Protection Orders) Act 2014
- Administration of Community Sentences and Orders Act 2013
- Evidence Act 2006
- Prisoners' and Victims' Claims Act 2005
- Sentencing Act 2002 (and amendments)
- Parole Act 2002 (and amendments)
- Victims' Rights Act 2002

Would you be willing to talk to a researcher about it?

In the last decade or so, psychologists employed in forensic settings have played an increasing role in legal decision-making. Some authors have suggested that this has created unprecedented challenges for these psychologists (Wilson, Tamatea & Riley, 2007; Ward, 2013). This study sets out to explore these challenges, and what can be done to mitigate them.

If you are a clinical psychologist or a general psychologist employed in a correctional or other forensic setting, we would be interested in hearing about your experiences.

For more information, contact Virginia Jones, a clinical psychology doctoral student at the University of Auckland.

Email: vjon555@aucklanduni.ac.nz

Approved by the University of Auckland Human Participants' Ethics Committee on 30th November 2015, for three years. Reference number 016507.

Appendix B – Advertisement 2

SCIENCE
SCHOOL OF PSYCHOLOGY

Are you a psychologist employed in a forensic setting?

Would you be willing to talk to a researcher about your experiences?

In the last decade or so, psychologists employed in forensic settings have played an increasing role in legal decision-making. Some authors have suggested that this has created unprecedented challenges for these psychologists (Wilson, Tamatea & Riley, 2007; Ward, 2013). This study sets out to explore these challenges, and what can be done to mitigate them.

If you are a clinical psychologist or a general psychologist employed in a correctional or other forensic setting, we would be interested in hearing about your experiences.

For more information, contact Virginia Jones, a clinical psychology doctoral student at the University of Auckland.

Email: vjon555@aucklanduni.ac.nz

Approved by the University of Auckland Human Participants' Ethics Committee on 30th November 2015, for three years. Reference number 016507.

Appendix C – Participant Information Sheet

PARTICIPANT INFORMATION SHEET
Psychologist Interview

Project Title: Experiences of New Zealand psychologists in a changing legislative context

Researcher
My name is Virginia Jones and I am a student in the Clinical Psychology Doctoral programme at the University of Auckland. I am supervised by Dr Gwenda Willis and Associate Professor Suzanne Barker-Collo.

The Project
In the last decade or so, psychologists employed in forensic settings have played an increasing role in legal decision-making. Some authors have suggested that this has created unprecedented challenges for these psychologists (Wilson, Tamatea & Riley, 2007; Ward, 2013). This study sets out to explore these challenges, and what can be done to mitigate them. The project will continue for three years.

Participation in the Research
You are invited to participate in this research because, as a psychologist practising in a forensic setting in New Zealand, you work at the interface between psychology and the law in your everyday employment. Your participation is voluntary.
You will receive a small gift voucher, to the value of $20, in recognition of the time you have contributed to the research project.

Project Procedures
You will be interviewed face-to-face for about 60 minutes about your experiences working in forensic settings.
You may withdraw at any time before or during participation in the research. If you complete an interview, you may withdraw any data traceable to you up to two weeks after completion. You may also request a copy of the interview transcript (with all identifying information removed), in order to edit the contents if you wish.
It is not anticipated that participating in the research will cause distress or discomfort. However, in the unlikely event of this occurring, the researcher will endeavour to suggest numbers and agencies who might be able to provide support.

Data Storage, Retention, Destruction and Future Use
Only the researcher and supervisors, Dr Gwen Willis and Associate Professor Suzanne Barker-Collo, will have access to the data.
Consent forms and transcription data will be stored separately in secure storage (i.e., locked filing cabinets) in Dr Gwen Willis's office. Consent forms will be destroyed by shredding, 6 years after publication, transcription data 10 years after publication. Electronic transcription data will be permanently deleted from the University computer.

Anonymity and Confidentiality
The preservation of confidentiality is paramount. The information you share with the researcher about your clients' or your own behaviour will remain confidential to her and her supervisors. A confidentiality agreement will be signed by any party involved in transcribing interview data. If the information you provide is published, this will be done in a way that does not identify you as its source. A copy of the research will be made available to you if you wish.

Contact Information

Researcher	Co-Investigator	Supervisor
Virginia Jones School of Psychology vjon555@aucklanduni.ac.nz	Dr Gwen Willis School of Psychology g.willis@auckland.ac.nz	Assoc. Professor Suzanne Barker-Collo School of Psychology s.barker-collo@auckland.ac.nz

Appendix D – Consent Form

CONSENT FORM FOR INTERVIEW

Psychologist Participants

THIS FORM WILL BE HELD FOR A PERIOD OF 6 YEARS

Project Title: Experiences of New Zealand psychologists in a changing legislative context

Researcher: Virginia Jones

I have read the Participant Information Sheet and I have understood the nature of the research and why I have been selected. I have had the opportunity to ask questions and have them answered to my satisfaction.

