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A STUDY OF FAMILY COURT REPORT
WRITERS: THEIR PRACTICES RELATING
TO CHILD CARE AND PROTECTION
CUSTODY EVALUATIONS, AND THEIR
VIEWS ABOUT THE BEST INTEREST OF
THE CHILD STANDARD AND
MANDATORY REPORTING OF CHILD
ABUSE.

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requirements for the degree of Master of Arts in
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ABSTRACT

This is the first known study of psychologists and their evaluations of children specifically subject to care and protection Family Court custody proceedings, and replicates and extends some overseas research. The Family Court refers to these psychologists as report writers. The evaluations are referred to as s178 Children, Young Persons, and Their Families Act (1989) psychological reports. Overall, report writers in this study meet the criteria to be considered as forensic experts. When compared to overseas studies (e.g., LaFortune & Carpenter, 1998), the most popular evaluation procedures used here were similar with the exception of the use of test instruments. It was found that report writers here (a) do not often use test instruments, (b) do not utilise a wide range of instruments, and (c) do not use test instruments specifically designed for custody evaluations. Report writers do believe that they have an important contribution to make in Family Court matters. The majority also expressed positive comments about this type of work. However, it does appear that report writers are operating in some respects within various sets of guidelines, but not so in other respects. In particular, and contrary to the guidelines, report writers provide recommendations, do not obtain relevant on-going training or engage in the administration of appropriate tests, and importantly do not appear to keep current with relevant literature. Furthermore, it is recommended that one set of guidelines be developed and that these offer greater levels of specificity. This research also extends the study of Jameson, Ehrenberg, and Hunter (1997) that looked into factors relating to the best interests of the child standard. Abuse factors (e.g., sexual and physical) rated the highest among report writers. Many new factors introduced for this study, including historic abuse, were also highly rated (e.g., emotional abuse and/or neglect, child's safety with other children, and child's physical or psychological vulnerability). Participants were also surveyed concerning the mandatory reporting of child abuse. The majority do not favour its introduction. If such a policy were to be introduced, the majority of participants want professionals who interact with children, particularly medical doctors and school teachers, to report confirmed incidents of physical abuse, sexual abuse, and the neglect of physical needs. The Discussion considers the value of one coherent set of guidelines for report writers, which includes up to date research findings.

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CHAPTER ONE

LITERATURE REVIEW

1.1 Introduction

Two societal values direct the actions taken with regard to children's services. The first of these values is the care and protection of children, which is now represented in the best interests of the child standard. It is this concept that enables intervention by the state. The second societal value is family sanctity, which affirms the privacy and authority held within the individual family, including the belief that parents have the right to raise their children as they wish. Both of these values provide the foundation for decisions made with regard to children (Stein & Rzepnicki, 1983).

The concept of child protection is relatively new, arising from social, legal and theological developments in the late nineteenth and twentieth centuries (Amer, 1999). Intervention into family life, and the subsequent child custody decisions have immense ramifications, not only for the individual child, but also for the parents, siblings, and others in the life of that child. Due to the immediate and long term effects of family disruption (e.g., divorce, abuse) on the child's psychological wellbeing, custody evaluations and child custody decision making by the court receives continued attention and examination (Sales, Manber, & Rohman, 1992).

The literature concerns itself with a range of issues related to custody and access with regard to child protection matters. Examples of literature include: (a) the contribution of the clinical psychologist in determining whether a child has suffered or is likely to suffer significant harm, the parent's potential to change, and the degree of parent support required (Harnett, 1995); (b) psychological testimony regarding the bonding of a child taken into care (Johnson & Torres, 1994); (c) a basic model for child abuse evaluations (Lawritson, 1987); (d) techniques in abuse/neglect evaluations (Melton, Petril, Poythress, & Slobogin, 1997); (e) planning for children in the care of the state, including the increasing recognition for the involvement of a psychologist (Langelier & Nurcombe, 1985); (f) significant agreement found among mental health, child welfare and judicial systems regarding recommendations/dispositions for child custody in serious cases of child abuse (Butler, Atkinson, Magnatta, & Hood, 1995); and (g) measuring the progress made in meeting the needs of seriously abused

children who have gone through court proceedings (Bishop, Murphy, Hicks, Quinn, Lewis, Grace, & Jellinek, 2000). However, in general, relatively little attention is paid to child protection custody issues, though the literature appears to be expanding.

A substantial amount of literature exists concerning issues related to family preservation, child protection, child in care, or children out-of-care, but not directly involving custody matters relating to child protection. Examples of this literature include: (a) family preservation (Berliner, 1993); (b) circumstances surrounding child deaths (Reder, Duncan, & Gray, 1993); (c) the effect of partner violence upon children (Wolak & Finkelhor, 1998); (d) intergenerational cycle of maltreatment (Zeanah & Zeanah, 1989); (e) child protection workers' decision-making factors in cases of child neglect (Alter, 1985); (f) association between removing children at risk and parental features (Arad, 2001); (g) the relationship between child abuse indicators and decision to separate the child from the family (Dalglish & Drew, 1989); (h) comparing police officers' and social workers' reasons for removing children from their homes (Mandel, Lehman, & Yuille, 1995); (i) developmental and mental health status of children age 0-3 entering state custody (Reams, 1999); (j) kinship care for children in need of placement (Mills & Usher, 1996); (k) separation of siblings in foster care (Hurvitz, 1950); (l) maintaining relationships between children in foster care and their parents and siblings (Grigsby, 1994); (m) maintaining sibling relationships while in foster care (Kosonen, 1996); (n) supervised access (Bailey, 1999); (o) parental visiting and association with reunification (Davis, Landsverk, Newton, & Ganger, 1996); (p) involving biological parents in long term foster care (Tiddy, 1986); (q) effects of court-ordered substance abuse treatment in child care and protection cases (Rittner & Dozier, 2000); (r) treatment foster care programmes (Thomlison, 1991); (s) bonding issues in relation to permanency planning (Stokes & Strothman, 1996); (t) permanency planning and recidivism in foster care (Murray, 1984); (u) family reunification of children in out-of-home care (Maluccio, Abramczyk, & Thomlison, 1996); (v) perceptions of growing up in foster care (Rest & Watson, 1984); (w) children's satisfaction in out-of-home care (Wilson & Conroy, 1999); and (x) risk factors and psychopathology among children in out-of-home care (Schneiderman, Connors, Fribourg, Gries, & Gonzales 1998);

Twenty-seven years ago, a leading author stated that almost no research existed in relation to divorce custody cases (Derdeyn, 1976). At the same time, Okpaku (1976) argued that the empirical data relating to child custody was virtually nonexistent and psychological theory relating to child custody was vague and generalised, which together placed the integrity of child custody decision-making at risk. However, there is a growing body of research and literature answering questions such as: (a) the effects of divorce on children; (b) the most frequent indications of poor adjustment by children to divorce arrangements; (c) what parental conditions are primary factors in determining a child's positive or negative adjustment to divorce (e.g., Amato & Keith, 1991; Bray & Hetherington, 1993; Elkin, 1991; Elliot & Bricklin, 1995; Felner & Terre, 1987; Grych & Fincham, 1999; Mayes & Molitor-Siegl, 1999; Melton et al., 1997; Saposnek, 1991; Solnit, 1983; Sorensen & Goldman, 1990; Wallerstein & Corbin, 1999; Whiteside, 1998). Unfortunately, the research in these areas have been criticised in relation to methodology and validity (Melton, 1999). For example, Melton (1999) stated that research into the effects of divorce on children focuses almost exclusively on white children from a few regions in the United States.

Research studies or literature discussing other issues related to custody disputes includes: (a) parents rights to raise their children (Langelier & Nurcombe, 1985); (b) developmental implications of attachment and loss in guardianship disputes (Bowler, 1999); (c) different custody arrangements (e.g., Felner & Terre, 1987; Kelly, 1994; Opie, 1993; Sorensen & Goldman, 1990); (d) criteria used by Courts to determine custody arrangements (e.g.; Sales et al., 1992; Settle & Lowery, 1982; Sorensen & Goldman, 1990); (e) gender bias in child custody decisions (Warshak, 1996); (f) bonding (e.g., Johnson & Torres, 1994); (g) children's rights in custody proceedings (Pearson, Munson, & Thoennes, 1983); (h) children being shifted to another geographical area and away from one parent (Halon, 1994); and (i) the interface between the best interest of the child model and family systems model in child custody evaluations (Wall & Amadio, 1994).

Thus, in the last twenty years, there has been a growing specialised body of literature concerning the involvement of clinicians in child custody disputes. This literature may be separated into the following areas: (a) the role of the clinician; (b) guidelines for clinicians; (c) custody evaluations processes; (d) the actual practice of clinicians

undertaking evaluations; and (e) best interests of the child. Before addressing these areas, and also the mandatory reporting of child abuse, family law and child protection in New Zealand (NZ) are first introduced to provide a context.

1.2 Family Law and Child Protection in New Zealand

The Family Court is a specialist Court dealing with family matters (Henaghan, 1992). Children subject to separation or divorce are dealt with under the Guardianship Act (1968). Children subject to protection issues are dealt with under the Children, Young Persons, and Their Families Act (1989) (CYPF Act).

New Zealand legislative law protecting against the abuse of children includes the Crimes Act (1961), the law of torts, CYPF Act, Guardianship Act (1968), and the Domestic Violence Act (1995). Furthermore, in 1993, NZ ratified the United Nations Convention on the Rights of the Child 1989 (Treadwell, 1997), which promotes the best interests of the child (Webb, Atkin, Caldwell, Adams, Henaghan, & Clarkson, 2001b) including protection from abuse and neglect.

Of course, no amount of legislation has prevented children being abused as shown in the following two examples. Kelly McRoberts, 6 years old, one Friday scored five out of five in a spelling test. "When he got home, he soiled his pants. His father, Peter McRoberts, savagely beat him with a stick and locked him in a sleepout for 48 hours in winter with no heating. With over sixty bruises and internal injuries, his brain haemorrhaged and he died alone". Marcus Grey, two months old, who as babies do, cried. "His father, Marcus Grey, bit him, bashed him, threw him, rubbed him on the ground, and cut him. He took four days to die" (Coddington, 2000, p. 2).

No one is able to advise on how many children die of abuse and neglect each year in NZ (Hodgson, 2000). The NZ public is said to be unaware of the true extent of violence against children, with only a few incidents making the media (Treadwell, 1997). Some of the examples making NZ media headlines in recent years have been: Hinewaoriki Karaitiana-Matiaha (2000); James Whakaruru (1999); Tishena Crosland (1997); Jaydon Perrin (1997); Veronica Takerei-Mahu (1995); Bristol siblings (1994); Jordan Ashby (1994); Craig Manukau (1992); and Delcelia Witika (1991). Some

deaths result in official reports, for example, in the case of James Whakaruru (Office of the Commissioner for Children, 2000) and the Bristol siblings (Davison, 1994).

As children do suffer child abuse and neglect, the state has a statutory right to intervene in the lives of children, young persons and their families. The CYPF Act determines this intervention. The CYPF Act has been described as coming from a sociological model (Cooper, 1993). The philosophies underpinning this Act are child and family involvement in decision-making, and family rather than professional decision-making power. An underlying legislative principle is that when the immediate nuclear family cannot adequately provide for the child's needs, the wider, extended family are the next best equipped to provide the care and support (Webb et al., 2001b). Another significant emphasis was the importance of cultural sensitivity, particularly regarding the indigenous Maori people of NZ (Maxwell, Seymour, & Vincent 1995b; Maxwell, Seymour, & Vincent, 1996b; Webb et al., 2001b).

Section 6 (CYPF Act) specifies that the welfare and interests of the child or young person shall be the first and paramount consideration. In cases of maltreatment, the Court and other persons are guided by the following principles: (a) a child's family, whanau, hapu, iwi, and family group should participate in decisions affecting the child; (b) wherever possible, the relationship between a child and his or her family, whanau, hapu, iwi, and family group should be maintained and strengthened; (c) consideration must always be given to how a decision will affect the welfare of the child and the stability of that child's family, whanau, hapu, iwi, and family group; (d) consideration should be given to the wishes of the child, and that those wishes should be given such weight as is appropriate to the circumstances, having regard to the age, maturity, and culture of the child; (e) endeavour to obtain the support of parents or guardians or other persons having the care of the child, and the child himself or herself; and (f) decisions affecting the child should, wherever practicable, be made and implemented within a time-frame appropriate to the child's sense of time.

In terms of the Court's role, the judge and those who exercise powers in care and protection proceedings are also required to be guided by these principles: (a) the child must be protected from harm; (b) that the primary role in caring for a child lies with the family, whanau, hapu, iwi, and family group; (c) the child's family should be

supported as much as possible; (d) minimal intervention; (e) minimum interruption to the child; (f) child removed only where there is serious risk; (g) links with family are to be maintained; (h) if child is removed, child should live in an appropriate family-like setting; (i) culturally appropriate placement; and (j) if the child cannot remain with or be returned to his or her family group, that child should be given an opportunity to develop a significant psychological attachment.

In determining abuse, the agencies with the statutory authority to investigate child abuse are the Department of Child Youth and Family Services (CYFS) and the Police (section 17 CYPF Act). The Police are generally involved with the more serious cases of abuse and often work alongside CYFS social workers. Table 1 refers to the findings of CYFS investigations for the three years ending 30 June 2000.

Table 1.

Notifications of Abuse and Neglect received by the Department of Child Youth and Family Services, and Findings for Years Ended 30 June (K. Brunton, personal communication, February 12, 2001).

	1998	1999	2000
Total number of notifications	24,359	27,255	26,861
Notifications requiring further action:	18,780	21,962	22,231
Findings not found (b)	7,660	10,416	9,361
Behavioural/relationship problems	4,291	4,558	3,528
Neglect	3,049	3,052	2,828
Emotional abuse	2,110	2,401	2,213
Physical abuse	2,312	2,382	2,142
Sexual abuse	1,622	1,485	1,171
Self harm	233	236	139
Findings not yet known (c)	295	400	3,381

Note: a. CYFS is able to record up to four findings per notification (K. Brunton, personal communication, February 16, 2001).

b. Findings not found are notifications of abuse or neglect, which were not substantiated.

c. Findings not yet known will include investigations not concluded and investigations not begun.

If a child is deemed to be at significant risk, that child may be removed from their parent's care by a statutory agency either by custodial consent and/or upon application to the Family Court. The statutory right to remove children from their caregiver is specified within the CYPF Act. Police do have emergency powers to remove children, and then place the children into the care of CYFS (sections 39 & 40 CYPF Act).

One possible outcome of a CYFS investigation is a referral for a Family Group Conference (FGC)¹. A FGC will only be held if a child is considered to be in need of care or protection. A referral for an FGC may be made by CYFS social worker, Police, Family Court, or any body or organization concerned with the welfare of the child (section 18 & 19 CYPF Act): "A family group conference is the pivotal statutory mechanism for achieving the legislative aims" (Webb et al., 2001b, p. 983). Decisions arising from an FGC may include: where the child will live; who has custody and access; who will have guardianship; who should obtain counselling; and a request for a psychologist report.

It is at this FGC, or at any subsequent time when the child is subject to CYPF Act Family Court proceedings, that an application may be made to the Family Court for a specialist report under s178 CYPF Act². The report options are: (a) medical; (b) psychiatric; and (c) psychological. Regarding a psychological report, with the agreement and direction of the Family Court judge, the Family Court appoints a psychologist to undertake a report on behalf of the Court. The brief, or areas the report writer should address, is usually prepared by the Counsel for Child (CFC), in consultation and agreement with the other parties. The CFC is also to confer with the specialist report writer about factors of which the psychologist should be aware (Smith, 1999a). The Court may also request a parent to attend a medical, psychiatric or psychological examination. If the parent refuses, the Court is entitled to draw such

¹ The FGC allows the opportunity for family and extended family to make decisions about the child's future. Within the FGC, professionals deliver reports, and then family deliberate and discuss future plans for the child. The FGC Coordinator (an employee of CYFS), the person or agency who made referral for the FGC, the Counsel for Child (if one appointed), and the family attempt to agree on recommendations. If the Family Court makes any order under the CYPF Act, the Family Court appoint counsel for child (CFC), a lawyer, to represent the child (s159 CYPF Act).

² The guidelines state that an order for a s178 report is normally made after the FGC (Family Courts' Working Party, 2001).

inferences from a parent's refusal "as appear to be proper in the circumstances" (section 178[4] CYPF Act).

Requests for Section 178 reports relate to the following matters heard by the Family Court in relation to the care and protection of a child or young person: (a) emergency applications to ensure a child's safety and to provide for emergency care (ss39-40); (b) applications for a declaration that a child or young person is in need of care and protection (ss67-68); (c) orders to ensure care (custody and guardianship orders, ss101-119); (d) protection (restraining orders, ss87-90); (e) support (support orders, ss91-100); and (f) the provision of services (service orders, s86) for a child or young person (Maxwell et al., 1995b:1996b).

The indicative number of s178 (CYPF Act) psychological reports requested for the year ended 30 June 2000 was 269³ (J. Moore, personal communication, March 19, 2001). A specialist medical, psychological or psychiatric report may also be requested under the Guardianship Act (1968)⁴. The willingness to have such non-legal expertise in guardianship, custody and access matters was first added with the inclusion of s29A in the 1980 Amendment to the Guardianship Act (1968). Section 29A allowed the Court to request a psychological, psychiatric, or medical report on the child. The indicative number of Section 29A (Guardianship Act, 1968) reports requested for the year ended 30 June 2000 was 1325. The Department for Courts are not able to break down this figure of 1325 into category types (i.e., medical, psychiatric, and psychological) (J. Moore, personal communication, March 19, 2001).

1.3 Role and Guidelines of Psychologists Working in the NZ Family Court

The psychologist preparing a s178 or s29A report is called a report writer. The basic function of the NZ report writer is to assist the Court in deciding what Court orders to make in relation to a child or young person (Maxwell, Seymour, & Vincent, 1995a:1996a). In a survey of Family Court judges, the purpose of specialist reports

³ Statistics are not available as to the ethnicity of children subject to Section 178 (CYPF Act, 1989) reports. However, as at March 2001, the ethnicity of children involved with CYFS were NZ Pakeha (48.75%), NZ Maori (37.21%), Pacific Island (9.3%), other (4.74%) (K. Brunton: personal communication, March 29, 2001).

⁴ The judge at times orders a psychological report when an application has been made for guardianship, custody, or access. These applications are usually connected to the divorce or separation of the parents.

was generally viewed as obtaining an objective or independent view, or specialist information regarding the child, and to assist the Court in the decision-making process (Department of Justice, 1993). In more specific terms, Goodwin & Richards-Ward (2002), state that the Court is seeking professional assistance to assess current relationships and risks within the family which impact on the child, and the consequences of those relationships and risks upon the child in future care arrangements. Overall, the report writer is to serve the Court and the practice of the report writer should be determined by what is in the best interests of the child (Smith, 1999a).

Some of the NZ literature refers only to s29A Guardianship Act (1968) report writers. However, it appears that the vast majority of this literature is also relevant to s178 report writers. Examples include: (a) the information gathered by the s29A report writer includes (i) personal information, (ii) assessment of the child's mental health, adjustment, attachments, and (iii) the child's needs and wishes; (b) the information about and from the child may require specialised skills not available to the judge or Counsel for Child (Zelas, 1995); (c) the report writer may independently present the child's perspective, connecting this with the relevant body of knowledge, thus affording new insights to the parties; and (d) the report writer's role is also to bring to the Court's attention matters that are relevant, but not evident at the time of issuing the referral brief (Seymour & McDowell, 1996).

It also appears from the literature that the roles of the s178 CYPF Act (1989) report writer are very much the same as those of the s29A Guardianship Act (1968) report writer. However, a number of factors can make s178 evaluations a complex exercise including: (a) significant abuse and/or neglect; (b) one or more parties may be seeking custody including parent(s), the statutory agency, foster parents, and extended family; (c) the child may have been in one placement or multiple placements in the preceding months; (d) one party to the proceedings may be a risk to the safety of others; (e) the assessment of the child may be in the context of supervised access which may or may not have occurred on a consistent basis; (f) a child who is emotionally withdrawn; (g) parent(s) who is hurt and feels betrayed by the social service agency; (h) parent(s) who is denying all or most of the criticisms, real and perceived, about their behaviour and parenting; (i) parents who have a mental illness, substance abuse, or other major

problem; (j) either or both parents living with new partners; and (k) parents or family threaten to go to the media, a Member of Parliament, or the Commissioner for Children.

In terms of standards of practice regarding these evaluations, 'Guidelines for Psychologists Working in Family Courts' were originally prepared in 1989 (Family Courts Working Party, 1989: Maxwell, 1992). These guidelines were updated by Maxwell et al. (1995a: Maxwell et al., 1996a) with the assistance of a number of psychologists throughout the country. This update renamed the standards 'Guidelines for Psychologists Working in Relation to the Guardianship Act 1968 and the Family Proceedings Act 1980'. These guidelines briefly discuss issues such as the referral process, culture, psychological testing, prediction, and supervision. This set of guidelines do not relate to s178 report writers (Maxwell et al., 1995a: 1996a). In the same year, 'Guidelines on Specialist Reports for the Family Court', otherwise known as 'Practice Note 18', was prepared for the Principal Family Court Judge by Seymour, Bailey, and Beatson (1995). These guidelines were primarily for Family Court staff, but also for report writers working under s29A Guardianship Act (1968) and s178 CYPF Act (1989). At the same time, the 'Guidelines for Psychologists working under the Children, Young Persons, and Their Families Act 1989', first prepared in 1990 by Department of Social Welfare psychologists, was modified by the Family Courts' Working Party (1992: Maxwell, 1992) and then updated (Maxwell et al., 1995b:1996b). Also, the latest edition of Family Law in New Zealand (Webb, Atkin, Caldwell, Adams, Henaghan, & Clarkson, 2001a), includes 'The New Zealand Psychological Society's Guidelines to Psychologists Working in Family Court' which is similar to, but not the same as, the 'Guidelines for Psychologists Working in Family Courts' (Family Courts' Working Party, 1992: Maxwell, 1992) and to the 'Guidelines for Psychologists Working in Relation to the Guardianship Act 1968 and the Family Proceedings Act 1980' (Maxwell et al., 1995a:1996a). In 2001, Practice Note 18 was superseded by 'Practice Note – Specialist Report Writers' (Family Courts' Working Party, 2001). Thus, at present, there are four published guidelines for psychologists working in the Family Court. None of the guidelines appear to be mandatory, nor exhaustive, and of questionable assistance as a practical guide to evaluation.