- I agree to take part in this research
- My participation is voluntary
- I understand that I will be interviewed for approximately 60 minutes
- I understand that I will be discussing my experiences of working with law and order legislation
- I understand that the interview will be audiotaped
- I understand that a third party who has signed a confidentiality agreement may be transcribing the audio recordings
- I understand that I am free to withdraw participation at any time before and during the interview, and to withdraw any data traceable to me up to two weeks after the interview
- I understand that I may receive a transcript of the interview for editing
- I give permission for my interview data to be quoted anonymously in a later part of the study, or in publications arising from this study; however I understand that details about my clients' or my own behaviours will be changed if necessary to protect anonymity
- I wish / do not wish to receive a summary of findings
- I understand that interview transcripts will be kept for a period of 10 years, consent forms for 6 years, after which they will be destroyed
- I may contact the researcher via email at any time (vjon555@aucklanduni.ac.nz)

Name ____

Signed ____

Date ____

Approved by the University of Auckland Human Participants Ethics Committee on 30th November 2015 for three years. Reference Number: 016507

Appendix E – Interview Schedule

Interview Schedule
Experiences of New Zealand psychologists in a changing legislative context

INTRODUCE SELF AND TOPIC

CONSENT FORM, PARTICIPANT INFORMATION SHEET, RECORDING
QUESTIONS

DEMOGRAPHIC INFORMATION
Gender
Age group
Ethnicity

TRAINING
General training (Where and when?)
Specialist forensic training (Usefulness of?)

PSYCHOLOGIST ROLES
Current role
Other forensic roles
General mental health roles

- Time in each role?
- What did these roles involve? (Assessment, therapy, court etc)
- Legislation relevant to each role?

EXAMPLE LEGISLATION

- Parole (Extended Supervision Orders) Act 2014
- Public Safety (Public Protection Orders) Act 2014
- Sentencing Act 2002 (and amendments)
- Parole Act 2002 (and amendments)
- Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003
- Criminal Procedure (Mentally Impaired Persons) Act 2003
- Children, Young Persons, and Their Families Act 1989
- Others?

YOUR EXPERIENCES
Conflicts with what you see as best practice for psychologist

- e.g., compared to mental health
- e.g., what noticed when started in forensic setting
- specific examples?

Exploration of areas of potential conflict

- risk assessment including issues with instruments
- models used
- consent
- confidentiality
- relationships with clients
- dual roles
- cultural issues
- social justice and human rights
- other issues

How do you manage and/or reconcile the above difficulties?

- barriers to resolving satisfactorily

KOHA

References

Aberbach, J. D., & Rockman, B. A. (2002). Conducting and coding elite interviews. *PS: Political Science & Politics, December 2002*, 673-676.

Adshead, G. (2014). Three faces of justice: Competing ethical paradigms in forensic psychiatry. *Legal and Criminological Psychology, 19*, 1-12.

Allan, A. (2015). Ethics in psychology and law: An international perspective. *Ethics & Behavior, 25*, 443-457.

American Psychological Association. (1953). *Ethical standards of psychologists*. Washington, DC: Author.

American Psychological Association (1959). Ethical standards of psychologists. *American Psychologist, 14*, 279-282.

American Psychological Association. (2010). *Ethical principles of psychologists and code of conduct (with the 2010 amendments)*. Retrieved 8 May 2017 from http://www.apa.org/ethics/code/principles.pdf

American Psychological Association. (2013). Speciality guidelines for forensic psychology. *American Psychologist, 68*, 7-19.

Andrews, D.A., & Bonta, J. (2010). *The psychology of criminal conduct* (5th ed.). New Providence: LexisNexis.

Appelbaum, P.S. (1990). The parable of the forensic psychiatrist: Ethics and the problem of doing harm. *International Journal of Law and Psychiatry, 13*, 249-259.

Appelbaum, P. S. (1997). A theory of ethics for forensic psychiatry. *Journal of the American Academy of Psychiatry and the Law, 25*, 233–247.

Arrigo, B.A. (2013). Managing risk and marginalising identities on the society-of-captives thesis and the harm of social dis-ease. *International Journal of Offender Therapy and Comparative Criminology, 57*(6), 672-693.

Bakker, L., Riley, D., & O'Malley, J. (1999). *RoC risk of reconviction: Statistical models predicting four types of re-offending*. Christchurch, New Zealand: Department of Corrections.

Bamao, M., Robertson, P. & Ward, T. (2012). Ethical decision-making and forensic practice. *The British Journal of Forensic Practice, 14*(2), 81-91.

Barefoot v. Estelle, 103 S. Ct. 3383, 463 U.S. 880 (1983)

Beauchamp, T.L. and Childress, J.F. (1979). *Principles of biomedical ethics*. New York: Oxford University Press.

Beauchamp, T.L. and Childress, J.F. (2009). *Principles of biomedical ethics* (6th ed.). New York: Oxford University Press.

Becroft, A. & Norrie, S. (2017). Youth justice. In J. Gilbert & G. Newbold (Eds.), *Criminal justice: A New Zealand introduction* (pp. 250-278). Auckland University Press.

Bell, S. & Brookbanks, W. (2017). *Mental health law in New Zealand* (3rd ed.). Wellington: Thomson Reuters New Zealand Limited.

Bellve-Wack, R., & Simpson, A. (2007). Clinical assessment and management of violence risk in forensic populations. In W. Brookbanks & A. Simpson (Eds.), *Psychiatry and the law* (pp. 315-339). Wellington: LexisNexis New Zealand Limited.

Birgden, A., & Perlin, M.L. (2009). "Where the home in the valley meets the damp dirty prison": A human rights perspective on therapeutic jurisprudence and the role of forensic psychologists in correctional settings. *Aggression and Violent Behaviour, 14*, 256-263.

Bonta, J. (2002). Offender risk assessment: Guidelines for selection and use. *Criminal Justice and Behaviour, 29*, 355-379.

Boothby, J.L., & Clements, C.B. (2000). A national survey of correctional psychologists. *Criminal Justice and Behaviour, 27*(6), 716-732.

Boothby, J.L., & Clements, C.B. (2002). Job satisfaction of correctional psychologists: Implications for recruitment and retention. *Professional Psychological Research and Practice, 33*(3), 310-315.

Blackwell, S. (2011a). Psychological reports for the courts on convicted offenders. In F. Seymour, S. Blackwell & J. Thorburn (Eds.), *Psychology and the law in Aotearoa New Zealand,* (pp. 147-174). Wellington: New Zealand Psychological Society.

Blackwell, S. (2011b). Expert evidence: The conduct of expert witnesses. In F. Seymour, S. Blackwell & J. Thorburn (Eds.), *Psychology and the law in Aotearoa New Zealand,* (pp. 21-34). Wellington: New Zealand Psychological Society.

Braun, V., & Clarke, V. (2006). Using thematic analysis in psychology. *Qualitative Research in Psychology*, *3*(2), 77–101.

Brink, H. (1993). Validity and reliability in qualitative research. *Curationis, 16*(2), 35-38.

Brookbanks, W. (2002). Public policy, moral panics and the lure of anticipatory containment. *Psychiatry, Psychology and the Law, 9*(2), 127-135.

Brown, J. (2016). Psychiatry, psychology, and crime: Historical and current aspects. *LSE Research Online*. Retrieved from http://eprints.lse.ac.uk/64340/

Bryman, A. (2004). *Social research methods* (2nd ed.). Oxford, United Kingdom: Oxford University Press.

Bryman, A. (2016). *Social research methods* (5th ed.). Oxford, United Kingdom: Oxford University Press.

Bush, S.S., Connell, M.A., & Denney, R.L. (2006). *Ethical practice in forensic psychology: A systematic model for decision-making*. Washington, DC: American Psychological Association.

Candilis, P. J. (2009). The revolution in forensic ethics: Narrative, compassion, and a robust professionalism. *Psychiatric Clinics of North America, 32*, 423–435.

Casey, S., Day, A., Vess, J., & Ward, T. (2012). *Foundations of offender rehabilitation*. Abingdon: Routledge Books.

Clarke, V., & Braun, V. (2013). Teaching thematic analysis: Overcoming challenges and developing strategies for effective learning. *The Psychologist*, *26*(2), 120–123.

Clingempeel, W.G., Mulvey, E. & Reppucci, N.D. (1980). A national study of ethical dilemmas of psychologists in the criminal justice system. In J. Monahan (Ed.), *Who is the client? The ethics of psychological intervention in the criminal justice system* (pp. 126-153). Washington, DC: American Psychological Association.

Coombes, L., & Te Hiwi, E. (2007). Social justice, community change. In I.M. Evans, J.J. Rucklidge & M. O'Driscoll (Eds.), *Professional practice of psychology in Aotearoa New Zealand* (pp. 379-396). Wellington: New Zealand Psychological Society.

Coombes, L., Denne, S., & Rangiwananga, M. (2016). Social justice and community change. In W.W. Waitoki, J.S. Feather, N.R. Robertson, & J.J. Rucklidge (Eds.), *Professional practice of psychology in Aotearoa New Zealand* (3rd ed., pp. 437-450). Wellington: New Zealand Psychological Society.

Cording, J.R., Beggs Christofferson, S.M., & Grace, R.C. (2016). Challenges for the theory and application of dynamic risk factors. *Psychology, Crime & Law, 22*, 84-103.