As a salient example, the original 1989 guidelines stated that the report writer could make “recommendations only when these are clearly supported in the body of the report” (Family Court Working Party, 1989:1992). One year earlier, in *Davies v Davies* (1988 as cited in Webb et al., 2001a), the Judge stated that it is “probably not ever appropriate for the writer of the report to make recommendations to the Court as to the Orders it ought to make or ought not to make” (p. 619). Furthermore, Judge Somerville in *Rooke v Mellsop* (1999 as cited in Webb et al., 2001a) stated it is not appropriate for the report writer to state what might be solutions to the problem. The current guidelines to report writers working under the CYPF Act (Maxwell et al., 1995b:1996b) do not refer to the making of recommendations. However, the 1995 guidelines to psychologists working in relation to the Guardianship Act (1968) (Maxwell et al., 1995a:1996a) do state that it is inappropriate to make recommendations. A survey of applicants and respondents to custody and/or access orders in three Family Courts indicated that recommendations had been made in a number of reports⁵ (Harland, 1991). Later, a survey of lawyers show a split between those who thought recommendations were helpful and those who stated that these assumed the function of the Court (Hall & Lee, 1994). That same year, in *YvM*, 1994, the judge stated that “custody and access decisions are to be decided by the Judge”. Zelas (1995) suggests that it is not the role of the report writer to make recommendations to the Court, but to provide specialised information that forms part of the evidence the judge considers. According to Seymour and McDowell (1996), the referral brief should not include a request for a recommendation on issues regarding custody and access. In summary, there are obviously differing views regarding the making of recommendations, and the guidelines are not clear.

In terms of seeking resolution here, Caldwell (1995) focused on limitations imposed on the psychologists’ role in the Family Court and identified a lack of debate on the issue. In response to Caldwell (1995), Seymour and McDowell (1996) disagreed, stating that much discussion has taken place within the psychology profession as evidenced by seminars at the annual conferences of the New Zealand Psychological Society (NZPsS) and papers in the Bulletin of the NZPsS. Though no resolution is at hand, Caldwell (1995) did point out that psychologists are likely to be more

⁵ The exact number is not reported.

knowledgeable on family dynamics and family needs, as well as more knowledgeable about the family before the Court than the judge who, in some cases, “solicits” (p. 189) recommendations from the specialist. The report alone, even without specific recommendations, is a “persuasive and powerful document in a custody case” (Kearns, 1999, p. 1). Given this overview of the role of the NZ report writer, it is now appropriate to take an overseas view.

1.4 Role and Guidelines of Psychologists in Overseas Custody Proceedings

As in New Zealand, specialists are increasingly being called upon to assist the Court in family matters (e.g., Karras & Berry, 1985; Keilin & Bloom, 1986; Kreindler, 1986; Langelier & Nurcombe, 1985; Marafiotte, 1985; Poirier, 1991). There appear to be two primary reasons for this occurrence (a) to deal with cases more efficiently in the face of the rising divorce and reported abuse rates, and (b) an acknowledgement by the Courts that they need assistance to determine the needs of the child (e.g., Karras & Berry, 1985). What has historically been a therapeutic role for the clinician in these cases now includes that of an expert witness. This development has caused anxiety for the profession (Kreindler, 1986).

Halon (1990) argued that of all the scientific disciplines, it is likely that the psychology profession is the best equipped to answer the questions posed by the Courts and parents. Within the psychology field, child custody evaluation falls within the definition of forensic psychology (American Psychological Association, 1994). The American Psychological Association’s Speciality Guidelines for Forensic Psychologists (Committee on Ethical Guidelines for Forensic Psychologists, 1991) define forensic psychology as:

“Forensic psychology” means all forms of professional psychological conduct when acting, with definable foreknowledge, as a psychological expert on explicitly psycholegal issues, in direct assistance to courts, parties to legal proceedings, correctional and forensic mental health facilities, and administrative, judicial, and legislative agencies acting in an adjudicative capacity (p. 656).

These American Psychological Association (APA) guidelines were formed to strengthen the standards and credibility of these sub-specialists (Gould, 1998).

It has been argued that following from Keilin and Bloom's (1986) study into evaluation practices, a number of states in the United States (US) drafted their own guidelines for child custody evaluations (Weisz, 1999). At the same time as the Keilin and Bloom (1986) study, there was an increasing desire by professionals to establish standards to assist them in these types of evaluations (e.g., Skafta, 1985). In 1986, the Association of Family and Conciliation Courts⁶ (AFCC, 1986) published 'Guidelines for Court Connected Child Custody Evaluations'. Oberlander (1995) noted these to be the first comprehensive set of guidelines for mental health professionals and lawyers in America. The search for a comprehensive system, and in the recognition of the complexity and ethical dilemmas that exist in undertaking custody reports, led to some psychological associations also developing custody evaluation guidelines (e.g. APA, 1994; North Carolina Psychological Association, 1994). In response to these developments, the AFCC released what was called a 'Model Standards of Practice for Child Custody Evaluation' (AFCC, 1994). These child custody guidelines were intended to be a significant factor in contributing towards an evaluator's objectivity and fairness (Oberlander, 1995). On the other hand, O'Donohue and Bradley (1999) argued that the guidelines are often of little help, as they can be vague, general, and may not indicate specific practices and techniques to be used in evaluations.

As to the actual involvement of psychologists in the Court proceedings, proponents emphasise that these professionals can provide an additional source of information not otherwise available to the Court forming part of the evidence a judge considers (e.g., APA, 1994; Flynn & Seibert, 1997; Melton et al., 1997; Weisz, 1999). For example, Flynn and Seibert (1997) stated that "the court is interested in tapping an expert's knowledge of facts, theories, research data, and academic literature – not feelings, opinions, or stereotypes" (p. 45). Harnett (1995) emphasizes that it is the 'clinical psychologist' who has knowledge of theoretical models and empirical research in child development and family dynamics directly relevant to the issues before the

⁶ The Association of Family and Conciliation Courts is an international and interdisciplinary association dedicated to the constructive resolution of family disputes. The committee who wrote the guidelines was created in 1983 and consisted of members from the United States and Canada (AFCC, 1986). Currently, the AFCC includes representatives from six continents: North and South America, Europe, Asia, Africa and Australia (see <http://www.afccnet.org/docs/about.html>).

Court. Furthermore, the clinical psychologist is familiar with the specific assessment strategies available to assess different dimensions of family life.

Given the argument that there are a lack of specific guidelines, the objectivity of the mental health professional becomes a crucial element of the evaluation procedure (e.g., Chasin & Grunebaum, 1981; Howell, 1990; Karras & Berry, 1985; Stahl, 1994); particularly in relation to assisting in the process of determining what is best for the child (e.g., AFCC, 1986,1994; Karras & Berry, 1985). Consequently, the psychologist's opinions must be based upon reliable and valid data. Additionally, objectivity is thought to be maximised through working as a friend of the Court (Howell, 1990). The impartial professional is more likely to receive cooperation from all parties and less likely to have custody recommendations challenged by the dissatisfied parent (Keilin & Bloom, 1986). However, Grisso (1990) correctly points out that absolute impartiality and objectivity are simply not feasible.

While the issue of impartiality is important, as in NZ, there is disagreement concerning the issue of ultimate opinions. Several writers argue that mental health professionals should not be providing ultimate issue opinions (e.g., whether one parent should be the custodial parent or who is the best parent) (e.g., Amundson, Daya, & Gill, 2000; Emery, 1999; Halon, 1990; Oberlander, 1995; Melton, 1999; Weithorn & Grisso, 1987). Those questions are legal matters and outside the professionals' competency range (Bolocofsky, 1989). Grisso (1990) argues that if clinicians did provide an ultimate issue recommendation, it would be tantamount to stating their own personal values. Some have asserted that answering such a question is possibly unethical (Melton et al., 1999; Weithorn & Grisso, 1987). "The final question has no answer that can be supported by scientific and clinical evidence alone. It requires applying legal and social values to make a choice" (Grisso, 1990, p. 40). It has therefore been suggested that the psychologist is not a value setter, but a methodologist: "with the possible exception of blatant abuse, what constitutes best parental capacity is a normative issue, not a psychological one" (Halon, 1990, p. 30). Emery (1999) states that it should be judges responsible for making "value-laden" (p. 326) custody decisions. Many others are clear that final decisions are the responsibility of the Court (e.g., Bailey, 1998; Emery, 1999; Kearns, 1999; Weisz, 1999). However, mental health professionals can and do provide opinions. Examples

include: (a) opinions concerning family functioning in relation to the child's well being (Melton, 1999); (b) "personality and behavioural patterns that might impact parents' abilities to meet their parenting responsibilities" (Oberlander, 1995, p. 323); and (c) the psychosocial function of adults (Amundson et al., 2000).

In fact, making recommendations is expected in some jurisdictions of the US. For these, the AFCC (1986) provided guidelines that recommendations should be focused on: (a) who should obtain custody; (b) who should have physical custody; and (c) an access plan. AFCC (1994) also refers to making recommendations, but consistent with the bulk of opinion here, asserts that the final decision rests with the Court. The Specialty Guidelines for Forensic Psychologists (Committee on Ethical Guidelines for Forensic Psychologists, 1991) and the Guidelines for Child Custody Evaluations in Divorce Proceedings (APA, 1994) state that psychologists should not act as judge. However, many judges do not have the training in psychology, child development, and family dynamics and rely on the expertise of mental health professionals (Myers & Erickson, 1999). Thus, some have asserted that mental health professionals are indeed more qualified than judges to make final decisions (e.g., Emery, 1999; Gardner, 1982; Settle & Lowery, 1982). In one survey, several judges⁷ commented that qualified professionals or social workers, and not themselves, should be making custody decisions (Settle & Lowery, 1982). This would seem to contradict the findings of Felner, Rowlison, Farber, Primavera and Bishop (1987) who reported that only two percent of judges considered the recommendations of a child custody evaluator as one of the most critical factors when making custody determinations.

Finally, the role of mental health professionals in custody evaluations has not been without its critics. Some critics (e.g., Okpaku, 1976) have argued that psychologists have little, if anything, to contribute. Others have described the services of mental health professionals in custody disputes as irrelevant, ignorant, or intrusive (Grisso, 1986). Halon (1990) argues that a child custody evaluation is not a (clinical) psychological evaluation, due to the absence of what constitutes normalcy versus pathology. Other concerns include: (a) often the mental health professional will not be able to offer the degree of certainty that others involved in the proceedings might

⁷The number is not provided.

expect (Galatzer-Levy & Ostrov, 1999), and (b) no clinician knows all about a particular child and family (Ackerman, 1995). In light of these types of concerns, the mental health professional must state the boundaries of their competence and the limitations of their opinions (Melton, 1999). Gindes (1995) states that mental health professionals' involvement in child custody evaluations is still in its infancy as a specialty. Despite that, what appears fairly certain, even at this stage, is that the evidence indicates that clinicians preparing custody evaluations often have power greater than that held within a treatment setting, or than what was initially intended (Deed, 1991). Given that power, it is important to know what guides the psychologist in their assessment.

1.5 Process and Criteria for Custody Evaluations

The child custody assessment is based on a paradigm of scientific inquiry or theory of science (Gould, 1999b) and within the context of the behavioural science literature (Gould, 1998). The literature advocates an ecological approach to assessments in which the child and his or her parents are not considered outside the influence of the family's wider social context. Models for child custody evaluations existed prior to 1986 (e.g., Chasin & Grunebaum, 1981; Landberg, 1982). However, little empirical research had been undertaken to that time to guide the specialist report writer in the evaluation process. Karras and Berry (1985) provided a critical review of custody evaluation practices up to that time and concluded that more research was required to address many unanswered questions. Keilin and Bloom (1986) identified that these unanswered questions related to the most efficient and effective evaluation procedures, the most important criteria for decision-making, and viability of various custodial arrangements.

Since that time, research has been undertaken (see section 1.6). At the same time, a number of manuals have been developed to provide assistance to the child custody evaluator (e.g., Ackerman, 1995; Gould, 1998; Lindley, 1988; Schutz, Dixon, Lindenberger, & Ruther, 1989; Skafte, 1985; Stahl, 1994). Schutz et al. (1989) reportedly provided the first (Ackerman & Ackerman, 1997). Although not as exhaustive as Schutz et al. (1989), Skafte (1985) did provide an earlier practical guide for those undertaking child custody evaluations. Possibly a concern for practitioners

is highlighted in Lindley's (1988) manual for mental health professionals and social workers that provides no reference to any research or literature. This issue is visited in more depth later (see sections 4.2, 4.3.1, 4.5).

In terms of the assessment process itself, Keilin & Bloom (1985) stated that several authors have supported a multidisciplinary approach to custody evaluations. Jackson, Warner, Hornbein, Nelson, and Fortescue (1980) applied a team approach in which a clinical psychologist, psychiatrist, psychiatric social worker, and paediatrician participated in the evaluation process. Westman (1998) describes the child advocacy team used in difficult child custody cases, which had representatives from the legal, social service, mental health, and education sectors. To address the issue of subjectivity, Banach (1998) suggested that professionals obtain the view of colleagues to examine the presence of bias. Overall, however, the literature is concentrated towards the individual evaluator obtaining information from a variety of sources.

The literature consistently lists five different sources of information for a scientifically crafted child custody evaluation (Gould, 1999b): (a) structured interview format (e.g., Ackerman, 1995; French & Stout, 1991; Gardner, 1999; Gould, 1998; Schutz et al., 1989; Skafte, 1985; Stahl, 1994); (b) self-report and psychometric testing data (e.g., Gould, 1998; Grisso, 1990; Schutz et al., 1989); (c) standardized psychological tests (e.g., Bricklin, 1999; Brodzinsky, 1993; Committee on Ethical Guidelines for Forensic Psychologists, 1991; Gould, 1998; Heilbrun, 1995; Landberg, 1982); (d) collateral information and record reviews (e.g., Ackerman, 1995; Greenberg & Shuman, 1997; Schutz et al., 1989; Skafte, 1985; and (e) direct observational data (e.g., Ackerman, 1995; APA, 1994; Committee on Ethical Guidelines for Forensic Psychologists, 1991; Gould, 1998, Greenberg & Shuman, 1997; Schutz et al., 1989; Skafte, 1985; Smith, 1999b; Stahl, 1994). The five sources of information reportedly increase the reliability and validity of the evaluation. It is from this basis that the psychologist is most likely to reach fair and balanced interpretations (Gould, 1999b).

1.5.1 Structured Interview format

The literature provides standardised interview formats (e.g., Ackerman, 1995; Schutz et al., 1989; Stahl, 1994). Schutz et al. (1989) does offer a detailed list of suggested questions for children with a brief explanation about the process. Stahl (1994) also presents a list of questions for children and the rationale for asking different categories of questions. Ackerman (1995) offers a similar list of questions. Hynan (1998) notes the lack of literature concerning the interview of the child. With reference to both children and adults, Gould (1999b) warns that there is “no psychometrically sound, structured interview protocols for use in custody evaluations” (p. 168).

1.5.2 Self Report Measures and Psychological Testing

The tests referred to in the literature are often categorised as non-specific and specific custody evaluation tests. The area of non-specific custody tests is now briefly introduced. Otto, Edens, and Barcus (2000) supports the use of non-specific custody evaluation tests to measure areas relevant to child custody disputes such as the Minnesota Multiphasic Personality Inventory-2 (MMPI-2) to assess emotional stability and psychopathology in parents, the Child Behavior Checklist (CBC) to measure the child’s current adjustment, and the Parenting Stress Index (PSI). In cases in which personality disorder may be present, Richards-Ward (1999) suggested the use of the MMPI-2, Millon Clinical Multiaxial Inventory (MCMI), or the Psychopathy Checklist. MMPI and MMPI-2 can be helpful to identify: (a) personality dynamics (Grisso, 1990); (b) parents who are presenting themselves in an overly favourable light (Stahl, 1994); (c) a defensive response style (Heilbrun, 1995, Stahl, 1994); and (d) ability to deal with hostility and aggression (Stahl, 1994). Lampel (1999) concluded in a study of fifty divorcing couples litigating for custody, that the MCMI-III may be helpful in identifying response sets or personality trends relevant in such disputes. Gould (1998) reviewed both the MMPI and MCMI and concluded that both tests were useful, but the Court needed to be advised of their limitations (e.g., no specific custody related criterion).

Another example of non-specific custody evaluation tests are projective tests such as the Rorschach. Although identifying the limitations of the Rorschach, Stahl (1994) promotes its use to obtain a good understanding of the parent's affect, organisational skills and reality testing. However, Emery (1999) stated that the Rorschach has dubious psychometric properties. Stahl (1999) continued to advocate for the Rorschach, affirming that the Rorschach is the only projective test that research is being conducted for its usefulness in custody evaluations, and that this research is beginning to show that Rorschach data can be useful.

The area of specific custody evaluation tests is relatively new. Owing to its infancy, this area remains experimental. The Custody Quotient⁸ (Gordon & Peck, 1989 as cited in Otto et al., 2000) was the first test to be developed specifically for custody evaluations (Ackerman & Ackerman, 1997). Ackerman and Ackerman (1997) stated that tests designed or endorsed for custody evaluations include: Ackerman-Schoendorf Scales for Parental Evaluation of Custody (ASPECT: Ackerman & Schoendorf, 1992 as cited in LaFortune & Carpenter, 1998); Bricklin Perceptual Scales (BPS: Bricklin, 1984 as cited in LaFortune & Carpenter, 1998); Perception of Relationships Test (PORT: Bricklin, 1990b as cited in LaFortune & Carpenter, 1998); Parent Awareness of Skills Survey (PASS: Bricklin, 1990a as cited in LaFortune & Carpenter, 1998); Parent Perception of Child Profile (PPCP: Bricklin & Elliot, 1995 as cited in LaFortune & Carpenter, 1998); and Parent-Child Relationship Inventory (PCRI: Gerard, 1994 as cited in LaFortune & Carpenter, 1998). These tests, in addition to Child Abuse Potential Inventory (CAP: Milner, 1986), and the Parenting Stress Index (PSI: Abidin, 1990), are intended to measure parental fitness (LaFortune & Carpenter, 1998).

1.5.2.1 Issues related to self report measures and psychological testing

The literature found in New Zealand (NZ) and overseas indicates mixed views as to the use of tests. Nicholson (1999) stated that the advances in the development of psychological instruments made in recent years do not yet provide the practitioner with confidence. Gould (1999b) identifies the lack of valid instruments for custody evaluations and on this basis, writes that custody assessments are as "much art as it is

⁸ Most of these new tests were extremely difficult to obtain for inspection for this research.

science” (p. 167). LaFortune and Carpenter (1998) suggested that the newer tests have not yet proven beneficial and therefore cannot be recommended. Others recommend that the clinician cautiously consider the use of any test (e.g., Otto et al., 2000). Despite the weaknesses of psychological assessment, supporters of tests argue that clinicians can provide valid, reliable and relevant data not usually otherwise available to the Court (Litwack, Gerber, & Fenster, 1979-1980). Various writers do offer guidelines when considering the use of psychological testing in child custody evaluations (e.g., Heilbrun, 1995; Otto et al., 2000; Stahl, 1999). Furthermore, it is widely agreed that the data derived from any psychological testing should not be the sole basis from which to reach conclusions (e.g. Bricklin, 1992; Heinze & Grisso, 1996; Stahl, 1994, 1999). Psychological testing should also be considered as a set of working hypotheses to be confirmed or not by other clinically relevant data from multiple sources which will reduce error and poor reliability (Brodzinsky, 1993; Gould, 1998; Heilbrun, 1995; Parish, 1999; Weithorn & Grisso, 1987). Howell (1990) argues that the most important information comes from information gathered other than from tests (e.g., interviews, records, and behavioural observations).

In NZ, only psychologists are trained to administer psychometric tests. According to Smith (1999b), the use of psychological testing is not heavily emphasised. Maxwell et al. (1995a:1996a) advised report writers to be cautious in the use of psychological tests, adding that tests are “rarely appropriate” (p. 5) on which to base firm conclusions. Earlier, the Family Court Working Party (1989:1992) stated that few standardised tests are appropriate for assessment. However, these tests are not named. Smith (1999b) while addressing lawyers in NZ, named one test, the Bene-Anthony Family Relations Test (BAFRT), as lacking validity, reliability and normative data.

1.5.3 Collateral Information and Record Review

Forensic evaluation differs from clinical evaluation in terms of the emphasis on historical truth (Greenberg & Shuman, 1997). Collateral information is important in that it provides information about the litigant’s behaviour prior to Court proceedings (Gould, 1999b). Third party observations and information can appreciably reduce such problems as relevance and truth (Heilbrun, 1992; Melton et al., 1997). For example, third party information can verify the effect of domestic violence on

children (Henderson, 1996). Various writers have recommended a variety of record reviews and collateral information sources such as: contact with medical doctors, lawyers, day care personal, teachers, previous therapists, neighbours, friends, and relatives (e.g., Ackerman, 1995; Chasin & Grunebaum; 1981; Knapp & Keller, 1993; Landberg, 1982; Stahl, 1994; Weissman, 1991; Weithorn & Grisso, 1987).

1.5.4 Direct Behavioural Observations

Not only are third party observations necessary, but so too are direct observations by the evaluator. The observation of parent-child interactions is a necessary part of child custody evaluations. This includes an assessment of parent competency (e.g., Ackerman, 1995; AFCC, 1994; APA, 1994; Jackson et al., 1980; Schutz et al., 1989; Skafte, 1985; Stahl, 1994). Particularly in the situation of risk to the child, parent-child interactions should be observed (Schutz et al., 1989). Ackerman (1995) emphasized that there is no one correct model to perform behaviour observations. As there is no one standardised model for observing behaviour, frameworks within which to organize behavioural observations are offered (e.g., Child Custody Guidelines of the North Carolina Psychological Association, 1994; Schutz et al., 1989; Stahl, 1994).

1.6 **Overseas Surveys of Professionals in Child Custody Evaluation Practices**

Given the recommendations in the literature, what are these professionals actually doing in their evaluations? Thirteen years ago, Lowery (1985) and Keilin and Bloom (1986) published what was considered to be groundbreaking research on child custody evaluations (Jameson, Ehrenberg, & Hunter, 1997). Lowery (1985) surveyed 104 mental health professionals and social workers in Kentucky (US) for their views on the importance of various custody criteria. Pertinent to the current study is Keilin and Bloom's (1986) more cited study that surveyed 82 psychologists, psychiatrists, and masters-level practitioners based primarily in the US⁹. The 70 item questionnaire used by Keilin and Bloom (1986) asked about custody evaluation practices and professional decision-making. Also, single-parent custody and joint versus single-parent custody decision-making were examined by requesting subjects to rate the

⁹ 2.4% of Keilin and Bloom's (1986) participants were from Canada.

importance of various factors when recommending a custodial decision. “The results of their study, especially the tables, have been quoted widely and repeatedly during the past decade” (Ackerman and Ackerman 1997, p. 137).

Eleven years later, Ackerman and Ackerman (1997) replicated and expanded, by 42 items, Keilin and Bloom’s (1986) original survey. The 42 additional items represented variables that had become part of custody evaluations since Keilin and Bloom’s survey (Ackerman & Ackerman 1997; Weisz, 1999). Of the 800 questionnaires sent, 338 were returned, and of those 201 (25%) met the selection criteria. The Ackermans’ (1997) study provided valuable information regarding standards of practice among psychologists in the US undertaking custody evaluations at that time (Jameson et al., 1997). Ackermans’ (1997) study has shown that psychologists appear to have become “more sophisticated and more careful” (p. 253) in the sense that they “review more background material, incorporate more results from tests developed specifically to assess divorce-related questions, and consider more variables” (Jameson et al., 1997, p. 253) when formulating recommendations.

One year later, LaFortune and Carpenter (1998) surveyed 286 practitioners in 5 states in America who conduct custody evaluations, of which 165 (58%) responded, and 89% were psychologists. The survey questions related to qualifications and experience, attitudes towards custody evaluations, evaluation procedures, and rating criteria for determining outcomes. LaFortune and Carpenter (1998) concluded that the practice, in terms of procedures, factors considered, and time spent, has largely stayed the same over the previous decade.

Keilin and Bloom (1986), Ackerman and Ackerman (1997), and LaFortune and Carpenter (1998) do show common practices when conducting child custody evaluations, such as individual interviews of all parties, observation of interactions between each parent and the child(ren), collection of collateral data, and the use of some psychological testing. Practice was shown to vary primarily around the use of other psychological tests. In the two surveys conducted at a similar time, LaFortune and Carpenter’s (1998) results indicated the use of intelligence tests and projective techniques much less frequently than did the findings of Ackerman and Ackerman (1997), although both showed that the MMPI was the most commonly used test with

adults. Referring in particular to the research of Keilin and Bloom (1986), Ackerman and Ackerman (1997), and LaFortune and Carpenter (1998), Nicolson and Norwood (2000; see also Gourley & Stolberg, 2000) suggest that our knowledge of practices in the area of child custody assessment is still in its infancy.

1.7 New Zealand Survey of Professionals in Child Custody Evaluation Practices

The first New Zealand (NZ) study appears to be Hong (1991) who surveyed specialist report writers in three areas of NZ who wrote s29A Guardianship Act (1968) psychological reports. Questions were related to evaluation practices, evaluations regarding sexual abuse allegations, and training. Of the 26 surveys sent, 85% (n=22) responded of which 73% (n=16) were psychologists. The low number of participants may indicate that the responses did not accurately reflect the practice of report writers in NZ. The main findings included: (a) all report writers interviewed children always (n=20) or very often (n=2); (b) of the other child assessment procedures, the direct observation of children in a natural setting was the most often performed¹⁰; (c) in half the time or less, 41% (n=9) made contact with the child's teacher whereas 91% (n=20) made contact with the child's doctor; (d) the most popular child psychological test was the Bene-Anthony Family Relations Test (27%, n=6); (e) assessment strategies were identified as a training need by all participants (n=22); and (f) training needs related to issues surrounding sexual abuse were identified as "very useful" (p. 73) by 45% (n=10) of participants (Hong, 1991).

Arguably, the more substantive research into the practices of New Zealand's reporter writers was conducted by Moltzen (1993). This study did not focus on the evaluations requested under s178 Children, Young Persons, and Their Families Act (1989), only those requested under s29A Guardianship Act (1968). Of the 112 questionnaires sent, thirty-six responses were received (32% return rate). This study questioned report writers regarding their evaluation practices, outcome preferences, criteria contributing to conclusions, and thoughts on training. The main findings

¹⁰ For the purposes of the study, the children were placed in age groups. Participants were presented with a 7 point scale, from never to always. The vast majority of participants always observed all children in their natural setting.

included: (a) clinical interviews of parents and child were used by all participants; (b) the most popular psychological test was the Bene-Anthony Family Relations test (39%, n=14); (c) over 75% did not work with co-evaluators; and (d) only 30% were satisfied or very satisfied with training available to advance their evaluation skills.

Moltzen (1993) states that findings in relation to single-parent custody decision-making criteria are “similar” (p. 33) to ratings by American custody evaluators reported in Keilin & Bloom (1986). However, the word ‘similar’ is a broad term. Moltzen (1993) did not replicate Keilin & Bloom’s (1986) study. The response rate of 32% also might not accurately represent the practices, views, and training needs of report writers in NZ. Seymour and McDowell (1996) have argued that given only two preliminary surveys, there is a real need for more research, particularly in terms of evaluation procedures, cultural differences, and decision-making in relation to the best interests of the child.

1.8 Best Interests Of The Child

Decisions about custody, placement, and access revolve around the best interests of the child. It was Judge Cordoza of the United States in 1925, who first introduced the doctrine of the best interests of the child (Howell, 1990). “Over the past century, the basis in law for custody decision making has shifted from a paternal presumption to a maternal presumption to current gender-neutral laws which rely upon a consideration of the best interests of the child in determining custody outcomes” (Kelly, 1994, p. 136). It was not until the work of Goldstein, Freud, and Solnit (1973, 1979) that the best interest of the child standard (BICS) was given prominence. According to Goldstein and colleagues, the BICS was based upon the physical protection of children and their psychological well-being (Banach, 1998). From within the legal and social sciences, some writers stated that issues relating to the BICS had no empirical basis (e.g., Dembitz, 1974; Dupaix, 1987). On the other hand, Oberlander (1995) argued that the work of Goldstein, Freud, & Solnit (1980) did represent the “first attempt to modify legal language and clinical developmental literature into observable psycholegal constructs” (p. 321). Examples include the recognition that the child’s experience of divorce differs depending on their developmental stage, the

child's need for ongoing relationships, and the child's sense of time. Such issues are now considered regularly (Oberlander, 1995).

All states in the US have the best interests of the child (BIC) as the primary consideration in custody decision-making (Howell & Toepke, 1984). However, opinions vary widely as to the specific criteria (e.g., Chasin & Grunebaum, 1981; Settle & Lowery, 1982). In addition, the BIC standard has been criticized for being vague (e.g., Davis, 1988; Karras & Berry, 1985; Oberlander, 1995) and lacking definition (Liss & McKinley-Pace, 1999; O'Donohue & Bradley, 1999). As the BIC is a broad concept, and thus open to interpretation, it can result in contradictory and confusing opinions about what will benefit the child (Kelly, 1997). Furthermore, there is no consensus among mental health or legal professionals as to what constitutes the BIC (Kelly, 1997; Miller, 1993). What legal definitions of BIC exist are controversial (e.g., Folberg, 1991). Even when specific factors for determining BIC are provided, the weighting of the factors is always at the Court's discretion (Kelly, 1997; Melton et al., 1997). Given latitude in decision-making, the judge is vulnerable to accusations of subjective value judgements (Warshak, 1996). In addition, terms judges use to underpin custody decisions such as 'best interests of the child', 'least detrimental alternative', and 'psychological parent' have no agreed upon one-to-one correlates in psychology (Halon, 1990).

As appears obvious, the BIC standard is value laden (Caldwell, 1995; Emery, 1999; Galatzer-Levy & Kraus, 1999; Henaghan, 1990; O'Donohue & Bradley, 1999). These value judgements are imbued with social, family, cultural and legal mores (Caldwell, 1995). Consequently, mental health professionals must understand the limitations associated with assessments related to BIC standards, and their value-laden nature (Oberlander, 1995). Emery's (1999) view is that science cannot answer questions of values. Emery (1999) suspects that, although appearing neutral and based on empirical methods, the BIC standard is a "vessel into which unarticulated normative values are poured" (p. 325). As a result, there have been calls for more direction when applying the BIC standard (e.g., Liss & McKinley-Pace, 1999).

A more extreme view is held by O'Donohue and Bradley (1999) who concluded that mental health professionals are providing opinions based on their "best guess" (p.

321) and therefore should not ethically carry out these evaluations. O'Donohue and Bradley (1999) recommend the following should occur: (a) debate as to relevant value issues; (b) validated theories related to those values; and (c) the development of sound tests. O'Donohue and Bradley (1999) argued that until progress is made in these areas, mental health professionals should suspend conducting child custody evaluations. Melton (1999) agreed with many of O'Donohue and Bradley's (1999) conclusions but disagreed with the view that mental health professionals should fully cease conducting evaluations.

Given that evaluations are carried out, and when considering the BIC, guidelines for custody evaluators are available. For example, AFCC (1994) identifies areas of evaluation including: (a) the quality of the relationship between parent or caretaker and the child; (b) the quality of the relationship between the contesting parents or potential caretakers; (c) the ability of each parent or caretaker to parent the child; and (d) the psychological health of each parent or potential caretaker. On the other hand, the APA (1994) guidelines refer to the "best psychological interest". The psychologist is directed to focus on the parenting capacity of the prospective custodians and the psychological and developmental needs of the child. To fulfil this task, the psychologist is directed to: (a) assess the adult's capacity to parent, including knowledge, skills, and abilities; (b) assess the child's psychological functioning and developmental needs, and as appropriate, the child's wishes; and (c) assess the functional ability of each parent to meet these needs.

Unfortunately, the available custody evaluation guidelines generally do not express "empirically based criteria that can be used to translate the legal statutes that define the best interests of the child (BIC) criterion into psychological terms and elements to be evaluated" (Jameson et al., 1997, p. 253). Case law and legal statutes define the child's best interests by listing criteria. However, again, the criteria are often general. Thus, the elements for each criterion are not specified, nor is it specified how the Court should best acquire such information (Jameson et al., 1997).

Jameson et al. (1997) developed an assessment model (see also Appendix A), based on the APA (1994) guidelines and family systems theory. Within the model are three broad assessment areas: (a) the parent-parent and the parent-child subsystems; (b) the

needs of the children; and (c) the functional abilities of each parent to meet the child's needs. Across these three areas are 60 factors considered to be the most significant based on available research. These 60 factors were then included in their Best Interests of the Child Questionnaire (BICQ). Seventy-eight psychologists from British Columbia, Canada, certified as competent to work in custody and access assessment, completed the questionnaire ranking the importance of each factor¹¹. Sexual and physical abuse were clearly rated the highest, while the lowest rated factor was each parent's religious orientation. Of the additional factors suggested by participants, only current or past criminal activity was considered to be not already included in the BICQ. Jameson et al. (1997) point out that such a model assists professionals to perform thorough assessments and focus on specific areas rather than global areas such as the parent-child relationship. Using the BICQ, the psychologist may be better able to translate legally based BIC criteria into psychological terms. Another qualitative study confirmed many of Jameson et al. (1997) findings (Banach, 1998). Banach (1998) suggested further research on the BIC standard, particularly concerning whether some factors are consistently rated higher than others.

In NZ, and as previously mentioned, Section 6 Children, Young Persons, and Their Families Act (1989) (CYPF Act) specifies that the welfare and interests of the child or young person shall be the first and paramount consideration. The overriding objective of the CYPF Act is to advance and promote the well-being of children, young persons and their families and family groups, though the term "well-being" is not defined (Webb et al., 2001b). Sections 5 and 13 CYPF Act provides the framework from which to consider the BIC. Section 23 Guardianship Act (1968) states that the Court shall regard the welfare of the child as the first and paramount consideration, though "welfare" is not defined. For the purposes of this section of the Act, only two guidelines are provided (a) the gender of the caregiver shall not be taken into account, and (b) the Court shall ascertain the wishes of the child and to take these into account as the Court sees fit. Webb et al. (2001a) argued that the child's interests must be viewed on a case-by-case basis. Furthermore, Webb et al. (2001a) stated that in contested cases, emotional and psychological aspects assume primary importance. Thus, as overseas, NZ BIC guidelines are vague.

¹¹ The rating for each factor from Jameson et al. (1997) is provided in the Results section and compared with this study's findings.

In summary, child custody evaluators face a difficult challenge of “differentiating and clarifying constructs” (p. 320) related to the BIC (Oberlander, 1995). Child custody evaluators face problems in the face of vague BIC guidelines (Beaber, 1982; O’Donohue & Bradley, 1999). It would seem that in New Zealand, and overseas, the Courts have tremendous discretion when before them are often difficult and complex custody cases. More research is required to determine the weight of factors used in defining the BIC standard (e.g., Liss & McKinley-Pace, 1999). Moltzen (1993) suggests that judges could make more informed custodial decisions with further research to identify criteria important to the BIC standard. Attention is now turned to factors related to the BIC standard: parenting capacity, attachment, outcome predictions, child abuse, and mandatory reporting.

1.8.1 Parenting Capacity

Parenting capacity is one focus of attention when determining the BIC. “Children’s best interests are served by parents who have sufficient motivation, competence, and availability to address their children’s needs” (Weissman, 1991, p. 472). The AFCC Committee (AFCC, 1986) noted that over the previous decade there had been a shift from an ‘investigative’ approach to an ‘evaluative’ approach to custody evaluations as a result of the developments in the behavioural sciences. This shift meant a move away from determining the ‘good’ or ‘bad’ parent towards what was the best way the child could have contact with both parents. As alluded to earlier (Jameson et al., 1997), the literature contains an extensive list of content areas for assessing parenting capacity.

The NZ Psychological Society does not offer any guidelines to assess parenting capacity, unlike their counterparts in America. APA (1994) guidelines encourage custody evaluators to assess “whatever knowledge, attributes, skills, and abilities, or lack thereof, are present ...the functional ability of each parent to meet these [children’s] needs, which includes an evaluation of the interaction between each child... the values of the parents relevant to parenting, ability to plan for the child’s future needs, capacity to provide a stable and loving home, and any potential for inappropriate behaviour or misconduct that might negatively influence the child also

are considered ...psychopathology may be relevant...insofar as it has impact on the child or the ability to parent, but it is not the primary focus” (p. 4).

Parents in custody disputes want to present themselves in the most desirable light. In high-conflict divorce cases or in cases of care or protection matters, troubled family functioning likely exists. For example, in a case of domestic violence, the victimised partner is likely to show signs of distress, despondency, and powerlessness. Abusive partners often engage in deception by attempting to conceal their weaknesses (Oberlander, 1995). If the couple are still living together, the abuser is more likely to coerce their partner to minimise or lie about the abusive behaviour. Neglectful parents can present themselves as skilled and dedicated parents. There is also the vindictive parent who may attack the parenting capabilities of the other parent by making false allegations involving mental illness or illegal behaviour (Oberlander, 1995). In relation to the changes that are necessary to parent a child, Richards-Ward (1999) stresses that it is not only significant for a parent to be capable of change, but to have a demonstrated motivation to do so.

1.8.2 Attachment

Related to parenting capacity, it is also important to address the child’s attachments. As discussed, psychological attachment is one principle addressed within the CYPF Act (1989). Attachment theory itself is the basis of the psychological parent concept (Banach, 1998). Goldstein et al. (1973) introduced the concept of psychological parenthood. This concept, which originated from psychoanalytic and developmental theory, proposes that the person who provides love and nurturance for a child becomes the person to whom a child attaches feelings of love, identity, and security.

Research has assessed the effects of psychological, physical, social, or emotional loss of a parent during childhood. These issues are relevant to the BIC standard, particularly in custody disputes and permanency planning. For example, prolonged and unplanned foster care, sometimes referred to as ‘foster care drift’ can have serious disadvantages. Given attachment issues, early permanency planning is necessary, and while parents should be given the opportunity to make necessary changes, it should be

within a certain time period to enable the child to return to their care (Langelier & Nurcombe, 1985).

While attachment must always be considered in custody evaluations, Gardner (1999) states that it is either loosely defined or not defined at all. Halon (1990) also warns that the parent who seems best able to meet the child's immediate emotional needs may not necessarily be the parent able to do that in the future. Gardner (1999) recommends the criterion for psychological bonding to be in the comparing of one parent with another, preferring this method to the use of a standardised test "normalized on some extrinsic population" (p. 14). The issue of psychological attachment may become more important when a placement or custody option is not a natural parent due to child abuse or neglect.

1.8.3 Outcome Predictions

Some report writers, such as those involved in cases of child abuse and neglect, use research to argue that if certain circumstances exist, then particular outcomes are likely for the child (Seymour & McDowell, 1996). Beaber (1982) describes this activity as an "extremely complex form of psychological futurism" (p. 311). Generally, there are major difficulties predicting the outcomes in custody cases (Dembitz, 1974; Okpaku, 1976). There is no empirical evidence as to what future custody arrangements will be best for a child (Emery, 1999). Zelas (1995) suggests that it is not the role of the mental health professional (MHP) to predict the future. Literature from the United States concludes that MHPs themselves have no special ability to predict the future behaviour of children or parents (Caldwell, 1995; Galatzer-Levy & Ostrov, 1999). For example, MHPs cannot predict what sets of parental qualities have the best outcome (Grisso, 1990; Halon, 1990), and other sorts of prediction (e.g., dangerousness) are highly fallible (Freckelton, 1995). Indeed, Horner and Guyer (1991 as cited in Caldwell, 1995) argue that MHPs are no better than non-experts in predicting which of two parents are better suited to meet the child's needs.

"Outcome predictions are complicated by the temporary nature of some aspects of custody conflict and the longstanding nature of other aspects" (Oberlander, 1995, p.

311). The literature argues that all MHPs can do is to report on the psychological functioning of the child and parents at the time of writing the report (Caldwell, 1995), or bring to the Court's attention, the abilities of the parent, and explain their strengths and deficits (Galatzer-Levy & Ostrov, 1999). The MHP may also include an estimation of risk (Galatzer-Levy & Ostrov, 1999). Grisso (1990) suggests that the MHP could estimate the risk of an outcome, provided the limitations of that risk estimate are highlighted. The issue is not whether MHPs can predict the outcome of alternative custody arrangements with accuracy, but whether this professional provides information not readily available to the Court that will, at least slightly, improve the Court's ability to predict what will be the best for the child (Litwack et al., 1979-80). Seymour and McDowell (1996) argue that it is a matter of providing the Court with information that would otherwise not be available to enable "wiser decisions" (p. 38). Finally, Halon (1990) suggests that what is in the best interests of a child is likely never to be fully predictable.

The 'approximation rule' is advocated by Emery (1999). First proposed by Law Professor Elizabeth Scott (1992), it states that child-rearing arrangements should, as much as possible, approximate to that which existed prior to marital separation. This rule is a "hybrid" of the joint custody and primary caregiver rule (in which custody is awarded to the primary caregiver before separation). Unlike the prediction of the future best care arrangement for a child, this rule looks back in time, and focuses on clearly defined behaviour (i.e., how much time each parent cared for the child). Therefore, if the child was cared for on a 60-40 basis, then this becomes the basis for decision-making. While no American state currently applies the rule, Emery (1999) predicts that will change. However, it would be difficult to apply this rule in cases when a child has been abused or is at risk within the family environment, or when family circumstances have significantly changed.

To combat the issue of uncertainty, it is recommended that the Court be given measurable criteria to decide if ongoing Court monitoring is necessary (Oberlander, 1995). The likelihood that a child will suffer significant harm is difficult to calculate as it means predicting the future child-care practices of the caregivers and the effects upon the child (Harnett, 1995). On the other hand, past behaviour of parents is a relatively good predictor of future behaviour (Dupaix, 1987; Flynn & Seibert, 1997).

In the case of a considerably unstable or abusive family environment, it would seem less difficult to make a reasonable prediction as to the future standard of care.

1.9 Child Abuse and Mandatory Reporting

Few events impact a child's life more than being an abuse victim. All existing theories and research related to child abuse assume multiple causes (Berliner, 1993). The cognitive, emotional, behavioural, and social impact of abuse by parents has also been shown in research (e.g., Hoffman-Plotkin & Twentyman, 1984; Kaufman & Henrich, 2000; Lester, Boukydis, & Twomey, 2000; Sudermann & Jaffe, 1997; Wolf, 1988). Definitions of physical abuse, sexual abuse, emotional and psychological abuse, and neglect are discussed in the literature (e.g., Bross, 1987; Harnett, 1995; Kalichman, 1999; Lawrence-Karski, 1997; Loue, 1998; McDowell, 1998; Melton et al., 1997; Wolfe, 1988). Section 14 Children, Young Persons, and Their Families Act (1989) provides a definition of a child or young person in need of care or protection (see Appendix B). However, terms such as 'physical abuse', 'sexual abuse', 'emotional abuse', 'ill-treated', 'seriously deprived', 'unable to care', and 'emotional wellbeing' are not defined.

Of the types of abuse referred to in the literature concerning custody evaluations, the overwhelming focus is on sexual abuse (e.g., Bricklin, 1995; Hall & Lee, 1994; Knapp & Keller, 1993; Kuehnle, 1998; Lawlor, 1998; Maxwell et al., 1995c:1996c; McGleughlin, Meyer, & Baker, 1999; Stahl, 1999; Thoennes & Tjaden 1990; Webb et al., 2001a). Sexual abuse allegations occur in an estimated two to ten percent of all custody or access matters (Thoennes & Pearson, 1988). In a survey of New Zealand lawyers, it was estimated that sexual abuse allegations were made in about 10% of custody and access disputes. However, it is not known how many of these were substantiated (Hall, Lee, & Harland, 1993).