Courts of New Zealand (n.d.). *Overview*. Retrieved from https://www.courtsofnz.govt.nz/about-the-judiciary/structure-of-the-court-system

Danziger, K. (1990). *Constructing the subject: Historical origins of psychological research*. Cambridge, United Kingdom: Cambridge University Press.

Davis, G., Seymour, F., & Read, J. (1997). Ethical dilemmas encountered by New Zealand registered psychologists: A national survey. *Bulletin of the New Zealand Psychological Society*, *91*, 7-14.

Deitchman, M. A., Kennedy, W. A., & Beckham, J. C. (1991). Self-selection factors in the participation of mental health professionals in competency for execution evaluations. *Law & Human Behavior, 15*, 287–303.

Denzin, N.K., & Lincoln, Y.S. (2005). Introduction: The discipline and practice of qualitative research. In N.K. Denzin & Y.S. Lincoln (Eds.), *The Sage handbook of qualitative research* (pp. 1-32). Thousand Oaks, California: Sage Publications Limited.

Douglas, K., & Ogloff, J. (2003). Multiple facets of risk for violence: The impact of judgmental specificity on structured decisions about violence risk. *International Journal of Forensic Mental Health, 2*(1), 19-34.

Doyle, D. J., Ogloff, J., & Thomas, S. (2011). Designated as dangerous: Characteristics of sex offenders subject to post-sentence orders in Australia. *Australian Psychologist, 46*, 41-48.

Eastman, N. (2002). The ethics of clinical risk assessment and management: Developing law and the role of mental health professionals. In N.S. Gray, J.M. Laing, & L. Noaks (Eds.), *Criminal justice, mental health and the politics of risk* (pp. 49-66). London: Cavendish Publishing Limited.

Eatwell, J., and Wilson, I. (2007). The effective use of psychometric assessments in decision making. In I.M. Evans, J.J. Rucklidge & M. O'Driscoll (Eds.), *Professional practice of psychology in Aotearoa New Zealand* (pp. 317-333). Wellington: New Zealand Psychological Society.

Edgeley, M. (2006). Preventing crime or punishing propensities: A purposive examination of the preventative detention of sex offenders in Queensland and Western Australia. *University of Western Australia Law Review, 33*, 351-386.

Evans, C. (2005). Ethical issues in forensic psychiatry. In W. Brookbanks & A. Simpson, (Eds.), *Psychiatry and the law*, (pp. 15-40). Wellington: LexisNexis New Zealand Limited.

Fernandez, Y.M., Harris, A.J.R., Hanson, R.K, & Sparks, J. (2014). *Stable-2007 coding manual – revised 2014*.

Flick, U. (2009). *An introduction to qualitative research* (4th ed.). Thousand Oaks, California: Sage.

Gannon, T.A., & Ward, T. (2014). Where has all the psychology gone? A critical review of evidence-based psychological practice in correctional settings. *Aggression and Violent Behaviour, 19*, 435-446.

Gavaghan, C., Snelling, J., & McMillan, J. (2014). *Better and better and better? A legal and ethical analysis of preventive detention in New Zealand*. Report for the New Zealand Law Foundation: University of Otago.

Glazebrook, S. (2010). Risky business: Predicting recidivism. *Psychiatry, Psychology & Law, 17*, 88-120.

Gottfredson, S. D., & Moriarty, L. J. (2006). Statistical risk assessment: Old problems and new applications. *Crime & Delinquency, 52*, 178−200.

Grace, R.C., McLean, A., & Beggs Christofferson, S. (2017). Psychology and criminal justice. In J. Gilbert & G. Newbold (Eds.), *Criminal justice: A New Zealand introduction* (pp. 209-224). Auckland University Press.

Gray, A. (2015). Preventive detention in New Zealand: A critical comparative analysis. *New Zealand Universities Law Review, 26*(3), 557-586.

Guba, E., & Lincoln, Y. (1994). Competing paradigms in qualitative research. In N. Denzin & Y. Lincoln (Eds.), *Handbook of qualitative research* (pp. 105–117). Thousand Oaks, California: Sage.

Guest, G., MacQueen, K., & Namey, E. E. (2012). Introduction to applied thematic analysis. In G. Guest, K. MacQueen & E. E. Namey (Eds.), *Applied thematic analysis*. Thousand Oaks, California: Sage Publications.

Gutierrez, L. Helmus, L.M., & Hanson, R.K. (2016). What we know and don't know about risk assessment with offenders of indigenous heritage. *Journal of Threat Assessment & Management, 3*, 97-106.

Haag, A. M. (2006). Ethical dilemmas faced by correctional psychologists in Canada. *Criminal Justice and Behavior, 33*, 93–109.

Halpern, A.L., Halpern, J.H. & Doherty, S.B. (2008). "Enhanced" interrogation of detainees: Do psychologists and psychiatrists participate? *Philosophy, Ethics and Humanities in Medicine, 3,* 21. Retrieved from https://peh-med.biomedcentral.com

Hanson, R.K., Helmus, L.M., & Harris, A.S.R. (2015). Assessing the risk and needs of supervised sexual offenders. *Criminal Justice & Behaviour, 42*, 1205-1224.