The deaths of the three Bristol siblings in 1994 focused attention on the relationship between spousal violence and custody and access decision-making (Robertson & Busch, 1994). The Bristol killing inquiry recommended that a person violent towards a child or spouse should not have custody or unsupervised access until such time as that person can establish that they are safe (Davison, 1994). As a result of the

Davison (1994) inquiry, the Guardianship Act (1968) was amended in 1995 to address allegations of violence made in custody or access proceedings¹² (Freckelton, 1995). Not only did the legal amendment recognise the physically abused child, but it also recognised the child who witnesses violence upon another member of the family (Garner & Fairley, 1998).

Some of the most difficult and complex issues in assessing parental capacity in child custody evaluations are when there are allegations of domestic violence, as well as emotional abuse (Ackerman, 1995; Stahl, 1994). Mental health professionals must be aware of the signs and effects of all types of abuse and neglect, and the treatment strategies available.

1.9.1 Mandatory Reporting Overseas

If the standard of parental care is abusive or neglectful, there are countries that require mandatory reporting. In 1962, the 'battered child syndrome' was a label derived following the finding that disturbing numbers of child abuse cases were coming before paediatricians and emergency room doctors. It was also identified that medical doctors were reluctant to report such abuse (Kemp, Silverman, Steele, Droegemueller, & Silver, 1962). The Kemp et al. (1962) article published in the Journal of the American Medical Association and subsequent media coverage prompted steps to develop mandatory reporting legislation in the United States (Kalichman, 1999; Koerin, 1980). By 1966, all States except Hawaii, which followed later, had mandatory reporting legislation. The initial laws, which mandated medical doctors to

¹² The Court is now required to have regard to the following matters:

- (a) the nature and seriousness of the violence used;
- (b) how recently the violence occurred;
- (c) the frequency of the violence;
- (d) the likelihood of further violence occurring;
- (e) the physical or emotional harm caused to the child by the violence;
- (f) whether the other party to the proceedings –
 - (i) Considers the child will be safe while the violent party has custody of, or access to, the child; and
 - ii) Consents to the violent party having custody of, or access (other than supervised access) to, the child;
- (g) the wishes of the child, if the child is able to express them and having regard to the age and maturity of the child;
- (h) any steps taken by the violent party to prevent further violence occurring;
- (i) such other matters as the Court considers relevant.

report, were designed to report cases of the battered child syndrome. In the late 1960s and 1970s, legislation subsequently broadened to include other professional groups and other types of maltreatment. Increasingly, states are mandating any person to report. Most states have more recently also deleted the term 'serious' in definitions of abuse for reporting purposes (Kalichman, 1999).

Mandatory reporting also exists in Denmark (Pruzan, 1997), Sweden (Hort, 1997), Finland (Poso, 1997), and Canada (Swift, 1997). Mandatory reporting exists in six of the eight jurisdictions in Australia (Budai, 1996), with South Australia being the first in Australia to introduce mandatory reporting in 1976 (Adler, 1995). Countries that do not have mandatory reporting include England (Berridge, 1997), Belgium (Marneffe & Broos, 1997), Netherlands (Roelofs & Baartman, 1997), and Germany (Wolff, 1997).

The assumptions underlying mandatory reporting laws include:

- (a) placing the interests of children above caregivers (Budai, 1996);
- (b) to limit or halt the long term impact of child abuse and neglect (e.g., Walters, 1995);
- (c) children cannot use the law to protect themselves, so others are required to act for them;
- (d) caregivers will not voluntarily request the help they need to prevent further abuse;
- (e) numerous children will not come to the attention of public agencies without mandatory reporting;
- (f) mandatory reporting will lead to accurate reporting;
- (g) mandatory reporting will lead to early detection of abuse and prevention of more serious abuse (Hutchison, 1993).

The literature appears to concentrate on the issues or problems, rather than the positive outcomes associated with mandatory reporting. The problems and issues associated with mandatory reporting include: (a) problems in defining child abuse (e.g., Bannister, 2000; Hewitt & Robb, 1992; Hutchison, 1993; Nelson, Dainauski, & Kilmer, 1980); (b) clarifying vague wording in laws e.g., 'reasonable cause' (Kalichman & Brosig, 1992); (c) substantial increases in the number of child abuse

cases reported (e.g., Faller, 1985); (d) an increase in unsubstantiated cases (e.g., Adler, 1995; Bannister, 2000; Hewitt & Robb, 1992); (e) professionals lacking in awareness of the signs and symptoms of abuse (e.g., Faller, 1985); (f) doubt that mandatory reporting identifies more actual victims of abuse (e.g., Hewitt & Robb, 1992); (g) that mandatory reporting is seen as only part of the solution to child abuse (e.g., Hodgson, 1993, Kelly, 2000); (h) numerous and complex factors appear to influence reporting behaviour (Caton, 2000; Fancourt, 1993; Hewitt & Robb, 1992; Simcock, 2000); (i) lack of public trust in the agency mandated to receive these reports (Beck & Ogloff, 1995; Beddoe, 1993; Davis, 2000); (j) reporting does not guarantee assistance (Adler, 1995); (k) inadequate funding to assist families following a report (Beddoe, 1993, Caton, 2000; Coyle, 2000; McMaster, 1993, Perrett & Robinson, 1993, Taylor, 1993); (l) reporting discourages people to seek help (e.g., Adler, 1995); (m) it represents unnecessary invasion of privacy into families (e.g., Adler, 1995); (n) reporting leads to greater intrusion by the state (Beddoe, 1993); (o) it negatively affects helping relationships (Faller, 1985; Hutchison, 1993; Kalichman, 1999); (p) it removes professional discretion (Adler, 1995); and (q) mandatory reporting without training is a “recipe for disaster” (Lamond, 1989, p. 478). Notwithstanding these issues, the proposed advantages of mandatory reporting include: (a) increase in community and professional awareness of child abuse; (b) improvement in child protection services, and (c) professionals confront their concerns with families more openly (Adler, 1995).

Crenshaw, Bartell, & Lichtenberg (1994) reviewed the literature on mandatory reporting by mental health providers¹³. Their conclusions included: (a) mental health providers’ tendency to report is directly related to a belief in a positive outcome; and (b) mental health providers’ tendency to report is directly related to a belief as to whether abuse is occurring.

Six additional studies were reviewed by Kalichman (1999). It was found that between 21% and 63% had not reported at least one case of suspected abuse. Studies not reviewed by Crenshaw et al. (1994) or Kalichman (1999) included: (a) Beck and

¹³ It should be noted that the term ‘mental health providers’ used by Crenshaw et al. (1994) includes school principals and child care providers, which were among the participants of the Zellman (1990) study reviewed by Crenshaw et al. (1994).

Ogloff (1995) who found that 12% of psychologists failed to report. The primary reason for this was the lack of evidence despite the statutory requirement to report; (b) Beck, Ogloff, and Corbishley (1994) who found that 16% of teachers had suspected abuse, but failed to report. It can be argued that studies which use vignettes (e.g., Beck & Ogloff, 1995; Zellman, 1990) may not obtain the participants' true beliefs and actions as it does not involve a genuine case in which the professional has a relationship, where more information is known about the family, and where the actual effect of reporting is likely to be known.

Few writers recommend a reversal of mandatory reporting laws on the one hand or total discretion on the other. The literature does indicate a need to clarify definitions of abuse and circumstances that warrant reporting (Kalichman, 1999). No country that has introduced mandatory reporting has withdrawn it (Kelly, 2000). Any move away from mandatory reporting requires careful consideration (Fischer, 1999). New Zealand has never introduced mandatory reporting, although serious attempts have been made to do so.

1.9.2 Mandatory Reporting in New Zealand

The two legislative acts prior to the present Children, Young Persons, and Their Families Act (1989) (CYPF), were the Child Welfare Act (1925) and the Children and Young Persons Act (1974), neither of which had specific provisions relating to the reporting of child abuse. The 1989 Act was developed over a seven-year period (Tapp, Geddis, & Taylor, 1992). Over this period, mandatory reporting was first introduced in the 1982 Child Protection Bill (Tapp et al., 1992; Taylor, 1993), followed by the Children and Young Persons Bill (1986) that considerably increased the recommended number of professional groups that would be required to report¹⁴. However, the idea of mandatory reporting was withdrawn and replaced by Section 15 CYPF (1989) which reads that “any person who believes that any child or young person has been, or is likely to be, harmed (whether physically, emotionally or sexually), ill treated, abused, neglected, or deprived *may* report the matter to a Social

¹⁴ Clause 17 listed the following professionals: registered psychologist; registered medical practitioner; barrister and solicitor in private practice; police; teacher; social worker; hospital board clinical staff and social worker; foster care service/home employee; early childhood centre worker; kindergarten teacher; plunket nurse; probation officer; public health nurse; and school dental nurse.

Worker¹⁵ or a member of the Police". Tapp et al. (1992) argued that the principal reason for withdrawing a proposal for mandatory reporting was the cost to meet the increased number of notifications to the Department of Social Welfare¹⁶. Alternatively, the change was the result of the new philosophy behind the present Act, which aimed to protect families from over-zealous intervention by the state and other professionals and to give families a chance to solve problems themselves (Webb et al., 1999b).

In 1992, a government appointed team reviewing the CYPF Act recommended that mandatory reporting be legislated and that those designated to report be medical doctors, teachers, nurses, police, and social workers employed by the Department of Social Welfare. The review team noted the view from the Department of Social Welfare recommending against mandatory reporting (Ministerial Review Team, 1992). The review team's position was supported by Dr Fancourt (1993), president of Doctors for Sexual Abuse Care, but not supported by others (e.g., Beddoe, 1993; Cockburn, 1993). The Government decided to give more consideration to this matter (Minister of Social Welfare, 1992). As part of that process, the Government's Social Policy Agency contracted Hewitt and Robb (1992) to conduct a literature review concerning the overseas experiences of mandatory reporting. This literature review focused primarily on information from the United States, United Kingdom, and Australia. The conclusions of Hewitt and Robb (1992) included:

- (a) the problems, including those in New Zealand (NZ), are not legislative or philosophical, but with the "implementation and delivery of the care and protection system" (p. 62);
- (b) effectively addressing a care and protection system involves effective training of professionals, effective public education, and better data collection systems;
- (c) voluntary reporting has a symbolic value. It expresses society's preference for persuasion over coercion, voluntary participation, minimum intervention, cooperation, and sharing responsibility for reporting child abuse.

¹⁵ Defined as a social worker employed by the Department of Child, Youth, and Family Services.

¹⁶ Now named the Department of Child, Youth and Family Services (CYFS).

In October 2000, the opposition National Party in NZ organised a conference ‘Stop the Hurt – Mandatory Reporting of Child Abuse’. Dr Kelly (2000), an executive of Doctors for Sexual Abuse Care, advised that the majority of his paediatric colleagues supported mandatory reporting. Those who did not support mandatory reporting at this conference were The Royal College of General Practitioners (Bannister, 2000) and the Child Abuse Prevention Service (Henare, 2000). Of the majority who stated a position on mandatory reporting, more supported, even if cautiously, the concept. Many stated the need for the addition of other measures such as: (a) greater resources (Coyle, 2000; Diesfeld, 2000; Hayes, 2000; Rosemergy, 2000); (b) training (Diesfeld, 2000); and (c) cultural solutions (Davis, 2000). Neither the Psychologist Society or the College of Clinical Psychologists, nor a member of either association presented a paper at this conference.

Lack of reporting has not been the issue linked to many recent deaths in NZ. In most of these cases, either the child had been already reported to CYFS or the child had been known to only family, friends, or neighbours who would be unlikely to be subject to mandatory reporting laws (Caton, 2000). In 2001, the Chief Social Worker of CYFS, Mike Doolan, did not support mandatory reporting, stating that there was no evidence that mandatory reporting reduced the number of children abused or neglected (Aotearoa New Zealand Association of Social Workers, 2001). Many writers, both in NZ and overseas, on either side of the mandatory reporting argument believe that combating child abuse and neglect is a multi faceted issue requiring: (a) public education (e.g., Hodgson, 1993, 2000; Taylor, 1993); (b) Child Abuse Registers (Hodgson, 2000); (c) cultural solutions (e.g., Davis, 2000 referred to the “cultural silence” [p. 2] occurring within some Maori communities with respect to child abuse); and (d) educating professionals (e.g., Reiniger, Robison, & McHugh, 1995).

Mandatory reporting does not exist in NZ. There is no known academic study of professionals or of the public in relation to mandatory reporting in NZ. The survey used in the Crenshaw et al. (1994) study was used as a model in this study to explore the views of Family Court report writers.

1.10 Previous Research Reliability and Validity Data

The method used for this study was a survey based methodology. Survey research is usually weak on validity and strong on reliability. Reliability is strong given that participants are presented with a standardised stimulus (Babbie, 2001). The four errors associated with surveys are: coverage error, sampling error, nonresponse error, and measurement error (Visser et al., 2000)¹⁷. With an eye to these factors, this section looks at the overseas studies of Ackerman and Ackerman (1997), Keilin and Bloom (1986), LaFortune and Carpenter (1998), and the NZ studies of Hong (1991) and Moltzen (1993). Each consisted of mail out surveys to practitioners conducting, or at least appeared to be involved in, child custody evaluations. Jameson et al. (1997) developed the Best Interests of the Child Questionnaire (BICQ), which was also a mail out survey.

Keilin and Bloom's (1986) questionnaire response rate was 27% (n=82). The sample size was small (LaFortune & Carpenter, 1998), and the ethnicity of the participants is not known. The authors' state that the sample was over-representative of psychologists and psychiatrists in private practice, which was a relevant factor as custody evaluations were often performed by community and government agencies (Keilin & Bloom, 1986).

Ackerman and Ackerman's (1997) survey questionnaire response rate was 25% (n=201). All of the participants were Caucasian. Names of one half of the potential participants (n=400) were obtained by "members of the American Bar Association Family Law Section, who each were asked to submit names of two experienced psychologists who performed child custody evaluations and were respected by the court" (Ackerman & Ackerman, 1997, p. 138). The method of participant selection does raise concerns over representativeness. This study also asked participants to list

¹⁷ The four errors are: (a) coverage error is the bias that can result when the sample does not include a portion of the relevant population; (b) sampling error refers to the random differences that exist between the sample and the population from which it was selected; (c) nonresponse error occurs when data is not collected from all members of the sample; and (d) measurement error refers to the distortions in the assessment of a construct, that can occur by the participant's own behaviour (e.g., misreporting true attitudes) or from the questionnaire (e.g., unclear or confusing wording) (Visser, Krosnick, & Lavrakas, 2000). Bordens and Abbott (1996) refer to nonresponse bias when a large proportion of participants who fail to return the questionnaire differ in significant ways from those who do return the questionnaire.

all the tests that they had ever used in custody evaluations. However, the study failed to account for those tests previously used but not currently administered.

LaFortune and Carpenter's (1998) survey of 286 practitioners in five states of America, obtained a response rate of 58% (n=165), of which 89% (n=147) were psychologists. Other than coverage error, an example of measurement error was that participants were asked to rate their use of procedures when conducting custody evaluations. However, the participant's responses did not indicate whether the participant was answering the question from the viewpoint of all child custody evaluations written or as if each of the procedures were applicable in each evaluation.

The NZ study, Hong (1991), targeted specialist report writers who wrote s29A (Guardianship Act, 1968) reports in three geographical areas. The response rate was 85% (n=22). Of the twenty-two participants who responded, 73% (n=16) were psychologists, 23% (n=5) were social workers, and 4% (n=1) had obtained a masters degree in both psychology and social work. The study indicated that the five social workers wrote specialist psychological reports and did not have any psychology qualifications. The study did not investigate why social workers were writing s29A (Guardianship Act, 1968) psychologist reports. As seen, the study does have coverage and sampling errors, particularly in relation to the representativeness of this sample.

The only other survey of NZ report writers was Moltzen (1993). Moltzen (1993) states that not all NZ report writers were sent the survey. The response rate was 32% without any follow-up mailing. All participants were psychologists. The research errors attributed to this study include coverage and nonresponse. Some questions imply a focus towards child custody evaluations under Section 29A (Guardianship Act, 1968), and not those Family Court proceedings related to child protection. Furthermore, the research does not specify this in the questionnaire nor in the information sheet.

Jameson et al. (1997) surveyed eighty-eight psychologists who listed themselves as specialising in areas of divorce, custody and access in British Columbia, one region of Canada. Jameson et al. (1997) obtained a commendable response rate of 89% (n=

78). What is not known is whether all the participants actually performed child custody evaluations. The factors that make up the Best Interests of the Child Questionnaire do not necessarily meet content validity requirements. For example, 'physical abuse of child by parent' does not distinguish the recency of the abuse which is likely to impact upon the importance placed on this item by the psychologist preparing the child custody evaluation. Other potentially relevant items when determining the best interests of the child not included in the questionnaire include: emotional abuse; neglect; cultural needs; parent's medical condition; child's vulnerability; and permanence of any proposed home.

This study took into account these previous studies in terms of planning and carrying out of the research to increase reliability and validity (see Method section).

1.11 Present Study

The current research focused on psychologists who prepared reports (report writers) for the Family Court, and requested under the Children, Young Persons, and Their Families Act (1989). The focus of such reports is the care or placement and/or access of children at risk. The research is intended to help the field in NZ to be better informed, to stimulate best practice, and to add to knowledge that will benefit children considered to be at risk. The other focus of this research was Family Court psychologists' views concerning mandatory reporting.

Consequently, the purpose of this research includes: (a) to identify current child protection custody and access evaluation practices in NZ; (b) to compare research findings with recent overseas research; (c) to develop further a 'best interests of child' assessment model; (d) to inform mental health professionals and others working in this field; (e) to assess opinion of Family Court report writers as to the introduction of mandatory abuse reporting; and (f) to stimulate further research and debate.

The survey was developed with the assistance of not only the literature, but also the help of experienced report writers. Their comments assisted in the relevance and clarity of questions. Various methods were employed to enlist the participation of all report writers throughout New Zealand. In an attempt to increase the response rate, a

follow up survey was sent. These issues are expanded upon next in the Methods section.

CHAPTER TWO

METHOD

2.1 Design

The participants were specialist Family Court report writers who prepare Section 178 child protection psychological reports. The research design was correlational and cross-sectional. The purpose of this survey research was both exploratory and descriptive. It explored report writers' views as to the use and contribution of specialist reports in child protection cases, the evaluation process, the importance of various factors relating to the best interest of the child standard, and issues related to mandatory reporting. This research was intended to replicate aspects of recent overseas studies examined in the Introduction (Ackerman & Ackerman, 1997; Jameson et al., 1997; LaFortune & Carpenter, 1998). It was also an extension of those studies in three ways (a) application to New Zealand (NZ), (b) application to child protection evaluations, and (c) the addition of new questions believed to be relevant to these evaluations. As this is a self-report survey instrument, there was the opportunity for participants to present themselves protected by the fact that they remained anonymous.

Consent from the Human Ethics Committee at Massey University, Palmerston North, was sought and received prior to inviting participation in this study.

2.2 Sample Recruitment

The primary intention of this research was to obtain the participation of specialists, primarily psychologists, who are, or recently have been, Family Court report writers undertaking Section 178 reports.

The Department for Courts holds a list of psychologists who undertake both Section 178 and Section 29A (Guardianship Act, 1968) reports for the Family Court throughout New Zealand. In April 2000, the researcher was advised by the Department for Courts that there were approximately 122 entries on the list that was under review and "almost all of the names on the list are members of the Psychological Society" (A. Lee: personal communication, April 18, 2000).

Access to this list was denied by the Department for Courts on the grounds of Section 9(2)(a)¹⁸ Official Information Act (1982), though the Psychological Society did allow access to their list of members who wrote reports for the Family Court (n=73). Subsequently, and in accordance with Section 28(3)¹⁹ of the Official Information Act (1982), the researcher requested that the Office of the Ombudsmen undertake an investigation into the decision made by the Department for Courts to deny access to the list. Both the Chief Ombudsmen and the Privacy Commissioner were of the view that the list of psychologists should not be released on the basis that: (a) the list was not publicly available, and (b) the Psychological Society offered to send the researcher's questionnaire to members who wrote specialist reports and had related indemnity insurance (Sir B. Elwood, personal communication, December 14, 2000).

In January 2001²⁰, the Department for Courts advised that there were 127 psychologists on the list of Family Court report writers most of whom were individuals. However, the list apparently contained some entries that were businesses that *may* have included more than one report writer (J. Moore, personal communication, January 26, 2001). In an effort to obtain a precise number of psychologists who prepare Section 178 reports from the Department for Courts, the researcher was informed by the Department that: (a) this information is not available; (b) report writers may change their preferences for writing a particular type of report from time to time; (c) it is not until the Family Court judge requests a report that the status of a report writer is known (J. Moore, personal communication, March 19, 2001).

Provided that the Department for Courts records are accurate, the difference between 127 psychologists identified by the Department for Courts and the 73 psychologists specifically identified by the Psychological Society, is 54 psychologists. Either the

¹⁸ Section 9 (2)(a) of the Official Information Act 1982 states "protect the privacy of natural persons, including that of deceased natural persons".

¹⁹ Section 28 (3) Official Information Act 1982 states 'an investigation and review under subsection (1) or subsection (2) of this section may be made by an Ombudsman only on complaint made to an Ombudsman in writing'. Section 28 (1) states 'it shall be a function of the Ombudsmen to investigate and review any decision by which a Department or Minister of the Crown or organisation – (a) Refuses to make official information available to any person in response to a request made by that person ...'

²⁰ After the vast majority of questionnaires had been sent.

Department for Courts were incorrect in earlier stating, “that almost all of the names on the list are members of the Psychological Society” (A. Lee, personal communication, April 18, 2000), and/or a number of psychologists who are both members of the Psychological Society and write Section 178 and/or s29A (Guardianship Act, 1968) reports for the Family Court do not have indemnity insurance.

Given no single source for all report writers, six methods were used to invite participation: (a) questionnaire sent to targeted members of the Psychological Society; (b) questionnaire sent to particular members of the College of Clinical Psychologists; (c) notice placed in the NZ Clinical Psychologist Journal; (d) contact with the NZ Association of Psychotherapists; (e) contact with a group of report writers called the Northern Region Report Writers Group; and (f) participants were invited to advise the researcher of other colleagues preparing Section 178 reports.

Each of these six methods is now explained further: (a) the Psychological Society identified 73 members who had indemnity insurance relating to being a Family Court report writer (NZ Psychological Society, personal communication, November 20, 2000). The Psychological Society agreed to send the questionnaire to these members. This process respected the privacy and anonymity of participants; (b) the College of Clinical Psychologists released a list of members' names (n=130) who had previously agreed to be invited to participate in any research. The College were not able to identify members within this group who wrote reports for the Family Court. Thus, all of these clinical psychologists were sent a questionnaire; (c) a notice was placed in the New Zealand Clinical Psychologist Journal²¹ inviting participation in this research; (d) at the conclusion of the questionnaire, participants were invited to name and provide a contact phone number of other professionals who prepared Section 178 reports; (e) the Department for Courts advised that psychotherapists are not contracted to prepare Section 178 reports unless that person is also a psychologist (J. Moore, personal communication, March 19, 2001). The NZ Association of Psychotherapists was not able to identify members who wrote reports for the Family Court (E. O'Keefe, personal communication, October 10, 2000). Nevertheless, a

²¹ New Zealand Clinical Psychologist (2000), 11(1), p. 30.

notice inviting participation in this study was placed in the NZ Association of Psychotherapists quarterly newsletter; (f) the researcher was invited to send an open letter to a group of report writers called the Northern Region Report Writers Group²², inviting their participation in this study (M. Batenburg, personal communication, September 29, 2000). Membership of this group numbered 35 (M. Batenburg, personal communication, September 26, 2000). Such a letter was sent for distribution among its members²³; and (g) further n=23 surveys were sent from names supplied by initial participants. The total number of initial surveys sent was n=203, and with the inclusion of the additional 23 surveys sent, total n=226.

2.3 Data Collection

The Information Sheet (Appendix C or D) was designed to increase the response rate by conveying the applied value of the study. Questionnaires are more likely to be returned if they are judged as salient to the participant. Furthermore, professionals are more likely to return questionnaires (Miller, 1991). The Information Sheet introducing the researcher, outlining the nature of the research, and inviting participation was sent to potential participants. A copy of the Questionnaire (Appendix E) was sent to potential participants at the same time that the Information Sheet was sent.

On the last page of the questionnaire, participants were asked if they would like their participation towards this research to be acknowledged in the appendix to (a) a summary of results and (b) the thesis itself (see Appendix F). This opportunity to be acknowledged was also explained in the Information Sheet. The reasons for including this option was two-fold: (a) to allow participation to be recognised, and (b) as a possible means of increasing the response rate.

Response rates to mail questionnaires do not usually exceed 50% (Miller, 1991). Response rates below 30% “constitute a dangerous failing” (p. 268) and the results are of little or no value (Moser & Kalton, 1971). If the response rate falls below 30%,

²² Located within the northern region of the North Island.

²³ It appears that no report writer followed up this invitation to take part. Although, it is possible that members of this group received a questionnaire via one of the other methods used to invite participation.

there is a likelihood that the responses differ significantly from those that would have been obtained from non-participants (Moser & Kalton, 1971). When return rates are more than 30%, but less than 100%, what is not known is whether the results are positively or negatively biased.

2.3.1 Questionnaire Return Follow-Up

The use of questionnaire follow up can increase the response rate by an average of 20% (Miller, 1991). The majority of the initial (n=203) questionnaires were sent in November 2000. Due to a staggered response rate, it was decided not to send the reminders until January 2001 due to the perceived demands on potential participants approaching and during the holiday session. So as to preserve the anonymity of members of the Psychological Society, a further questionnaire and reminder letter (Appendix G or H) was sent by the Society to the 73 members identified as specialist report writers (Psychological Society, personal communication, January 19, 2001). A reminder letter and further questionnaire was also sent to those members of the College of Clinical Psychologists (n=86) and to those professionals identified by participants (n=16) as undertaking such reports, but who had not replied to the initial mail out.

2.3.2 Participants

Of the 226 surveys sent (excluding follow-up survey), 81 were returned: this represents a response rate of 35.8%. Thirty-seven professionals returned the questionnaire uncompleted, and of these, 36 stated that they did not undertake Section 178 reports. The remaining person did not fill out the questionnaire nor indicate whether s/he prepared Section 178 reports.

Forty-four participants filled out the questionnaire to some extent. Forty completed the questionnaire in total. Of those 40 participants, 38 are current s178 Children, Young Persons, and Their Families Act (1989) report writers, which represents at

least 30% of the total number of s178 report writers ($n=127$)²⁴. Of the other four who partially completed the questionnaire, one was a report writer who did not prepare s178 reports; the other three participants were clinical psychologists who were not report writers. Of the 44 participants, 26 (59.1%) were female and 18 (40.9%) were male. Of the 43 participants who specified their age, the mean was 48.33 years old ($SD = 9.4$), and the range was 32 to 68 years old. The ethnicity of participants was determined by asking participants to indicate as many ethnic origins as applied to them from the categories given. Ethnicity was indicated as Pakeha ($n=37$, 84.1%) and European ($n=3$, 6.8%). The remaining four participants (9.1%) identified themselves as Asian ($n=1$), European/Jewish ($n=1$), New Zealander ($n=1$), and New Zealander with European descent ($n=1$).

2.4 The Questionnaire

An extensive questionnaire was developed. This questionnaire was intended to obtain information relating to the beliefs, experiences, and practices of Section 178 psychological specialist report writers for the Family Court. Many of the items in the questionnaire were based on the research of Keilin and Bloom (1986), Ackerman and Ackerman (1997), and LaFortune and Carpenter (1998), all of which were discussed in the Introduction. The questionnaire also obtained specialist report writer's views related to the best interest of the child standard (BICS). Many of the BICS items were either replicated directly or based on the research of Jameson et al. (1997). As the question of introducing mandatory reporting has been raised in New Zealand (NZ), the questionnaire also explored this issue.

An initial draft of the questionnaire was piloted on two highly experienced specialist report writers, both of whom have written a substantial number of s178 reports. One was a clinical and registered psychologist; the other, a registered psychologist. After feedback and revision, and inclusion of the mandatory reporting section, a second draft of the questionnaire was sent back to these two report writers for additional feedback. However, one was not able to comment in the time required. The second

²⁴ The total number of report writers is estimated to be 127. Of these 127 report writers, it is not known how many do or do not undertake s178 reports.

draft was also given to another senior clinical and registered psychologist also experienced in this area of work. The questionnaire was then revised and finalised.

The feedback from the first pilot was that the questionnaire was too long. As a result of this feedback, it was revised and shortened. The final questionnaire contained 208 questions divided into seven sections. Most questions (n=169) were in a Likert format. The first section requested demographic and professional information. The second section concerned attitudes towards the preparation of Section 178 reports, and the contribution of s178 reports and report writers to Court proceedings. The third section asked the participant about their evaluation practices. The fourth section related to the writing of the Section 178 report. The fifth section asked the participant to rate criteria relating to the BIC standard. The sixth section dealt with training and resources. The seventh and final section related to mandatory reporting. The following sections provide detail of each of the major sections (see Appendix E for copy of the questionnaire).

2.4.1 Section 1: Demographic, Professional and Statistical Information

The first part of the questionnaire (Questions 1 – 16, see Appendix E) obtained information relating to demographics, professional associations, training, use of professional time, and statistics relating to custody reports.

To obtain an accurate description of the participants, questions 1-7 asked for demographic information on the following variables: gender; age; ethnicity; professional qualification; professional association; years of clinical experience; and employment setting. Question 8 ‘what theoretical/clinical orientations most influence your approach to practice’ was partly replicated from B. Jameson (personal communication²⁵, July 25, 2000) which read ‘what theoretical/practical orientation do you feel most influences your thinking in psychology’.

Question 9 concerned training experiences and was adapted from LaFortune and Carpenter (1998). Question 9 a, b, and c were replicated from LaFortune and

²⁵ Part of a dissertation manuscript in progress, title is unknown.

Carpenter (1998) except for the addition of ‘or term’ in ‘semester (or term) long graduate level course’ to acknowledge that ‘semester long’ courses is a relatively new expression in NZ; (d) rather than state ‘at least 300 hours of practicum ...’ as LaFortune and Carpenter (1998), the researcher requested an estimated number of hours as 300 hours devoted exclusively to this area is unlikely to be obtained in NZ qualifications; (e) was changed from ‘a predoctoral clinical internship ...’ to ‘a clinical internship ..’. to reflect NZ conditions; (f) was changed from ‘a postdoctoral fellowship’ to ‘work in a setting following training for which 25% was devoted to forensic mental health or child, adolescent, family issues’ to reflect NZ convention; (g) rather than state ‘other specialized training ... consisting of at least 10 hours’ this item requested an estimated number of hours; (h) the participant was given the opportunity to acknowledge additional specialised training other than that related to assessment and not already covered in this section.

Question 10 explored clinicians’ use of their time and was adapted from LaFortune and Carpenter (1998). The question was expanded by the researcher for relevance in the NZ context and to obtain further information. Questions 10 a, b, g, h, i and m were based upon LaFortune and Carpenter, minimally altered to reflect the NZ context (e.g., Question a. ‘s178 & s29A reports for the Family Court’ rather than ‘custody evaluations’). Question c, ‘report as a result of Family Group Conference when case not within the Family Court’ is particular to the NZ care and protection law. Questions d, e, and f related to assessment work not specifically requested by LaFortune and Carpenter (1998). In addition to these items, ‘clinical supervision for self’ was added by the researcher as 10j. Supervision for self is not referred to in the NZ Psychology Society Code of Ethics (NZPsS, 1986)²⁶. However, Maxwell et al. (1995a:1996a) and Principal Family Court Judge (Seymour et al., 1995)²⁷ agree that the psychologist should obtain supervision. ‘Supervision of colleagues and others working in the Family Court’ was included as 10k as it is considered that experienced psychologists should make themselves available to such people (Maxwell et al., 1995a:1996a). ‘Research (related to Family Court proceedings, parenting, family, and

²⁶ The 1986 Code of Ethics was replaced in 2002 (see NZPsS, 2002), after the questionnaire was sent to participants.

²⁷ Otherwise known as Practice Note 18, was superseded by ‘Practice Note – Specialist Report Writers’ (Family Courts’ Working Party, 2001) after the survey was sent to participants. Nevertheless, this new Practice Note states that report writers are still required to undertake supervision.

abuse) and working parties associated with the Family Court' was added as 101. Maxwell et al. (1995a:1996a) and Trapski (1994) state that a report writer should maintain his or her knowledge relevant to Family Court work. To be familiar with the literature related to one's area of work is also an ethical standard (NZPsS, 1986).

Question 11 related to professional activities. Question 11 a, b, c, d were replicated from LaFortune and Carpenter (1998) with minor wording changes to reflect NZ convention (e.g., 'college' changed to 'university'). Question 11 (e) 'other' was added to allow participants the opportunity to state other professional activities that they have been involved in within the last five years.

Questions 12 to 16 gathered statistical data from the participant including years of experience, numbers of reports completed, percentage of defended cases, and the primary focus of their evaluations (see Appendix E).

2.4.2 Section 2: Attitudes towards s178 Reports and their Use

The second section of the questionnaire (Questions 17 – 20, see Appendix E) related to the attitudes of report writers and included the dislikes associated with preparing s178 reports, the perceived value of such reports, the utilisation of report writers, and the rewards of preparing s178 reports.

Question 17 related to the dislikes of report writers about undertaking s178 (CYPF, 1989) reports. Question 17 a, b, c, d, g, i, j, k, l, m, and n were, with minor changes (e.g., "attorney" changed to "lawyer"), replicated from LaFortune and Carpenter (1998); (e) 'determining the effect of parent's mental health problems upon their ability to be a custodial parent' was identified as an issue in the pilot stage of developing the questionnaire; (f) 'increased likelihood of a complaint made to the Family Court or professional body'. Rather than being sued, as in the LaFortune and Carpenter (1998) survey, it is more likely in New Zealand that a complaint is made to the Family Court or the relevant professional body; (h) 'fees are not relative to the services provided'. Rather than a subsection concerning fees as in LaFortune and Carpenter's (1998) survey, this one question was an attempt to gauge attitudes towards the level of fees paid, while at the same time reducing the size of the

questionnaire; (o) 's178 referral brief not clear in terms of issues to be addressed or referral brief not sufficiently detailed or specific' was added. This question was based on Seymour et al. (1995) who stated that the Family Court should supply a brief that includes issues to be addressed and is to be "sufficiently clear, detailed and specific...." (p. 237)²⁸.

Question 18 pertained to report writer's opinion as to the value of reports. Question 18 a, b, d, and f were, with minor wording changes (e.g., 'lawyer' rather than 'attorney'), replicated from LaFortune and Carpenter (1998). Other items included: (c) 'help social work agency better understand the situation' was introduced as either the statutory agency (Department of Child Youth and Family Services) or a specified community agency is given statutory powers under the CYPF Act to provide social work services to the child; (e) 'help parents feel they got their full day in court' replaced LaFortune and Carpenter's (1998) 'help clients feel they got their full day in court'. The client of the NZ report writer is the Family Court, not the parent; (g) 'work in the child's best interests'. Various authors (e.g., Seymour et al., 1995; Smith, 1999a; Zelas, 1995) state that the role of the report writer is to focus on the child's needs. Thus, this item was added.

The items in question 19 related to the report writer's views regarding when report writers should be used and the contribution of the child's lawyer and social work agency to their reports: (a) 'report writers should be frequently or routinely used to write reports' replaced LaFortune and Carpenter's (1998) 'experts should be frequently or routinely used'; (b) 'report writers should be used only after a Family Group Conference (FGC) has been held'. This question was added to determine report writer's views to the guidelines which state that s178 reports should not be ordered by the judge until after a FGC has been held (Seymour et al., 1995)²⁹; (c) 'report writers should be used primarily in a neutral way, such as at the request of the Family Court' replaced LaFortune and Carpenter's (1998) 'evaluations should be used

²⁸ Otherwise known as Practice Note 18, was superseded by 'Practice Note – Specialist Report Writers' (Family Courts' Working Party, 2001) after the survey was sent to participants. Nevertheless, this new Practice Note still requires the referral brief to be "sufficiently clear, detailed and specific" (p. 2).

²⁹ Otherwise known as Practice Note 18, was superseded by 'Practice Note – Specialist Report Writers' (Family Courts' Working Party, 2001) after the survey was sent to participants. The new Practice Note is not as precise, states that a s178 report will usually be made after an FGC (Family Courts' Working Party, 2001).

primarily in a neutral way, such as at the request of the court', so as to make relevant for the NZ context; (d) 'report writers should be used only when other information suggests an impairing mental condition, or grossly inadequate or abusive parenting, or an issue of the child's psychological attachment', replaced LaFortune and Carpenter's (1998) 'evaluations should be used only when other information suggests an impairing mental condition or grossly inadequate parenting is clearly at issue'. The researcher believed it was important to specify abusive parenting and as this research concerns children who at times are placed in situations outside of the family, psychological attachment is also considered an important issue (e.g., Gardner, 1999); (e) 'report writers should be routinely used as consultants regarding placement and access issues after CYPF s78 Interim Custody Order or s101 Custody Order made' was based on LaFortune and Carpenter's (1998) question 'experts should be frequently or routinely used'; (f) 'information and/or opinions of Counsel for Child are always significant for the purposes of the s178 report' and (g) 'information and/or opinions of social work agency are always significant for the purposes of the s178 report' was added by the researcher to gauge the usefulness of each in this process.

Question 20 'What do you find rewarding about your involvement with s178 reports' is adapted from the question 'what do you find rewarding about your involvement in child custody and access cases' (B. Jameson: personal communication, July 25, 2000).

2.4.3 Section 3: Evaluation Practices

The third section of the questionnaire (Questions 21 – 27, see Appendix E) related to the evaluation process itself. Participants were asked to indicate their use of co-evaluators, the evaluation procedures employed including the specific psychological tests both used and avoided, and how an evaluation may differ with Maori or Pacific Island families.

Question 21 (a) 'With regard to s178 reports, indicate how often you co-work with another professional', is in part replicated from Moltzen (1993), which read 'in custody evaluations what percentage of the time do you work with a co-evaluator'. This item used a 5-point Likert scale (see Appendix E).

Question 22 pertained to procedures used when conducting Section 178 evaluations, and is adapted from Keilin and Bloom (1986), LaFortune and Carpenter (1998), and Moltzen (1993). Moltzen (1993) identified activities involved in undertaking a custody evaluation. However, that study only asked for the average number of hours for each activity and did not ask how often each activity is undertaken. The current questionnaire did not ask for the average amount of hours undertaken for each activity due to the existing length of the questionnaire. Additionally, the value of such data was uncertain for two reasons: (a) as identified during piloting, vastly different family situations in Family Court proceedings which will effect the hours required to complete an evaluation, and (b) the differences in the issues to be addressed from one case to another as outlined in the report brief from the Family Court. Items were added or altered to reflect the nature of these care and protection evaluations in this country. Participants were asked to rate the use of each evaluation procedure in terms of its relevance for each s178 report (see Appendix E). Clearly, not all procedures are relevant for each report. However, the question allowed the researcher to obtain the overall importance each participant places upon each procedure.

Questions 23 and 24 invited the participant to state what, if any, psychological testing instruments were used and to rate the frequency that such tests were used. These questions are in a similar format to Moltzen (1993) but were not assigned a 7-point Likert scale as in Moltzen (1993), but a 5-point scale to be consistent with the greater frequency of related questions replicated or adapted from LaFortune and Carpenter (1998).

Question 25 'Please note any specific child, adolescent or adult psychological tests you avoid when completing s178 reports' and 'why do you avoid these tests', were replicated (B. Jameson: personal communication, July 25, 2000). "S178" was added to reflect the focus of the current study.

Question 26 'Is there information that you are often not able to access, but would be relevant to your reports', was added by the researcher.

Question 27 'Do your s178 evaluations differ in any way when assessing Maori or Pacific Island families from those you may use when assessing non-Maori or non Pacific Island families' was adapted from Moltzen (1993).

2.4.4 Section 4: Report Writing

The fourth section related to report writing. Participants were asked to rate the degree to which they include specific information in their reports from a comprehensive list of 20 items (Question 28, see Appendix E).

Question 28 a, d, h, m, and p are replicated from LaFortune and Carpenter (1998). Other items in the current questionnaire included: (b) 'record of written material viewed' is specified in 'Practice Note 18' prepared for the Principal Family Court Judge (Seymour et al., 1995)³⁰; (c) 'observations which could not be made because of limitations imposed' is stated in the Royal Australian and New Zealand College of Psychiatrists guidelines for reports under the Guardianship Act (Webb et al., 1999a); (e) 'a statement regarding the validity of report writer's evaluations for determining placement or custody (e.g., limitations)' was changed for the purposes of this research from that in LaFortune and Carpenter (1998) which read, 'a statement regarding the validity of mental health evaluations for determining custody (e.g., limitations)'. Caldwell (1995) stated that it is good practice for the psychologist to highlight problems and limitations of any report; (f) 'relevant empirical research data to support conclusions or opinions' was added. Seymour and McDowell (1996) proposed that a role of the report writer is to present relevant empirical research data to support conclusions; (g) 'state possible alternative explanations for current findings' is a standard to be considered by report writers (Caldwell, 1995; Smith, 1999b); (i) 'a clear recommendation regarding the child's placement' is adapted from LaFortune and Carpenter (1998) which stated 'a clear recommendation regarding who should get custody'. Given that this research concerns care and/or protection matters, 'placement' was deemed more appropriate given the range of potential options open to the Family Court judge; (j) 'provide recommendations as to an access plan (even if

³⁰ This Practice Note was replaced in July 2001, which was after the questionnaire was sent to participants. The new Practice Note does not include a section on the presentation of the report (see Family Courts' Working Party, 2001).

not requested)' was added to reflect NZ conditions; (k) 'predict likely outcomes of placement and access decisions' was added. Maxwell et al. (1995a:1996a) warned psychologists to be cautious about making predictions about likely outcomes of custody and access decisions; (l) "compare and contrast the advantages and disadvantages of different placement scenarios". The report writer is expected to "compare and contrast the advantages and disadvantages of different parenting scenarios" (Trapski, 1994, p. 220). The researcher has substituted the word 'placement' for 'parenting' for the purposes of this research and to recognise that placement may not be with the natural parent; (n) 'statement as to whom you perceive to be the better caregiver' was in LaFortune and Carpenter (1998) as 'experts should be able to state who they perceive to be the better parent'; (o) 'provide a range of possible options'. Caldwell (1995) suggested that it might be helpful to provide the judge with a range of possible options to consider; (q) 'state that the mental health of a parent is sufficiently impaired to the extent that the person should not be a custodial parent' was adapted from LaFortune and Carpenter (1998) which stated that 'the mental health of a parent should not be at issue unless a mental health expert is prepared to state it is below threshold (i.e., sufficiently impaired that the person should not be a parent)'; (r) 'state that the parenting ability of a parent is sufficiently impaired to the extent that the person should not be a custodial parent' differs from LaFortune and Carpenter (1998) which stated that 'the parenting ability of a parent should not be at issue unless a mental health expert is prepared to state it is below threshold'; (s) 'recommend therapeutic intervention for child, or parent, or caregiver' was added as the NZ Psychological Society encourages psychologists to recommend any follow-up work necessary for children or caregivers (Webb et al., 1999a); (t) 'recommend a referral for more information when outside one's own level of competence'. Trapski (1994) stated that it is expected that the report writer recognise his or her level of competence and to recommend to the Court that an additional referral should be sought in such situations.

2.4.5 Section 5: Best Interests of the Child

The fifth section obtained specialist report writer's ratings of the best interests of the child (BIC) according to the importance of determining Section 178 CYPF Act child placement and access outcomes (Question 29, see Appendix E). The total number of

items to be rated across this question was ninety-four. These items were divided into three subsections: (a) parent-child and parent-parent relational assessment; (b) needs of the child assessment; and (c) abilities of the parent assessment.