Hanson, R.K., & Thornton, D. (2000). Improving risk assessments for sex offenders: A comparison of three actuarial scales. *Law and Human Behaviour, 24*(1), 119-136.

Hare, R. D. (2003). *The Hare Psychopathy Checklist–Revised* (2nd ed.). Toronto, Ontario, Canada: Multi-Health Systems.

Harris, G. (2003). Men in his category have a 50% likelihood, but which half is he in? Comments on Berlin, Galbreath, Geary and McGlone. *Sexual Abuse: A Journal of Research and Treatment*, *15,* 389-392.

Hart, S. (1998). The role of psychopathy in assessing risk for violence: Conceptual and methodological issues. *Legal and Criminological Psychology, 3*, 121-137.

Heilbrun, K. (1997). Prediction versus management of violence. *Criminal Behaviour and Mental Health, 11*, S73-S76.

Heilbrun, K., Dvoskin, J., Hart, S., & McNiel, D. (1999). Violence risk communication: Implications for research, policy, and practice. *Health, Risk and Society*, *1*, 91–106.

Helmus, L., Thornton, D., Hanson, R. K., & Babchishin, K. M. (2012). Improving the predictive accuracy of Static-99 and Static-2002 with older sex offenders: Revised age weights. *Sexual Abuse: Journal of Research and Treatment*, *24*, 64–101.

Hudson, B. (1996). *Race, crime and justice.* Aldershot: Dartmouth.

Hudson, B. (2002). Balancing rights and risks: Dilemmas of justice and difference. In N.S. Gray, J.M. Laing & L. Noaks (Eds.), *Criminal justice, mental health and the politics of risk* (pp. 99-122). London: Cavendish Publishing Limited.

Indig, D., Gear, C., & Wilhelm, K. (2016). *Comorbid substance use disorders and mental health disorders among New Zealand prisoners*. Wellington, New Zealand: Department of Corrections.

Janus, E. S., & Prentky, R. A. (2003). Forensic use actuarial risk assessment with sex offenders: Accuracy, admissibility and accountability. *American Criminal Law Review, 40*. Retrieved from https://pdfs/semanticscholar.org

Knight, R.G., & Linscott, R.J. (2007). Informed consent in research and clinical practice with adults. In I.M. Evans, J.J. Rucklidge, M. O'Driscoll (Eds.), *Professional practice of psychology in Aotearoa New Zealand*, (pp. 103-115). Wellington: New Zealand Psychological Society.

Lambie, I., & Becroft, A. (2011). Psychological reports for the Youth Court. In F. Seymour, S. Blackwell & J. Thorburn (Eds.), *Psychology and the law in Aotearoa New Zealand,* (pp. 109-118). Wellington: New Zealand Psychological Society.

Lambie, I., Krynen, A., & Best, C. (2016). *Youth justice secure residences: A report on the international evidence to guide best practice and service delivery.* Wellington, New Zealand: Ministry of Social Development.

Levenson, J. S., Willis, G. M., & Prescott, D. S. (2015). Adverse childhood experiences in the lives of female sex offenders. *Sexual Abuse: A Journal of Research and Treatment, 27*, 258-283. doi: 10.1177/1079063214544332

Levenson, J. S., Willis, G. M., & Prescott, D. S. (2016). Adverse childhood experiences in the lives of male sex offenders: Implications for trauma-informed care. *Sexual Abuse: A Journal of Research and Treatment, 28*, 340-359. doi: 10.1177/1079063214535819

Lincoln, Y. S., & Guba, E. G. (1985). *Naturalistic inquiry*. Thousand Oaks, California: Sage.

Maden, A. (2002). Risk management in the real world. In N.S. Gray, J.M. Laing, & L. Noaks (Eds.), *Criminal justice, mental health and the politics of risk* (pp. 15-25). London: Cavendish Publishing Limited.

Madill, A., & Gough, B. (2008). Qualitative research and its place in psychological science. *Psychological Methods, 13*(3), 254-271.

Martinson, R. (1974). What works? Questions and answers about prison reform. *The Public Interest, 35*, 22–54.

McSherry, B. (2014). *Managing fear: The law and ethics of preventive detention and risk assessment*. New York: Routledge.

McSherry, B., Keyzer, P., & Freiberg, A. (2007). *Preventive detention for 'dangerous' offenders in Australia: A critical analysis and proposals for policy development.* Report to the Criminology Research Council.

Melton, G.B., Petrila, J., Poythress, N.G., & Slobogin, C. (1997). *Psychological evaluations for the courts: A handbook for mental health professionals and lawyers* (2nd ed.). New York: Guilford Press.