Fifty-five of the 60 items originally from Jameson et al. (1997) Best Interests of the Child Questionnaire (BICQ) were replicated. The wording of the other four factors was changed and these are discussed below. The one item not included was 'extent to which each parent is responsible for the marriage breaking down'. Relationship breakdown is not the primary presenting factor in care and protection evaluations, as it would be child custody proceedings under the Guardianship Act (1968). Participants were requested to rate each item according to the importance of determining Section 178 CYPF Act child placement and access outcomes by using, as in Jameson et al. (1997), a 7-point Likert scale ranging from 1 (irrelevant) to 7 (essential). The Jameson et al. (1997) study requested that participants rate each item according to how important each was to them when making custody or access recommendations. In this study, each participant was requested to rate each item in relation to determining Section 178 child placement and access outcomes. In care and protection Family Court proceedings, there is often more than one placement option, which does not necessarily mean a change to the custody order, and participants also may well find the word 'custody' to be aversive (Hall, 1989). In the following three sections, BIC items not specifically referred to have been replicated from Jameson et al. (1997). Items identified as added by the researcher have arisen out of the literature as well as experience in the child protection area.

2.4.5.1 Parent-Child and Parent-Parent Relationship

Twenty-seven items make up this section of the BICQ (Question 29, parent-child and parent-parent relational assessment, 1 – 27 see Appendix E). The following items are those not replicated from Jameson et al. (1997): item 2 'history of sexual abuse of the child by a parent' and item 4 'history of physical abuse of the child by a parent' were added by the researcher. Historic abuse, not included in Jameson et al. (1997), is referred to in the literature (e.g., Banach, 1998; Hall, Pulver, & Cooley, 1996); item 5 'current emotional abuse and/or neglect of the child by a parent' and item 6 'history of emotional abuse and/or neglect of the child by a parent' were added by the

researcher to recognise the existence of emotional abuse and neglect; item 7 ‘current inconclusive allegations of abuse against a child by the parent’ and item 8 ‘historic inconclusive allegations of abuse against a child by the parent’ were added by the researcher due to fact that many allegations of abuse are not proven by the Department of Child Youth and Family Services (CYFS)³¹; item 12 ‘a child’s comfort level with each parent’ is referred to by Kelly (1997); item 14 ‘extent of parent-child contact before child removed and/or placed elsewhere’, replaced Jameson’s (1997) ‘extent of parent-child contact before separation’ so as to reflect the relevance to Section 178 CYPF Act evaluations; item 15 ‘extent of parent-child contact after child removed and/or placed elsewhere’ replaced Jameson’s (1997) ‘extent of parent-child contact after separation’ so as to reflect the relevance to Section 178 evaluations; item 18 ‘keeping a parent and child of the same gender together’. ‘Sex’ stated in Jameson et al. (1997) was replaced by ‘gender’; item 19 ‘the level of conflict between parents or between the parent and their partner’. The words ‘or between the parent and their partner’ were added to recognise new relationships; item 21 ‘each parent’s history of violent relationships’ was added; item 25 ‘parent’s willingness to share parenting responsibility after child removed and/or placed elsewhere’ replaced Jameson’s (1997) ‘willingness to share parenting responsibility after separation’ to reflect the focus of the Section 178 evaluations; item 26 ‘extent to which the parents’ current partners may contribute to parenting’. The wording was changed from ‘new partners’ in Jameson et al. (1997) to ‘current partners’ so as to reflect that parents may have more than one partner after ending the relationship with the child’s other parent.

2.4.5.2 Needs of the Child

Twenty-seven items form this section (Question 29, needs of the child assessment, 1 – 23, see Appendix E). The items not replicated from Jameson et al. (1997) are: item 1 ‘child’s view and preferences regarding contact with each parent and possible placement/access arrangements’. The word ‘custody’ in Jameson et al. (1997) is changed to ‘placement’ to reflect that a child’s ‘placement’ wish may be considered to be less ambiguous than the term ‘custody’, together with the fact that a placement

³¹ For example, of the 26,861 notifications to CYFS for the year ended 30 June 2000, 9,361 (39%) notifications of abuse or neglect were not substantiated (K. Brunton: personal communication, 12 February 2001).

may include an interim arrangement which may or may not lead to eventual custody; item 2 'the child's gender' is from LaFortune (1998) and Schutz et al. (1989)³²; item 3 'the child's physical or psychological vulnerability' was added. It was deemed relevant to specifically highlight vulnerability as a factor that occurs due to a range of developmental, physical, and emotional causes; item 5 'cultural needs of the child' has been referred to, and advanced, in various texts (e.g., Banach, 1998; Beaber, 1982, CYPF Act 1989; Maxwell et al., 1995a,b;1996a,b; Vasquez, 1999; Webb et al., 1999b). Banach (1998) stated the principle of allowing a child to maintain or develop a link with their culture; item 8 'educational needs of the child' was changed from 'academic needs of the child' in Jameson et al. (1997) to reflect NZ convention; item 9 'the child's need for a sense of stability and continuity' (Schutz et al., 1989). Literature refers to the importance of stability (e.g., Banach, 1998; Dupaix, 1987; Henaghan, 1990; Liss & McKinley-Pace, 1999; Rohman, Sales, & Lou, 1987). Continuity is also referred to in the literature (e.g., Goldstein, Freud, & Solnit, 1973; Machida, 1996; Rohman et al., 1987); item 10 'length of time child has been in current living situation' (e.g., Lowery, 1985; Rohman et al., 1987; Schutz et al., 1989³³); item 11 'permanence of proposed home' (Rohman et al., 1987; Schutz et al., 1989); item 13 'child being recognised as member of the family' was identified by Machida (1996) in relation to the social needs of a new born baby in particular; item 14 'the child's safety with other children' and item 16 'significant behavioural and/or psychological concerns of the child (excluding need for psychological parent)' were added. Items 14 and 16 highlight significant behavioural concerns related to the child. Item 14 recognises for example, that the child may be a risk to other children. Item 16 acknowledges that behavioural and/or psychological concerns should be addressed; item 17 'keeping siblings together' is noted in the literature (Hall et al., 1996; Hegar, 1988; Kosonen, 1996); item 19 'child's perception of their relationships and involvement with other family members'. The researcher added the words 'and involvement' rather than consider only the 'child's perception of their relationships with other family members' as in Jameson et al. (1997).

³² Identified by Schutz et al. (1989) as one common consideration in a review of the laws in fifty states of America.

³³ Schutz et al. (1989) states that in some states in America, the law requires the court to consider specific factors before a custody decision. One such state is Michigan, which identifies this as one factor.

2.4.5.3 Abilities of the Parent

Forty items were identified as significant in the ability of parents to meet the child's needs (Question 29, abilities of the parent assessment, 1 – 40 see Appendix E). The following are items not replicated from Jameson et al. (1997): item 1 'prior Family Court decisions relating to the child or any child of the parent' was added by the researcher; however, a narrower factor, "prior custody determinations", is noted by Schutz et al. (1989, p.10); item 2 'each parent's acknowledgement of responsibility for reasons why statutory agency involved' was added. This item orients the report writer to the issue of responsibility which may be an indicator of the parent's acceptance and understanding of their part in the care and/or protection concerns; item 3 'each parent's change of attitude and behaviours significant in the child care and/or protection concerns' was added; however, participants in Banach's (1998) study refer to the importance of the parent changing the conditions resulting in the child coming into care; item 4 'each parent's potential to sustain the changes required to care for the child' was added. In part, this item is related to items 2 and 3. The report writer, if possible, needs to estimate whether the chances of the parent's attitude and/or behaviour can be sustained and whether this is dependent on specific factors such as continuing with medication, avoiding violent relationships, and so on; item 5 'parent's ability to manage conflict, anger, hostility and aggression'. Hostility is referred to by Alter (1985) and Weissman (1991), and conflict is referred to by Oberlander (1995) and Wolfe (1985). The words 'anger' and 'aggression' were added; item 6 'parent's attempt to undermine or sabotage the child's placement' was added. This may be a specific indicator of the parent not accepting the present plan for the child which in turn threatens the child's placement and stability; item 7 'each parent's compliance with Family Court orders or directions'. Ackerman and Ackerman (1997) and Banach (1998) refer to compliance with Court orders. The word 'directions' was added by the researcher, as the Family Court judge is able to make a particular order, such as custody, and also directions such as the child is not to leave a particular geographical area; item 9 'each parent's ability to provide emotional nurturance for the child' was added as it was not identified in this section and is consistent with item 6 'emotional needs of the child' in the previous section of this BICQ; item 10 'each parent's ability to keep and manage the siblings together' was added. In the pilot stage of developing this survey questionnaire, it was identified

that the ability to manage siblings was an important issue, it is also consistent with item 17 in the previous section of this BICQ; item 15 ‘each parent’s ability to provide the child’s cultural needs’ was added and is referred to in the previous section; item 24 ‘previous abandonment or loss of contact by the parent’. Previous abandonment was found to be noteworthy in Banach’s (1998) study and ‘loss of contact’ was added by the researcher; item 26 ‘each parent’s quality of engagement with support agencies’ was added. It would seem that the quality of the parent’s engagement may be one indicator of the parent’s cooperation to a plan regarding the child; item 28 ‘each parent’s history of alcohol or drug use’. The words ‘alcohol and drug abuse’ in Jameson et al. (1997) were altered to ‘alcohol and drug use’, which was consistent with item 27, which read ‘each parent’s current alcohol or drug use’; item 29 ‘likelihood of parent removing child from the Court’s jurisdiction’ is noted by Schutz et al. (1989); item 30 ‘each parent’s current criminal behaviour’ and item 31 ‘each parent’s criminal history’ were added in this questionnaire, in part, as Jameson et al. (1997) stated that they would consider adding an item relating to past or current criminal activity in a revised BICQ. Also Ackerman and Ackerman’s (1997) study includes the factor of a parent who has a “criminal record” (p.141) and a parent with “problems with the law” (p.142); item 32 ‘each parent’s medical condition’ is a factor mentioned by both Hall et al. (1996) and Lowery (1985); item 37 ‘a parent’s childhood history of emotional abuse and/or neglect’ was added to be consistent with item 35 ‘a parent’s childhood history of physical abuse’ and item 36 ‘a parent’s childhood history of sexual abuse’.

2.4.6 Section 6: Training and Resources

In any profession, training and resources are important issues (Questions 30 – 32, see Appendix E). Three questions focused on these issues: question 30 ‘is the provision of ongoing training for s178 specialist report writers adequate to meet your needs’, was added by the researcher; question 31 ‘what recommendations would you make to assist in the provision of training specialist Family Court writers of s178 reports before and/or after undertaking such reports’ differs from Moltzen (1993), who asked ‘with regard to custody evaluation, please state any recommendations you have for preservice training’; question 32 ‘what do you regard as your five key material resources (e.g., books, articles, guidelines, etc.) that assist you in the preparation of

s178 reports' was replicated from recent research (B. Jameson: personal communication, July 25, 2000).

2.4.7 Section 7: Mandatory Reporting

Mandatory reporting is not part of New Zealand (NZ) law. It is an issue that has been discussed by professionals, community groups, and in the media. As far as the researcher is aware, no NZ research has occurred in this area. Five questions were asked of participants (Questions 33 – 37, see Appendix E). First, participants were asked 'should voluntary reporting of child abuse, as it exists now, continue' (question 33). Second, participants were asked, 'if mandatory reporting were to occur, which broad system of reporting would you prefer' (question 34). The choice of reporting systems was adapted from Crenshaw et al. (1994). Rather than obtain a view as to the mental health provider's role in mandatory reporting as in Crenshaw et al. (1994), this research sought to explore less specific models of mandatory reporting options as they may apply to the abusers, professionals, and to the general public in the NZ context. The following models were presented to participants: (a) 'person(s) other than abuser, designated by statute to report' differed from Crenshaw et al. (1994) whose model stated that "all cases of child abuse (as defined by statute) be reported by mental health providers, regardless of therapeutic consequences or circumstances specific to the case" (p.20); (b) 'abusers report themselves within a certain time period, otherwise person(s) designated by statute to report if abuse known to that designated person' differed from Crenshaw et al. (1994) who stated that "mental health provider (MHP) to allow the abusive parent(s) to report themselves to legal authorities. If the family fails to make their report within a specified time, the MHP will file a report" (p. 21); (c) 'abusers and person designated by statute jointly report to the statutory service and attempt an agreed course of action' differed from Crenshaw et al. (1994), which "allows the MHP and the family to schedule an appointment with a social service official to file a joint report and decide on a course of action. It is expected that the MHP would remain involved in the post-report treatment and monitoring of the family" (p. 21); (d) 'system of voluntary reporting in cases in which the abuser enters into a therapeutic contract to prevent further abuse. If the contract is broken, abuser is reported'. This model of discretionary reporting contrasts from that of Crenshaw et al. (1994) whose question stated that "this model is

applicable only to mental health providers (MHP) who hold a license issued by the state in which they practice. Several authors suggested that licensed MHPs be required to automatically report only certain cases of child abuse. This latitude in reporting would be afforded in cases involving the voluntary disclosure of past or present abusive behavior by an adult family member, and subsequent agreement to enter into a therapeutic contract with a licensed MHP to prevent further abuse. Future reporting might be used as a therapeutic incentive to enforce this contract. The therapeutic advantage of this approach is one of encouraging parents to voluntarily disclose abusive behaviors and seek help without the automatic initiation of state intervention” (p. 22); (e) participants were given the opportunity to suggest another system or model of mandatory reporting.

Third, participants were asked, ‘if mandatory reporting were to occur, who should be mandated to report’ (question 35). The researcher added this question, including the options of people and professionals required to report child abuse. The 1992 Government Review Team did recommend that those who should be mandated to report be registered medical practitioners, teachers, nurses, members of the Police, and social workers employed by the Department of Social Welfare³⁴ (Ministerial Review Team, 1992). Fourth, ‘if mandatory reporting were to occur, what degree(s) of abuse should exist for mandatory reporting to occur’ (question 36) and ‘if mandatory reporting were to occur, what type(s) of abuse should be subject to mandatory reporting’ (question 37) were added by the researcher. Both questions included options for the participant (see Appendix E).

2.4.8 Additional Comments

Finally, to enable participants to add comments they perceived to be relevant, the following question was included: ‘you may have other specific comments, issues, concerns or solutions that characterise your experiences and attitudes regarding s178 reports and mandatory reporting’ (question 38) which was adapted from LaFortune and Carpenter (1998).

³⁴ Renamed The Department of Child Youth and Family Services.

2.5 Data analysis

The data from the questionnaires was analysed using the Statistical Package for Social Sciences SPSSPC+ computer programme.

Rather than simply a “10% check” (i.e., random checking until 10% consecutively with no errors) of the data, three quarters of the numerical data input was independently checked to ensure no coding errors.

CHAPTER THREE**RESULTS****3.1 Participant demographics**

All but one of the 44 participants are trained psychologists, most belong to a professional association, and most are in private practice (see Table 2). The vast majority of participants were at the time of the survey current s178 (Children, Young Persons, and Their Families Act 1989) report writers. Of the 44 participants (see Table 2), 43 have a Masters qualification in psychology or higher. Of the three participants who have a psychotherapy qualification, two also have psychology qualifications; the third psychotherapist has a Certificate of Child Psychotherapy. Of the 38 participants currently preparing s178 and s29A (Guardianship Act 1968) reports, 4 are not Registered Psychologists. Forty-two participants belong to the NZ Psychological Society and/or the College of Clinical Psychology. Of the remaining two participants, one is a psychotherapist, the other is an Educational Psychologist, and both prepare either s178 and/or s29A reports. Forty participants work to some degree in private practice.

Table 2

*Professional Qualification, Association, Employment Setting, s178/s29A Report**Writer Status*

	Number	Percentage
<i>Professional Qualification (a)</i>		
Doctor of Philosophy (Ph.D)	9	20.5
Clinical Psychologist	31	70.5
Educational Psychologist	9	20.5
Diploma Clinical Psychology	5	11.4
Diploma Education Psychology	3	6.8
M.A./M.Sc./ M.Soc.Sc	28	63.6
B.A. (Hons)	12	27.3
Psychotherapy	3	6.8
<i>Professional Association</i>		
Registered Psychologist	39	88.6
NZ Psychological Society	32	72.7
College of Clinical Psychology	19	43.2
<i>Primary Employment Setting</i>		
Private Practice	29	65.9
Hospital Mental Health	7	15.9
University	5	11.4
Special Education Services	3	6.8
<i>Participants: s178/s29A Status</i>		
s178 Report writers – current(b)	38	86.4
s29A Report writers – current	1	2.3
s178 Report writers – past	2	4.5
Psychologists – not report writers (c)	<u>3</u>	<u>6.8</u>
Total participants	44	100.0

Table 2 (continued)

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- Notes: a. The data indicates that some participants recorded their highest qualification only, rather than all qualifications.
 b. Of this total, 38 appear to be available to write s29A reports.
 c. The three report writers are clinical psychologists, one also has a PhD.

All participants appear to have graduate training relevant for s178 reports, and the majority (almost 80%) have a cognitive-behavioural theoretical orientation forming all or a major part of their practice orientation (see Table 3). Thirty-two percent of participants stated that they solely use the cognitive-behavioural orientation. This study revealed that report writers are not as active in related professional activities when compared to those in LaFortune and Carpenter (1998) (see Table 3). However, the training experiences are similar to LaFortune and Carpenter (1998) (i.e., within 3.2 percentage points) with the following exception: 17.4% more participants in the current study have undertaken a graduate course in forensic mental health.

Participants estimated the number of training hours in three areas: (a) 70% of participants have undertaken relevant practicum training in assessment (see Table 3). Forty-one percent estimated the period of training in hours (n=10) or as a period (n=8). The number of training hours ranged from 40 to 1,000 (mode = 400 and 1,000; mean = 356; SD = 365). The training period was estimated as 1 year (n=3), 2 years (n=3), 2 years part-time (n=1), and 20 years (n=1); (b) 88% of participants have undertaken other specialised training in child/family/forensic assessment. Fifty-two percent estimated the number of hours (mode = 100; mean = 117.52; SD = 185; range 8 to 800)³⁵; (c) 70% of participants have undertaken other specialised training in child/family/forensic issues. Thirty percent estimated the number of hours (mode = 50, 80, and 100; mean 207.69; SD = 307; range 10 to 1000)³⁶.

As seen in Table 3, teaching a university level course and the provision of supervision/training were 15 and 13.4 percentage points lower respectively in this

³⁵ Five other participants stated “lots” (n=3), “heaps” (n=1), and 100s (n=1) of hours.

³⁶ Four other participants stated “lots” (n=3) or 100s (n=1) of hours.

study compared to LaFortune and Carpenter (1998). Participant activities not listed in Table 3 are literature reviews (n=1), supervision of students doing a thesis in child, adolescent, family and forensic areas (n=1), participation on a national committee reviewing specialist report writer procedures (n=1), and member of the working party concerning the Domestic Violence Act regulations (n=1).

Table 3

Training, Theoretical Orientation and Professional Activities of Report Writers

	Current study		LaFortune and Carpenter (1998)
	Number	Percentage	Percentage
<i>Percentage of participants with training experiences</i>			
Graduate course specific to assessment of children/families	37	84.1	87.3
Graduate course in forensic mental health	17	38.6	21.2
Graduate course in child development or special needs	39	88.6	86.7
Practicum in child/family/forensic assessment	31	70.5	72.1
Clinical internship, 25% + in child/family/forensic assessment	33	75.0	72.7
Post training work, 25% + in child/family/forensic issues	40	90.9	
Postdoctoral fellowship; 25% + in child/family assessment			30.3
Other specialised training in child/family/forensic assessment	39	88.6	90.3
Other specialised training in child/family/ forensic issues	31	70.5	
<i>Theoretical orientations applied in practice (a)</i>			
Cognitive Behavioural	35	79.5	
Behavioural	6	13.6	
Developmental	6	13.6	
Family Systems	5	11.4	
Narrative	5	11.4	
Ecological	4	9.1	
<i>Other professional activities</i>			
Provided supervision/training to Family Court report writers in child/family issues	28	63.6	77.0
Published in journal or presented at a conference on child/family issues	19	43.2	41.2
Research in child/family issues	12	27.3	29.7
Taught a university level course on child/family issues	11	25.0	40.0

Note: a. Other theoretical orientations listed by 3 or less participants, and which form all or part of each participant's theoretical orientation, are not shown. Participants could endorse more than one category.

Table 4 shows that report writers spend the largest proportion of their time undertaking s178 and s29A reports. Almost 50% of report writers' time in this study, as well as in LaFortune and Carpenter (1998), is spent preparing these reports and providing therapy to adults. The participants in this study spend more than twice the time undertaking custody evaluations than those in LaFortune and Carpenter (1998). The results of LaFortune and Carpenter's (1998) study indicated that not all of their participants had prepared custody evaluations and the number is not reported. LaFortune and Carpenter (1998) showed that their sample of report writers spent more time in therapy with adults and children compared to the current sample (see Table 4).

Table 4
Participants' Use of Professional Time

	Current study (a)			LaFortune and Carpenter (1998)		t
	M	SD	Range	M	SD	
Custody and/or access reports (1)	28.1	23.5	1.0-90.0	12.5	16.1	3.841***
Therapy/counselling with adults	19.6	24.4	0-93.5	35.4	26.2	-3.511***
Assessment of child/adolescents (excluding 1, 2,3)	9.8	18.8	0-80.0			
Therapy/counselling with child/adolescents	7.1	7.9	0-30.0			
Assessment of adults (excluding 1,2,3)	5.2	8.5	0-39.0			
Other forensic assessment for the Court (2)	4.0	7.0	0-30.0			
Supervision of colleagues & others in or for the Family Court	3.1	3.9	0-20.0			
Clinical supervision for self	2.8	1.8	0-5.0			
Therapy/counseling with families	1.9	3.6	0-15.0			
Assessment of families (excluding 1,2,3)	1.4	3.9	0-20.0			
Report as a result of Family Group Conference when case not within Family Court (3)	1.3	2.6	0-12.0			
Research related to family issues & working parties associated with the Family Court	0.7	1.6	0-5.0			
Other (or remainder of time)	15.0	25.2	0-95.0			
Therapy with child/adolescents or families				28.2	22.1	
Other evaluations				18.7	19.3	

Notes: a. For the purposes of illustrating how report writers use their time, those participants (n=6) who are not currently preparing s178 or s29A reports have been excluded.

b. One report writer did not answer this question.

c. *** $p < .001$

d. df for t-tests was 43 and 56 respectively.

As seen in Table 5, compared to LaFortune and Carpenter (1998), report writers here prepared almost double the number of reports, have more in years of experience

preparing reports, and possessed slightly, but not significantly, more clinical experience. The participants in the current study completed half the number of s178 evaluations compared to s29A evaluations. The overwhelming focus of s178 evaluations is on placement or access issues.

The figures in Table 5 may be conservative as four participants did not provide an estimated number of s178 and s29A evaluations completed, but indicated with words “lots” (n=1), “100s” (n=1), and “many” (n=2). This may indicate that the actual figures are higher than those represented in Table 5.

The results indicate notable differences between participants appearing in defended cases as noted by the large SD and range. For example, one participant who has completed 50 s178 evaluations over their career appeared in a defended hearing relating to 80% of their cases over the last five years. What is not reported is how many of these 50 evaluations were completed within the last five years. One participant stated that the rate of defended cases was increasing for both s178 and s29A reports.

Table 5

Participants' Experience, Defended Hearings, and Focus of Evaluations

	Current study			LaFortune and Carpenter (1998)			t
	M	SD	Range	M	SD	Range	
<i>Experience</i>							
Years of clinical experience	18.3	8.4	2-37	17.9	7.7	2-40	0.285 t
Years experience with custody evaluations	11.5	6.4	1-21	9.6	6.8	0-26	1.647 t
S178 Custody evaluations over career	60.2	114.0	2-550				
S29A Custody evaluations over career	122.3	143.5	0-550				
Custody evaluations over career	180.7	229.6	2-1100	98.2	183.8	0-2500	1.943 t
<i>Percentage</i>							
S178 cases appearing in defended hearing	12.2	19.0	0-80				
S29A cases appearing in defended hearing	14.7	19.2	0-90				
Placement or access as primary focus of s178 evaluation	91.6	18.5	10-100				

Note: a. df for t-tests ranged between 40 and 63.

b. t p > .05

3.2 Psychological Reports: Section 178 Children, Young Persons, and Their Families Act 1989

To summarise this section, many of the popular evaluation procedures used by current participants are also reflected in the overseas research of LaFortune and Carpenter (1998). Certain other procedures, not indicated in overseas studies, are carried out likely due to the nature of NZ child protection evaluations. Two of the major differences in this study involved the importance and use of psychological tests. However, while testing appears to be less frequently used here compared to overseas,

usage appears to be increasing. The assessment of Maori and Pacific Island families are generally different than those of non-Maori and non-Pacific Island families. The contents of reports appear to vary and the vast majority of report writers are willing to make custody or access recommendations, at least in some reports. However, a minority make recommendations in every report. Participants predominantly undertake evaluations without a co-evaluator. The next section presents the specific findings related to these areas.

3.2.1 Evaluation Procedures

Ninety-five percent (n=38) of report writers indicated their evaluation procedures. Certain procedures were prevalent: More specifically, interviewing the parents/caregivers, interviewing children over the age of 6, consultation with lawyers and social workers, and obtaining school data (see Table 6). The five highest rated procedures appear in both this study and LaFortune and Carpenter (1998). However, a rank order comparison between the two studies shows that the relative importance of each of these procedures is significantly different $W(8) = 15, p < .05$. However, in terms of direct comparison (via t-test), there was no significant difference in overall usage of these five procedures. Report writers in this study are less likely to interview children under the age of six and more likely to obtain school data. As seen in Table 6, there were procedures not identified in LaFortune and Carpenter (1998) but nevertheless favoured in this study, most notably reading and legal and social work consultation. Ackerman & Ackerman (1997) found that the mean average amount of hours spent on each activity was report writing 5.3; psychological testing 5.2; interviewing parents 4.7; interviewing children 2.7; observations 2.6; reviewing materials 2.6; interviewing significant others 1.6; collateral contacts 1.6; testifying in court 2.2; and consulting attorneys 1.2. Keilin and Bloom (1986) asked participants to state what procedures were typically carried out in a custody evaluation³⁷: interview with mother 100%; interview with father 100%; interview with each child individually 98.8%; psychological testing of parents 75.6%; psychological testing of children 74.4%; observe mother-child interaction 68.8%; observe father-child interaction 68.8%; interview of all children together 67.1%; observe mother-father

³⁷ Ninety-one percent stated consultation with lawyers, but it is unclear how much is related to preparing the evaluation as 79% were typically involved in providing court testimony.

interaction together 50.0%; interview significant others 48.8%; school visit 31.7%; home visit 30.0%; and other 12.2%.

Twenty-one percent (n=8) of participants writing reports do not use psychological tests with adults and eleven percent (n=4) do not use psychological tests with children and adolescents. Eight percent (n=3) do not use psychological tests at all. Ackerman and Ackerman (1997) reported that 8% did not test children, 2% did not test adults and 1.5% did not test either children or adults. However, in contrast with this NZ study, Moltzen (1993) reported that 39% did not use psychological tests in NZ custody evaluations. Participants provided additional comments (see Appendix I).

Table 6
Procedures when Conducting s178 Evaluations

	Current study		LaFortune and Carpenter (1998)		t
	M	SD	M	SD	
Interview the Mother	4.92	.27	4.98	.19	-1.298
Observe Mother/Child Interaction	4.87	.34	4.82	.47	0.755
Interview the Father	4.86	.42	4.91	.49	-0.64
Observe Father/Child Interaction	4.79	.47	4.80	.51	-0.116
Interview Child age 6 or older	4.74	.50	4.91	.34	-1.992
Reading related to the Child & Family	4.71	.57			
Consult with Lawyers & Social Workers	4.45	.86			
School Data (teacher interview, records, observation)	4.42	.86	3.97	1.04	2.79**
Observe Child in Alternative Family Setting (i.e., foster family, extended family placement)	4.11	.95			
Interview Significant Others (e.g., foster parent, grandparent, step-parent)	4.05	.80	4.07	.96	-0.134
Observe Biological Family Interaction, including child	3.97	.84			
Interview Child under age 6	3.87	1.26	4.65	.72	-3.68***
Observe Mother/Father or Parents & their Current Partner Interaction	3.71	1.01			
Consult with Professionals (other than lawyer & social worker)	3.63	.97			
View CYFS Video Interview of Child	3.32	1.49			
Psychological Testing of Children/Adolescents	2.84	1.19			
Interview Children Together	2.81	1.08			
Psychological Testing of Adults	2.32	1.08			
MMPI-2			4.19	1.18	
Interview informants (e.g., relatives, neighbours, friends, child care workers, physicians, ministers)			3.38	1.16	
Parenting scales (e.g., Ackerman-Schoendorf or Bricklin)			3.28	1.52	
Structured Diagnostic Interview			3.17	1.59	
Drawing Test			3.12	1.34	
MCMII-III			2.82	1.57	
Ability testing of parents or child (e.g., WAIS-R, WISC-III)			2.67	1.30	

Table 6 (continued)

	Current study		LaFortune and Carpenter (1998)		t
	M	SD	M	SD	
Other self report measures			2.64	1.52	
TAT			2.16	1.16	
Rorschach			1.92	1.29	
NEO-PI			1.63	1.05	

Notes: a. 1 = Never to 5 = Always.

b. ** $p < .01$

*** $p < .001$

c. df for t-tests ranged between was 42 and 73.

3.2.2 Psychological Instruments used for Adults

As seen in Table 7, four psychological tests were favoured by report writers but generally not used in all evaluations. These four tests were the only tests identified by more than two participants. Of those who use tests with adults ($n=30$), responses from 83% ($n=25$)³⁸ of report writers indicated that they use an average of $M=2.8$ ($SD 1.53$) tests with adults in their practice of 178 evaluations. Of these twenty-five report writers, five indicated the use of at least one more test than that specifically identified. Ackerman and Ackerman (1997) reported participants administering an average of 4.5 tests to adults³⁹.

Of those administering tests to adults: 40% ($n=10$) use the Beck Depression Inventory (BDI); 32% ($n=8$), Wechsler Adult Intelligence Scale (WAIS); 28% ($n=7$), Minnesota Multiphasic Personality Inventory (MMPI); and 24% ($n=6$), Millon Clinical

³⁸ Five other participants who stated that they did use tests with adults as shown in Table 6, did not provide any other details.

³⁹ Ackerman and Ackerman (1997) did not report the standard deviation.

Multiaxial Inventory (MCMI). On a Likert scale 1 = never to 5 = always, the means⁴⁰ were for the BDI, 2.30 (SD=0.48); WAIS, 2.50 (SD=0.76); MMPI⁴¹, 2.57 (SD=0.53); and MCMI, 2.50 (SD=0.55).

Thirteen percent (n=4) stated using an alcohol and/or drug screening with half (n=2) of these participants naming the Michigan Alcohol Screening test. Some participants were not always specific in naming a precise test, but used words such as “personality tests” and “alcohol and drug screening”. Another 17% (n=5) who endorsed the use of psychological tests with adults did not indicate which tests they administered. When rating the use of each of the evaluation procedures on a Likert scale 1 = never to 5 = always test adults (see Table 6), this group’s mean rating for the use of psychological tests with adults was 2.20 (SD = 0.45).

Table 7 illustrates the more popular, but small number of tests used by report writers in this study compared to the previous studies. Report writers do not use tests as extensively in New Zealand as in the United States and there is no evidence that tests specifically developed for custody evaluations such as the parenting scale⁴² by Ackerman-Schoendorf (1992 as cited in LaFortune & Carpenter, 1998) are used at all. The use of the MMPI and MCMI by participants is notably less frequent versus the three earlier US studies. The projective tests, Rorschach, Thematic Apperception Test (TAT), and Sentence Completion were not identified at all by participants in the current study. LaFortune and Carpenter (1998) did not differentiate between tests administered to adults and children. Thus, the following percentage of participants there used the following: drawing test (83%); ability testing (e.g., WAIS, WISC)(82%), other self report personality measure (65%); TAT (63%); and Rorschach (45%) (B. Carpenter, personal communication, February 22, 2002).

⁴⁰ From the ratings of those participants that use the test.

⁴¹ In the current study, MMPI-2 was not differentiated from MMPI as participants did not always indicate which of the two tests were administered.

⁴² Of those using tests with adults, ten percent (n=3) in this current study indicated the use of a parenting scale without specifying the name of the test(s).

Table 7

Use of Psychological Tests with Adults

	Current study (a,b)	Current study (b,c)	LaFortune and Carpenter (1998)	Ackerman and Ackerman (1997)	Keilin and Bloom (1986)
	% participants using tests	% participants using tests	% participants using tests	% participants using tests	% participants using tests
Beck Depression Inventory	40	26		6	
Wechsler Adult Intelligence Scale	32	21		43	29
Minnesota Multiphasic Personality Inventory	28	18	94	92	71
Millon Clinical Multiaxial Inventory	24	16	69	34	
Parenting scale (e.g., ASPECT or Bricklin)			81		
NEO-PI			32		
Rorschach				48	42
Thematic Apperception Test				29	38
Sentence Completion Test				22	12
Ackerman-Schoendorf Scales for Parent Evaluation of Custody (ASPECT)				11	
Parent-Child Relationship Inventory				11	
Wide Range Achievement Test – Revised and 3 rd ed.				10	
Projective drawings				9	6
Bender-Gestalt				9	12
Parenting Stress Index	4	3		9	
Parent Awareness Skills Survey				8	
16 Personality Factor	4	3		8	6
Child Abuse Potential				6	
House-Tree-Person				6	4
Shipley Hartford				5	
Custody Quotient				4	
Michigan Alcohol Screen Test	8	5		3	
Adult Adolescent Parenting Inventory				3	
Draw-a-person					6

Notes: a. Based on percentage of total report writers who use tests with adults (n=30) less five who did not name the tests used (n=25).

b. Test percentage noted if tests used by 3 or more participants unless a comparison possible with previous studies.

c. Based on percentage of report writers (n=38) who indicated their evaluation procedures as seen in Table 6.

3.2.3 Psychological Instruments used for Children and Adolescents

Table 8 reflects the relatively small number of tests used with children and adolescents in this study compared to the earlier studies. As also seen in the previous

section, tests are not as extensively used, particularly projective personality measures. No tests specifically developed for custody evaluations were reported such as the Perception-of-Relationships Test (PORT) or the Bricklin Perceptual Scales. Of those who have used tests with children and adolescents ($n=34$), 85% ($n=29$)⁴³ of report writers used an average of 2.76 ($SD = 1.55$) tests in their practice of 178 evaluations. Ackerman and Ackerman (1997) reported that an average of 4.8⁴⁴ tests were administered to children. Of the 29 report writers, 6 indicated the use of at least one more test than that specifically listed. Also, 5 participants who used psychological testing for children and adolescents did not list the tests used. On a Likert scale 1 = never to 5 = always test children/adolescents (see Table 6), this groups' rating average usage, like the similar group for adults, was 2.20 ($SD = 0.44$).

Of those using tests with children and adolescents: 38% ($n=11$) use the Wechsler Preschool and Primary Scale of Intelligence (WPPSI) or Wechsler Intelligence Scale for Children (WISC); 34% ($n=10$), Bene-Anthony Family Relations Test (BAFRT); 28% ($n=8$), projective tests; 28% ($n=8$), Child Behavior Checklist (CBCL); and 17% ($n=5$), Conners' Parent and Teachers Rating Scales (Conners). On a Likert scale 1 = never to 5 = always, the means⁴⁵ were: BAFRT, 3.00 ($SD = 1.12$); WPPSI or WISC, 2.00 ($SD = 0$); projective, 3.50 ($SD = 1.20$); CBCL 3.00 ($SD = 0.63$); and Conners, 3.00 ($SD = 1.00$). No other test was named more than twice other than the Trauma Symptom Inventory, which was used by three participants.

In Hong (1991) and Moltzen (1993), the BAFRT was found to be the most popular test, used by 27% ($n=6$)⁴⁶ and 39% ($n=14$) respectively. Moltzen (1993) found that the BAFRT was used on a "relatively infrequent basis" (p.16). Similar to this current study, Moltzen (1993) found that 23% ($n=5$) used projective testing; however, the 18% ($n=4$) who used the WISC-R is notably less than in the current study. Overall, it appears that test usage may be increasing.

⁴³ Five other participants who stated that they did use tests with children and adolescents as shown in Table 6, did not provide any other details.

⁴⁴ Ackerman and Ackerman (1997) did not report the standard deviation.

⁴⁵ From the ratings of those participants that use the test.

⁴⁶ Note that only 77% ($n=17$) of participants specialised in psychology.

Table 8

Use of Psychological Tests with Children and Adolescents

	Current study (a)	Current study (b)	Ackerman and Ackerman 1997	Keilin and Bloom (1986)
	% participants using tests	% participants using tests	% participants using tests	% participants using tests
Intelligence Test (WPPSI, WISC, SB, K-ABC)	52	39	58	45
Bene-Archy Family Relations	34	26	5	7
Projective CBCL	28	21		
Conners Parent & Teachers Rating Scales	17	13	3	
Children's Apperception Test; Thematic Apperception Test	3	3	37	39
Bricklin Perceptual Scales			35	
Sentence Completion	3	3	29	12
Achievement Test			28	21
Rorschach			27	29
Projective drawings - miscellaneous	Note d	Note d	24	33
Minnesota Multiphasic Personality Inventory - Adolescent	3	3	20	7
House-Tree-Person	Note d	Note d	19	10
Kinetic Family Drawing			18	9
Perceptions of Relationships Test			16	
Bender Gestalt			11	23
Millon Adolescent Personality Inventory			11	
Roberts Apperception Test			10	9
Personality Inventory for Children			5	
Achenbach			4	
Slossen			3	
Children's Depression Inventory			3	

Table 8 (continued)

	Current study (a)	Current study (b)	Ackerman and Ackerman 1997	Keilin and Bloom (1986)
	% participants using tests	% participants using tests	% participants using tests	% participants using tests
Wide Range Achievement Test or other achievement test				21
Draw-a-person	Note d	Note d		20
Peabody Picture Vocabulary Test				9

- Notes: a. Based on percentage of report writers who use tests with children and adolescents (n=34) less five who did not name those tests (n=29).
- b. Based on percentage of report writers (n=38) who indicated their evaluation procedures in Table 6.
- c. SB = Stanford-Binet Intelligence Scale: K-ABC = Kaufman Assessment Battery for Children.
- d. Six of the eight (the 28% who use projective tests) participants did not name the projective test applied.
- e. Percentages have been rounded to the nearest whole number.

3.2.4 Psychological Testing that is Avoided when Undertaking s178 Evaluations

Of those currently preparing s178 reports (n=38), 45% (n=17) responded to the question, 'what psychological instruments are avoided and why?' Many of their responses indicated an avoidance of particular tests or category of test (e.g., projective) (see Appendix J).

3.2.5 Information Relevant but not Available to the Report Writer

Of those currently preparing s178 reports (n=38), 58 % (n=22) did not answer the question, "is there information that you are often not able to access, but would be relevant to your reports?" Thirteen percent (n=5) answered 'no' to this question. One

assumption that may be drawn from these two sets of responses is that at least 71% (n=27) have access to all relevant information to undertake evaluations. Other than “the truth” (n=1), six areas of information were identified as often not available to the report writer (see Appendix K). Only one area of information was identified by more than one participant, that is, ‘criminal history’ (n= 3).

3.2.6 Assessing Maori and Pacific Island Families

Thirty-one (82%) current report writers responded to this question. Generally, the results indicate that the assessment of Maori and Pacific Island families differs from the assessment of non-Maori or non-Pacific Island families. This practice was represented on a 7-point Likert scale from 1 (never differs) to 7 (always differs), the mean was 4.74 (SD = 1.91). A rating of 1 (never) was given by one of these participants (3%). This compares to Moltzen (1993) who reported that 17% (n=5) did not vary their evaluation procedures⁴⁷. Twenty-six percent (n=8) reported that their evaluations always differed, compared to 23% (n=7) in Moltzen (1993). Seventy-one percent (n=22) gave a Likert rating between 2 and 6, compared to sixty percent (n=18) who stated ‘sometimes’⁴⁸ in Moltzen (1993). The two areas where current evaluations more considerably differ with respect to assessing Maori and Pacific Island families are (a) extended family or whanau involvement (N=16, 52% of those who responded), and (b) the use of a cultural advisor and/or cultural supervision (n=12, 39% of those who responded). Moltzen (1993) reported that 70% of participants involved extended family or whanau. The answers in the current study often indicated the use of discretion by the individual report writer with the use of words such as “perhaps”, “may”, “try”, “more likely”, and “consider the use of” (see participants’ comments in Appendix L).

3.2.7 Co-working when Undertaking s178 Evaluations

Responses were obtained from 34 current report writers (89%). Very little co-working is done with other report writers. The meaning of co-work was intended to mean actively co-work an evaluation with another report writer or mental health

⁴⁷ Note that Moltzen (1993) did not ask about evaluations involving Pacific Island families.

⁴⁸ Moltzen (1993) listed three options for participants ‘never’, ‘always’, and ‘sometimes’.

professional. In a 5-point Likert scale from 1 'never' to 5 'always', the mean is 1.32 (SD = 0.81). Seven participants (21%) indicated that they at times co-worked their evaluations. Of those seven, four (12%) indicated the use of co-worker as follows: (a) "usually a student will be involved" (rating 5); (b) "assessment of parties in a distant region" (rating 2); (c) CYFS Specialist Services or a monitor of a diagnostic assessment (rating 3); (d) "in areas related to safety – monitoring, co-interviewing, or assessing/interviewing re sexual abuse" (rating 2). Moltzen (1993) found that 8 report writers (22% versus 21% here) had worked with a co-evaluator, and 3 (8% versus 3% here) of whom always worked with a co-evaluator. Ackerman and Ackerman (1997) found that 16% used co-evaluators, and Keilin and Bloom (1986) found that 49% have worked with a co-therapist or co-evaluator.

3.2.8 Contents of s178 Reports

The results in Table 9 suggest there is not consistency in the content of written reports. Many report writers routinely (i.e., rating of more than 4) include just over half of the content areas listed in Table 9. Of the 10 highest rated items, five are administrative in nature. The results indicate that many report writers are prepared to state if a person is stable enough to parent (M=3.73, SD=0.99) or that a person should not be the custodial parent in particular circumstances (M=3.65, SD=1.30 & M=3.42, SD=1.46). Only 11% (n=4) have never submitted written recommendations regarding placement. This compares with 13.9% (LaFortune & Carpenter, 1998), 25% (Moltzen, 1993) and 18% (Hong, 1991) who reported never having made written recommendations regarding custody. Sixteen percent of participants (n= 6) reported always making a recommendation regarding the child's placement. This compares to 19% (Moltzen, 1993:21) and 9% in Hong (1991) who reported always making custody decision recommendations. LaFortune and Carpenter (1998) did not provide results for other report content comparisons. Participant's comments are provided in Appendix M. Content areas given a rating of 1 (never) are also listed in Appendix M.

Table 9

Contents of s178 Reports

	M	SD
Record of written material viewed	4.76	.59
Names of all procedures and tests used	4.74	.79
Examples of behaviour/responses that contribute to conclusions	4.71	.52
Description of each parent's strengths and weaknesses	4.49	.65
Compare and contrast the advantages and disadvantages of different placement scenarios	4.47	.60
Observations which could not be made because of limitations imposed	4.30	1.20
Recommend a referral for more information when outside one's own level of competence	4.29	.98
Recommend therapeutic intervention for child or parent or caregiver	4.18	.87
Provide a range of possible options	4.08	.86
Validity of results (e.g., defensiveness)	4.05	1.03
A statement regarding the validity of report writer's evaluations for determining placement or custody (e.g., limitations)	4.03	.99
State possible alternative explanations for current findings	3.97	.82
Predict likely outcomes of placement or access decisions	3.79	.78
Focus primarily on threshold issues (e.g., is the person stable enough to parent)	3.73	.99
State that the parenting ability of a parent is sufficiently impaired to the extent that the person should not be a custodial parent	3.65	1.30
State that the mental health of a parent is sufficiently impaired to the extent that the person should not be a custodial parent	3.42	1.46
Statement as to whom you perceive to be the better caregiver	3.39	1.05
A clear recommendation regarding the child's placement	3.38	1.16
Provide recommendations as to an access plan (even if not requested)	3.24	1.08
Relevant empirical research data to support conclusions or opinions	3.18	1.01

Note: a. 1 = Never to 5 = Always.