Merriam, S. B. (2002). *Qualitative research in practice: Examples for discussion and analysis*. San Francisco, California: Jossey-Bass.

Merriam, S. B. (2009). *Qualitative research: A guide to design and implementation*. San Francisco, California: Jossey Bass.

Merriam, S. B., & Tisdell, E. J. (2016). *Qualitative research: A guide to design and implementation* (4th ed.). San Francisco: Jossey Bass.

Milgram, S. (1963). Behavioral study of obedience. *Journal of Abnormal and Social Psychology, 67*, 371–378.

Ministry of Health. (2017). *Office of the Director of Mental Health Annual Report 2016.* Wellington, New Zealand: Ministry of Health.

Monahan, J. (1981). *The clinical prediction of violent behaviour*. Beverly Hills, California: Sage.

Moran, J. (2014). The Public Safety (Public Protection Orders) Bill 2012: Is post-sentence detention of sex offenders consistent with human rights? *Victoria University of Wellington Law Review, 45,* 133-160.

Mullen, P.E. (2001). The prediction and management of violence. *Criminal Behaviour and Mental Health, 11*, S73-S76.

Murrie, D.C., Boccaccini, M.T., Guarnera, L.A., & Rufino, K.A. (2013). Are forensic experts biased by the side that retained them? *Psychological Science, 24*(10), 1889-1897.

Nagy, T.F. (2011). *Essential ethics for psychologists: A primer for understanding and mastering core issues*. Washington, DC, American Psychological Association.

Newbold, G. (2017). Corrections. In J. Gilbert & G. Newbold (Eds.), *Criminal justice: A New Zealand introduction* (pp. 115-137). Auckland University Press.

New Zealand Psychological Society (1986). Code of Ethics 1986. Reprinted in H. Love & W. Whittaker (Eds.), (1997), *Practice issues for clinical and applied psychologists in New Zealand* (pp. 431-440). Wellington, New Zealand: Author.

New Zealand Psychological Society (2002). *Code of ethics for psychologists working in Aotearoa/New Zealand.* Wellington, New Zealand: Author.

Ogloff, J.R.P. (1995). Information sharing and related ethical and legal issues for psychologists working in corrections. In J.R.P. Ogloff (Ed.), *Forensic psychology: Policy and practice in corrections* (pp. 15-23). Ottawa, Ontario: Correctional Service of Canada.

Orange, C. (1987). *The Treaty of Waitangi*. Wellington, New Zealand: Allen and Unwin and Port Nicholson Press.

Osborne, (2011). Psychologists' obligations and responsibilities. In F. Seymour, S. Blackwell & J. Thorburn (Eds.), *Psychology and the law in Aotearoa New Zealand,* (pp. 5-12). Wellington: New Zealand Psychological Society.

Pirelli, G. & Zapf, P.A. (2008). An investigation of psychologists' practices and attitudes toward participation in capital evaluations. *Journal of Forensic Psychology Practice, 8*, 39-66.

Polaschek, D.L.L. (2003). Criminal justice psychology in Aotearoa/New Zealand: Introduction to the special feature. *New Zealand Journal of Psychology, 32*, 64-66.

Polaschek, D.L.L. (2007). Forensic/criminal justice psychology. In A. Weatherall, M. Wilson, D. Harper, & J. McDowall (Eds.), *Psychology in Aotearoa/New Zealand*. Auckland, New Zealand: Pearson.

Pettifor, J.L., & Sawchuk, T.R. (2006). Psychologists' perceptions of ethically troubling incidents across international borders. *International Journal of Psychology, 41*, 216-225.

Pope, K.S., & Vetter, V.A. (1992). Ethical dilemmas encountered by members of the American Psychological Association. *American Psychologist, 47*, 397-411.

Pratt, J. (2013). *A punitive society: Falling crime and rising imprisonment in New Zealand*. Wellington, New Zealand: Bridget Williams Books.

Pratt, J. & Clark, M. (2005). Penal populism in New Zealand. *Punishment and Society, 7*(3), 303-322.

Quinsey, V.L., Harris, G.T., Rice, M.E., & Cormier, C.A. (1998). *Violent offenders: Appraising and managing risk*. Washington, DC: American Psychological Association.

Reynolds, N. (2013). One size doesn't fit all: Reducing re-offending – a psychological perspective. *Practice: The New Zealand Corrections Journal, 1*(1), 13-14.

Riley, D., & Rush, C. (2000). Psychologists as agents of social change: The scientist-practitioner model in action. *Bulletin of the New Zealand Psychological Society, 98*, 25-29.

Ryan, J., Wilson, N., Kilgour, G., & Reynolds, N. (2014). Balancing efficiency and accuracy: Guidelines for the psychological assessment of extended supervision orders for child sex offenders in New Zealand. *Psychiatry, Psychology and Law, 21*(1), 139-157.

Sarker, S.P., & Adshead, G. (2002). Ethics in forensic psychiatry. *Current Opinion in Psychiatry, 15*(5), 527-531.

Scoones, C.D., Willis, G.M. & Grace, R.C. (2012). Beyond static and dynamic risk factors: The incremental validity of release planning for predicting sex offender recidivism. *Journal of Interpersonal Violence, 27*(2), 222-238.

Scurich, N. & John, R.S. (2011). The effect of framing actuarial risk probabilities on involuntary civil commitment decisions. *Law and Human Behaviour, 35*, 83-91.

Seymour, F.W. (2007). Ethics: The foundation for practice. In I.M. Evans, J.J. Rucklidge, M. O'Driscoll (Eds.), *Professional practice of psychology in Aotearoa New Zealand*, (pp. 5-15). Wellington: New Zealand Psychological Society.

Seymour, F. (2016). Ethics: The foundation for practice. In W.W. Waitoki, J.S. Feather, N.R. Robertson, & J.J. Rucklidge (Eds.), *Professional practice of psychology in Aotearoa New Zealand* (3rd ed., pp. 5-14). Wellington: New Zealand Psychological Society.

Seymour, F. & Nairn, R. (2012). Economic, political, and social influences on psychological ethics and ethics development: Aotearoa/New Zealand. In M.M. Leach, M.J. Stevens, G. Lindsay, A. Ferrero & Y. Korkut (Eds.), *The Oxford handbook of international psychological ethics*, (pp. 405-423). New York: Oxford University Press.

Shapiro, D.L. (2016). Ethical issues in forensic psychology and psychiatry. *Ethics, Medicine & Public Health, 2*, 45-58.

Sinclair, (2012). Ethical principles, values and codes for psychologists: An historical Journey. In M.M. Leach, M.J. Stevens, G. Lindsay, A. Ferrero & Y. Korkut (Eds.), *The Oxford handbook of international psychological ethics*, (pp. 3-18). New York: Oxford University Press.

Simpson, A., & Evans, C. (2005). Private space: the contrasting nature of clinical and medico-legal access to the self. *The Journal of Forensic Psychiatry and Psychology, 16*, 344-356.

Skelton, A., Riley, D., Wales, D., & Vess, J. (2006). Assessing risk for sexual offenders in New Zealand: Development of a computer scored risk measure. *Journal of Sexual Aggression, 12,* 277-286.

Skirrow, P. & Mathieson, A. (2016). Principles of psychological work with adults with intellectual disabilities in Aotearoa New Zealand. In W.W. Waitoki, J.S. Feather, N.R. Robertson, & J.J. Rucklidge (Eds.), *Professional practice of psychology in Aotearoa New Zealand* (3rd ed., pp. 477-490). Wellington: New Zealand Psychological Society.

Stone, A.A. (1984). The ethical boundaries of forensic psychiatry: A view from the ivory tower. *Bulletin of the American Academy of Psychiatry and the Law, 12*, 209-219.

Stone, A.A. (1994). Revisiting the parable: Truth without consequences. *International Journal of Law and Psychiatry, 17*, 79- 97.

Sullivan, D.H., Mullen, P.E., & Pathe, M.T. (2005). Legislation in Victoria on sexual offenders: Issues for health professionals. *Medical Journal of Australia, 183*, 318-320.

Szmukler, G. & Rose, N. (2013). Risk assessment in mental health care: Values and costs. *Behavioural Sciences and the Law, 31*(1), 125-140.

Tamatea, A.J., Lascelles, N., & Polaschek, D.L.L. (2016). Criminal justice psychology in Aotearoa New Zealand: Issues for practitioners. In W.W. Waitoki, J.S. Feather, N.R. Robertson, & J.J. Rucklidge (Eds.), *Professional practice of psychology in Aotearoa New Zealand* (3rd ed., pp. 463-475). Wellington: New Zealand Psychological Society.

Tassell, N.A., Herbert, A.M.L., Evans, I.M., & Young, P.T.A. (2012). Principles of indigenous ethics and psychological interventions. In M.M. Leach, M.J. Stevens, G. Lindsay, A. Ferrero & Y. Korkut (Eds.), *The Oxford handbook of international psychological ethics*, (pp. 176-190). New York: Oxford University Press.

Taylor, J.E., & Dickson, J.A. (2007). Confidentiality and privacy. In I.M. Evans, J.J. Rucklidge & M. O'Driscoll (Eds.), *Professional practice of psychology in Aotearoa New Zealand* (pp. 131-146). Wellington: New Zealand Psychological Society.

United Nations (1984). *Universal Declaration of Human Rights*. Retrieved 17 June 2016, from http://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf.

Universal Declaration of Ethical Principles for Psychologists. (2008). Retrieved from http://www.iupsys.org/ethics/univdecl2008.html

Vess, J. (2009a). Fear and loathing in public policy: Ethical issues in laws for sex offenders. *Aggression and Violent Behaviour, 14*, 264-272.

Vess, J. (2009b). Risk assessment of sexual offenders for extended supervision orders in New Zealand: Basic principles and current practice. *Journal of Child Sexual Abuse, 18*, 174-189.

Vess, J. & Eccleston, L. (2009). Extended supervision of sex offenders in Australia and New Zealand: Differences in implementation across jurisdictions. *Psychiatry, Psychology & Law, 16*, 271-287.

Vess, J., Ward, T., & Yates, P.M. (2017). The ethics of risk assessment. In K.D. Browne, A.R. Beech, L.A. Craig, & S. Chou (Eds.), *Assessments in forensic practice: A handbook* (1st ed., pp. 370-386). Chichester, United Kingdom: John Wiley & Sons Limited.

Visser, S. (2011). Assessment and care of offenders with mental impairments. In F. Seymour, S. Blackwell & J. Thorburn (Eds.), *Psychology and the law in Aotearoa New Zealand,* (pp. 193-204). Wellington: New Zealand Psychological Society.

Ward, T. (2013). Addressing the dual relationship problem in forensic and correctional practice. *Aggression and Violent Behavior, 18*, 92–100.

Ward, T. (2014). The dual relationship problem in forensic and correctional practice: Community protection or offender welfare? *Legal and Criminological Psychology, 19*, 35-39.

Ward, T. (2017). Ethical issues in the treatment of offenders. In J. Davies & C. Nagi (Eds.), *Individual psychological therapies in forensic settings: Research and practice* (pp. 213-227). New York: Routledge.

Ward, T. & Birgden, A. (2007). Human rights and clinical correctional practice. *Aggression and Violent Behaviour, 12*, 628-643.

Ward, T. & Birgden, A. (2009). Accountability and dignity: Ethical issues in forensic and correctional practice. *Aggression and Violent Behaviour, 14*, 227-231.

Ward, T., Gannon, T.A., & Fortune, C. (2015). Restorative justice-informed moral acquaintance: Resolving the dual role problem in correctional and forensic practice. *Criminal Justice and Behaviour, 42*(1), 45-57.

Ward, T. & Maruna, S. (2007). *Rehabilitation: Beyond the risk assessment paradigm.* London: Routledge.

Ward, T. & Moreton, G. (2008). Moral repair with offenders: Ethical issues arising from victimization experiences. *Sexual Abuse: A Journal of Research and Treatment, 20,* 305-322.

Ward, T., & Salmon, K. (2009). The ethics of punishment: Correctional practice implications. *Aggression and Violent Behavior, 14,* 239–247.

Ward, T., & Syverson, K. (2009). Human dignity and vulnerable agency: An ethical framework for forensic practice. *Aggression and Violent Behaviour, 14*, 94-105.

Webb, O., Duff, M., & Reid, M. (2011). Assessment and care of offenders with intellectual disabilities. In F. Seymour, S. Blackwell & J. Thorburn (Eds.), *Psychology and the law in Aotearoa New Zealand,* (pp. 205-214). Wellington: New Zealand Psychological Society.

White, M. (2015). Scott Watson: The interview. *North & South, December 2015*, 36-52.

Wilkinson, R. & Pickett, K. (2009). *The spirit level: Why equality is better for everyone.* London: Penguin.

Willig, C., & Stainton-Rogers, W. (2008). Introduction. In C. Willig & W. Stainton-Rogers (Eds.), *The Sage handbook of qualitative research in psychology*, (pp. 1-14). London: Sage.

Willis, G.M., & Grace, R.C. (2009). Assessment of community reintegration planning for sex offenders: Poor planning predicts recidivism. *Criminal Justice and Behaviour, 36*(5), 494-512.

Wilson, N.J., Tamatea, A., & Riley, D. (2007). Psychology in a criminal justice context: Principles and interventions. In I.M. Evans, J.J. Rucklidge & M. O'Driscoll (Eds.), *Professional practice of psychology in Aotearoa New Zealand* (pp. 429-444). Wellington: New Zealand Psychological Society.

Wong, S.C.P. & Gordon, A. (2006). The validity and reliability of the Violence Risk Scale: A treatment-friendly violence risk assessment tool. *Psychology, Public Policy, and Law, 12*, 279-309.

Workman, K. & McIntosh, T. (2013). Crime, imprisonment and poverty. In M. Rashbrooke (Ed.), *Inequality: A New Zealand crisis* (pp. 120-133). Wellington, New Zealand: Bridget Williams Books.

Wundersitz, J. (2000). Juvenile justice in Australia: Towards the new millennium. In D. Chappell & J. Wilson (Eds.), *Crime and the criminal justice system in Australia: 2000 and beyond*. Sydney: Butterworths.