3.3 Attitudes of Report Writers

The attitudes of report writers to various issues related to child protection reports were obtained. Overall, the neutrality of report writers rates high and is consistent with overseas research. Report writers generally believe that their evaluations work in the child's best interests and that generally their evaluations assist the court, lawyers and the social work agency. The level of dislike associated with child protection reports is not to the same degree as overseas research and the majority indicate rewarding elements to this work. Specific findings are now presented.

3.3.1 When to use a Report Writer and Opinion towards Social Work Agency and Counsel for Child

Report writers advocate for continued involvement in care and protection proceedings, even though a wide range of opinions were expressed as to when to use a report writer (see Table 10). The neutrality of report writers is a strongly held view found in this study and in LaFortune and Carpenter (1998). Additional comments were made by participants (see Appendix N).

Table 10

When to use a Report Writer and Opinion towards Social Work Agency and Counsel for Child

	Current study		LaFortune and Carpenter (1998)		t
	M	SD	M	SD	
Report writers should be used primarily in a neutral way such as at the request of the Family Court	4.46	.72	4.43	.87	0.222 t
Information and/or opinions of social work agency are always significant for the purposes of the s178 report	3.58	.98			
Report writers should be frequently or routinely used to write reports	3.55	1.03	3.53	1.20	0.104 t
Report writers should be routinely used as consultants regarding the placement and access issues after custody order made	3.21	1.19			
Information and/or opinions of Counsel for Child are always significant for the purposes of the s178 report	3.18	1.05			
Report writers should be used only when other information suggests an impairing mental condition, or grossly inadequate or abusive parenting, or an issue of the child's psychological attachment	2.50	1.18			
Report writers should only be used after a Family Group Conference	2.40	1.03			

Notes. a. 1 = Strongly disagree to 5 = Strongly agree.

b. df for t-tests was 64 and 62 respectively.

c. $t p > .05$

3.3.2 S178 Evaluations Contribution to Legal Procedures and Decisions

Table 11 shows that the majority of participants in this study believe that evaluations do aid in various aspects of Court proceedings. The highest rated factor in the current study, 'working in the child's best interests', did not appear in the previous study. When comparisons are made with LaFortune and Carpenter (1998), the rank order comparison was nonsignificant, $W(5) = -1, p > .05$. Additionally, there are generally no significant differences when comparing each factor, except there appears to be more liaison with lawyers here (see Table 11). Participants provided additional comments (see Appendix O and P).

Table 11

S178 Evaluations Contribution to Legal Procedures and Decisions

	Current study		LaFortune and Carpenter (1998)		t
	M	SD	M	SD	
Work in the child's best interests	4.28	.68			
Help the court accurately perceive the situation	4.27	.72	4.17	.78	0.767
Help the lawyer(s) better understand the situation	4.08	.74	3.71	.97	2.633*
Help social work agency better understand the situation	3.75	.90			
Help the lawyer(s) prepare their case	3.74	.89	3.76	.87	-0.127
Help the parties find a good resolution	3.28	1.06	3.54	1.05	-1.38
Help parents feel they got their full "day in court"	2.97	1.03	3.12	1.03	-0.818

Notes. a. 1= Not at all helpful to 5 = Very helpful
 b. * $p < .05$
 c. df for t-tests were between 56 and 72.

3.3.3 Dislikes Undertaking s178 Evaluations

Overall, report writers do not appear to have a strong dislike of any factor listed (as seen in Table 12). However, in the current study, it is noted that there is variability in the responses. For many factors, the level of dislike undertaking reports is significantly lower in this study than LaFortune and Carpenter (1998) (see Table 12). The higher ratings in LaFortune and Carpenter (1998) may be attributed to the

adversarial nature of the work (see also Discussion). There was a significant difference when comparing the rank ordering, $W(10) = -53 = , p < .05$. The highest rated item in both studies related to complaints about the report. Participants and three people⁴⁹ who do not undertake s178 reports provided additional comments (see Appendix Q).

⁴⁹ Responses from three people who returned, but did not complete, the survey.

Table 12

Dislikes Undertaking s178 Evaluations

	Current study		LaFortune and Carpenter (1998)		t
	M	SD	M	SD	
Increased likelihood of a complaint made to the Family Court or professional body.	3.38	1.44			
Increased likelihood of being sued or charged with malpractice			3.68	1.26	
Working with parents who have strong motivation to distort	3.28	1.21	3.25	1.12	0.141
Fees are not relative to the services provided	2.97	1.44			
Multiple experts or contamination of participants making it difficult to be confident in results	2.74	1.31	2.96	1.21	-0.957
Being employed in an adversarial situation	2.68	1.36	3.53	1.52	-3.43**
Hostile environment of court proceeding	2.64	1.42	3.38	1.37	-2.946**
The courts seem disinclined to appreciate the variability of human nature, pushing instead for "yes" and "no" conclusions	2.59	1.35	3.14	1.35	-2.288*
Having your time at the court's mercy (disruption to practice)	2.56	1.48	3.51	1.31	-3.682***
Too time consuming	2.46	1.45	2.81	1.31	-1.38
Lack of valid psychological methods to adequately contribute to decisions	2.41	1.09	2.61	1.20	-1.01
Being at the mercy of lawyers and court procedures making it hard to really present an accurate, complete picture	2.31	1.22	3.24	1.32	-4.213***
s178 referral brief not clear in terms of issues to be addressed or referral brief not sufficiently detailed or specific	2.31	1.22			
Unrealistic expectations of lawyers/court	2.28	1.21	2.94	1.18	-3.078**
Determining the effect of parent's mental health problems upon their ability to be a custodial parent.	2.10	1.07			
Difficulty in collecting payment	1.46	.72			

Notes: a. 1 = Not a factor to 5 = Strong Dislike

b. * $p < .05$

** $p < .01$

*** $p < .001$

c. df for t-tests ranged between 52 and 62.

3.3.4 Rewarding Element of Preparing s178 Reports

Eighty percent (n=32) of those who are or who have prepared s178 reports (n=40) offered positive comments relating to the rewards of their involvement (see Appendix R). Two other participants stated “not much” and “very little unfortunately”. Of the thirty-two positive comments, the following quotes are examples of typical themes (see also Appendix R):

- “helping to resolve stuck cases in interests of child”;
- “challenge of seeking solutions to difficult problems, privilege of being able to bring clarification to issues”;
- “professionally challenging, positive relationship with other professionals, feeling that have contributed to solution of a problem situation”;
- “working with professionals outside my occupational group”.
- “working towards making a difference for children”;
- “influence in child safety issues”.

3.4 **Training and Resources**

The vast majority of participants indicated training needs. A number of recommendations were offered to prepare future report writers for child protection reports and to meet the current on-going training needs of report writers.

3.4.1 Provision of On-going Training

The results clearly indicate that most believe that there is little or no ongoing training specifically for report writers (see also participant’s comments in Appendix S). A 7-point Likert scale was used, 1 = ‘does not meet my training needs at all’ to 7 ‘does meet all my training needs’. Of the 31 (82%) current report writers (n=38) who responded, the mean was 2.94 (SD = 1.48). Only two (6%) of these participants indicated that they had little and no current training need.

3.4.2 Recommendations for the Provision of Training

Participants were asked to make recommendations that they believe would assist in the provision of training report writers of s178 reports before and/or after undertaking such reports. Participants offered an in-depth array of recommendations (see Appendix T). The following is a summary of the most popular recommendations: (a) initial training and on-going seminars/road shows primarily organised by the Court (n=13); (b) obtaining relevant education (n=11); (c) supervision (n=6); (d) peer discussions (n=4); and (e) notification of up-to-date research and resources (n=4).

3.4.3 Key Resources for Report Writers

Participants were asked to list five key resources that assist in the preparation of s178 reports. There was some misunderstanding as a number of participants listed for example, 'books', rather the specifically stating the title of the book. Of those resources specifically referred to and stated by more than three participants, were as follows:

- (a) consultation (n=8) or supervision (n=5) with colleagues;
- (b) *The Practice of Psychology and the Law: A Handbook* (1996)(2nd ed.)⁵⁰ by Maxwell, Seymour, and Vincent (n=6), two of these participants referred to the NZPsS Guidelines within this handbook;
- (c) *Psychology and Family Law. A New Zealand Perspective* (1998) by Pipe and Seymour (n=4);
- (d) guidelines (n=4), of which one participant stated "court guidelines".

3.5 **Best Interest of the Child**

Participants were asked to rate a number of factors related to the best interest of the child standard. Comparisons are possible with the majority of factors that were replicated from Jameson et al. (1997). Abuse and neglect rated the highest of all factors. Child views were not rated highly compared to overseas research. Many of the new factors added for this research did rate highly.

⁵⁰ Participants did not differentiate between this edition or the first edition printed in 1992.

In determining 178 child placement and access outcomes, sexual abuse ranked as the number one reason in terms of influence in this study and also in Jameson et al. (1997)(see Table 13). Current and historic emotional and/or neglect abuse, not included in Jameson et al. (1997), rated 2 and 5 respectively. Of the thirty-five items added for this study, twenty appeared in the top forty.

Notable differences were noted between the current study and Jameson et al (1997). Disregarding the new factors added for this study, a rank order comparison was significant, $W(55) = 1407, p < .001$. In particular, child views and preferences are not given the same relative importance in New Zealand (i.e., child views and preferences when child is: 15 years or older rated 8 in this study (3 in Jameson et al., 1997); 12-14 years rated 19 (8); 9-11 years rated 36 (18); and 6-8 years rated 53 (27); and 0-5 years rated 56 (47)). Other notable comparisons include: parent's feelings of responsibility for the child, 13 (22); parent's psychiatric history, 22 (37); parental pressure on the child to choose one parent, 25 (44); extent of parent-child contact after child removed and/or placed elsewhere, 27 (50); each parent's access to support from family and friends, 31 (48); child's need for relationships with brothers and sisters, 35 (24); each parent's ability to maintain the child's daily routine, 41 (32); parent's childhood history of physical abuse, 45 (54); and each parents willingness to provide contact with grandparents & other extended family, 48 (39).

Additional items were suggested by five participants (see Appendix U). Participants commented on these BICQ factors (see Appendix V). Means and standard deviations for both this study and Jameson et al. (1997) are also provided (see Appendix W).

Table 13

Factors Influencing Child Placement and Access Outcomes

	Current study (1)				Jameson, Ehrenberg and Hunter (1997)
	M	SD	Rank	Rank without new items	Rank
Current sexual abuse of the child by a parent (PC)	6.93	.35	1	1	1
Current emotional abuse and/or neglect of the child by a parent (PC)	6.88	.40	2		
Current physical abuse of the child by a parent (PC)	6.88	.40	3	2	2
History of sexual abuse of the child by a parent (PC)	6.83	.44	4		
History of emotional abuse and/or neglect of the child by a parent (PC)	6.73	.50	5		
History of physical abuse of the child by a parent (PC)	6.73	.50	6		
Overall quality of each parent's relationship with the child (PC)	6.63	.66	7	3	7
Each parent's ability to understand their child's needs and separate them from their own needs (AP)	6.56	.82	8	4	5
Emotional needs of the child (NC)	6.56	.71	9	5	4
Each parent's ability to provide a safe physical environment for the child (AP)	6.51	.78	10	6	6
Each parent's ability to provide emotional nurturance for the child (AP)	6.49	.90	11		
Physical violence in the parents' relationship (PP)	6.46	.71	12	7	9
The child's safety with other children (NC)	6.44	.71	13		
Parent's ability to manage conflict, anger, hostility & aggression (AP)	6.41	.71	14		
The child's physical or psychological vulnerability (NC)	6.37	.80	15		
Parent's attempt to undermine or sabotage the child's placement (AP)	6.34	.96	16		
Child's views and preferences when child is 15 years or older (NC)	6.34	.82	17	8	3
Any fears the child has about current family situation (NC)	6.33	.76	18	9	15
Each parent's potential to sustain the changes required to care for the child (AP)	6.32	.76	19		
Child being recognised as member of the family (NC)	6.24	.86	20		
The level of conflict between parents or between the parent and their partner (PP)	6.22	1.01	21	10	16
Each parent's current alcohol or drug use (AP)	6.22	.82	22	11	10
The child's comfort level with each parent (PC)	6.20	.87	23		
Each parent's affection for the child (PC)	6.17	1.02	24	12	13
Each parent's feelings of responsibility for the child (PC)	6.12	1.00	25	13	22
The child's affection for each parent (PC)	6.12	.98	26	14	17

Table 13 (continued)

	Current study (1)				Jameson et al., (1997)
	M	SD	Rank	Rank without new items	Rank
The child's need for a sense of stability and continuity (NC)	6.10	.84	27		
Current inconclusive allegations of abuse against a child by the parent (PC)	6.10	.97	28		
Each parent's willingness to allow child contact with the other parent (PP)	6.10	.86	29	15	14
Each parent's history of violent relationships (PP)	6.10	.89	30		
Physical handicaps or special health needs of the child (NC)	6.07	.98	31	16	19
Significant behavioural and/or psychological concerns of the child (excluding need for psychological parent) (NC)	6.05	.93	32		
Likelihood of parent removing child from the Court's jurisdiction (AP)	6.05	.90	33		
Each parent's psychological adjustment (AP)	6.00	.84	34	17	11
Each parent's current criminal behaviour (AP)	6.00	.87	35		
Each parent's ability to accommodate child's health needs (AP)	5.98	1.11	36	18	12
Each parent's change of attitude and behaviours significant in the child care and/or protection concerns (AP)	5.95	1.05	37		
Child's views and preferences when child is 12 to 14 years old (NC)	5.95	1.02	38	19	8
Historic inconclusive allegations of abuse against a child by the parent (PC)	5.93	1.13	39		
Child's need to be with the 'psychological' parent (NC)	5.93	.89	40	20	21
Parents' ability to cooperate with each other on parenting matters (PP)	5.90	1.00	41	21	25
Each parent's psychiatric history (AP)	5.88	1.00	42	22	37
Each parent's history of alcohol or drug use (AP)	5.83	1.02	43	23	29
Each parent's compliance with Family Court orders or directions (AP)	5.80	1.03	44		
Each parent's parenting style, including discipline practices and beliefs (AP)	5.76	1.11	45	24	23
Permanence of any proposed home (NC)	5.76	.94	46		
Parental pressure on the child to "choose" one parent (PC)	5.71	1.17	47	25	44
Previous abandonment or loss of contact by the parent (AP)	5.66	1.06	48		
Each parent's acknowledgement of responsibility for reasons why statutory agency involved (AP)	5.61	1.12	49		
Cultural needs of the child (NC)	5.59	1.26	50		
Parents' willingness to share parenting responsibility after child removed and/or placed elsewhere (PP)	5.58	1.17	51	26	
Willingness to share parenting responsibility after separation (PP)					26

Table 13 (continued)

	Current study (1)				Jameson et al., (1997)
	M	SD	Rank	Rank without new items	Rank
Extent of parent-child contact after child removed and/or placed elsewhere (PC)	5.55	1.34	52	27	
Extent of parent-child contact during separation (PC)					50
Extent of parent-child contact before child removed and/or placed elsewhere (PC)	5.53	1.20	53	28	
Extent of parent-child contact before separation (PC)					33
Each parent's ability to keep and manage the siblings together (AP)	5.49	1.12	54		
Child's perception of their relationships and involvement with other family members (NC)	5.49	1.03	55	29	
Child's perception of their relationships with other family members (NC)					20
Each parent's ability to provide the child's cultural needs (AP)	5.41	1.20	56		
Each parent's criminal history (AP)	5.41	1.12	57		
Each parent's ability to provide access to appropriate education (AP)	5.39	1.07	58	30	30
Each parent's access to support from family and friends (AP)	5.38	1.27	59	31	48
Each parent's ability to maintain and encourage the child's interests and activities (AP)	5.37	.95	60	32	36
The child's desire to see grandparents and other extended family (NC)	5.37	.97	61	33	28
Each parent's capacity to contribute to child's moral development (AP)	5.34	1.04	62	34	38
Child's need for relationships with brothers and sisters (NC)	5.34	.99	63	35	24
Child's views and preferences when child is 9 to 11 years old (NC)	5.32	1.17	64	36	18
Educational needs of the child (NC)	5.29	1.10	65	37	34
Intellectual needs of the child (NC)	5.24	1.09	66	38	31
A parent's childhood history of emotional abuse and/or neglect (AP)	5.22	1.19	67		
Parents' history of sharing parenting responsibilities (PP)	5.20	1.25	68	39	41
The child's interests and preferred activities (NC)	5.12	1.00	69	40	40
Each parent's ability to maintain the child's daily routine (AP)	5.12	1.12	70	41	32
Prior Family Court decisions relating to the child or any child of the parent (AP)	5.10	1.36	71		
Extent to which the parents' current partners may contribute to parenting (PP)	5.05	1.30	72	42	35
A parent's childhood history of sexual abuse (AP)	5.05	1.24	73	43	43

Table 13 (continued)

	Current study (1)				Jameson et al., (1997)
	M	SD	Rank	Rank without new items	Rank
The child's desire to see his or her friends (NC)	5.02	1.06	74	44	42
A parent's childhood history of physical abuse (AP)	5.00	1.22	75	45	54
Each parent's medical condition (AP)	4.95	1.26	76		
Each parent's ability to provide a "family" environment (AP)	4.92	1.20	77	46	52
The child's daily routine (NC)	4.90	1.16	78	47	46
Keeping siblings together (NC)	4.85	.94	79		
Each parent's willingness to provide contact with grandparents & other extended family (AP)	4.85	1.14	80	48	39
Each parent's preferences for possible shared parenting plans (PP)	4.80	1.33	81	49	45
Each parent's quality of engagement with support agencies (AP)	4.80	1.14	82		
Each parent's understanding of child development (AP)	4.80	1.31	83	50	53
Length of time child has been in current living situation (NC)	4.80	1.20	84		
Each parent's ability to provide access to other children of same age (AP)	4.59	1.24	85	51	49
Each parent's ability to provide the child with access to stable community involvement (AP)	4.54	1.21	86	52	51
Child's views and preferences when child is 6 to 8 years old (NC)	4.54	1.29	87	53	27
Keeping a young child and mother together (PC)	4.37	1.15	88	54	55
Each parent's financial sufficiency (AP)	4.27	1.05	89	55	56
Child's views and preferences when child is 0 to 5 years old (NC)	3.76	1.50	90	56	47
The child's gender (NC)	3.71	1.64	91		
Each parent's religious orientation (AP)	3.15	1.26	92	57	60
Keeping a parent and child of the same gender together (PC)	3.13	1.08	93	58	59
Each parent's sexual orientation (AP)	2.68	1.33	94	59	57
Extent to which each parent is responsible for the marriage breaking down (PP)					58

Table 13 (*continued*)

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- Notes: a. Scale ranged from 1 (*irrelevant*) to 7 (*essential*).
 b. The results included a clinical psychologist, who has not undertaken s178 or s29A reports, but intends to apply to do so and who has written reports for Family Group Conferences.
 c. PC = parent-child relational assessment; PP = parent-parent relational assessment; AP = abilities-of-the-parents assessment; NC = needs-of-the-child assessment.

3.6 Mandatory Reporting

The views of participants were obtained relating to mandatory reporting. Half of the participants did not want mandatory reporting. If mandatory reporting were to occur, the majority of participants chose a number of professional groups that should be required to report. Most wanted confirmed incidents of physical or sexual abuse or neglect of physical needs to be subject to mandatory reporting laws.

3.6.1 Should Mandatory Reporting Continue

Fifty percent⁵¹ (n=22) favour the voluntary reporting of child abuse as it exists now (see Table 14). Within this group, there was no significance attached to gender or years of experience (p 's > .05). Comments regarding mandatory reporting are provided by participants (see Appendix X).

Table 14

Should Voluntary Reporting of Child Abuse Continue as it Exists Now

	Number of participants	%
Yes	22	50.0
No	16	36.4
Do not know	3	6.8
Did not answer	3	6.8

⁵¹ This section on mandatory reporting includes responses from four participants who have not undertaken s178 reports and three of those have also not undertaken s29A reports. Three of these four participants are clinical psychologists; the fourth, an educational psychologist.

3.6.2 Mandatory Report System

If mandatory reporting were to occur, the majority of participants preferred that people, other than the abuser, report child abuse (see Table 15). Of the two participants in 'other' below, one indicated both the first two options in Table 15; the other did not suggest a mandatory system per se but suggested instead the use of non-mandatory guidelines (see fourth comment in Appendix Y). Participants provided additional comments (see Appendix Y).

Table 15

Preferred Mandatory Reporting System

	Number of participants	%
Person(s), other than abuser, designated by statute to report	23	52.3
Abuser and person designated by statute jointly report to the statutory service and attempt an agreed course of action	7	15.9
Abuser report themselves within a certain time period, otherwise person(s) designated by statute to report if abuse known to that designated person	2	4.5
System of voluntary reporting in cases in which the abuser enters into a therapeutic contract to prevent further abuse. If contract is broken, abuser is reported.	2	4.5
Do not know	4	9.1
Other	2	4.5
Did not answer	<u>4</u>	<u>9.1</u>
Total	44	100

3.6.3 Who Should be Mandated to Report Child Abuse

If mandatory reporting were to occur, the vast majority stated that professionals who interact with children should be mandated to report child abuse (see Table 16). Seventy-five percent of participants stated that all professionals who interact with

parents should be mandated to report. When given more specific options, there are groups who do interact with children that are given higher and lower ratings respectively: for example, medical doctors (84%), school teachers (82%), kindergarten and preschool workers (68%), Parents As First Teachers (55%), and dentists (53%). Thirty-nine percent support the view that all adults over the age of 18 be mandated to report. Thus, the majority of participants seem to support the concept of professional groupings of adults being required to report compared to those in a non-professional relationship such as with a family member or neighbour. Participants offered their comments (see Appendix Z).

Table 16

Who Should be Mandated to Report

	Yes	No	Do not know	No response
	%	%	%	%
All professionals who interact with children	84.1	2.3	4.5	9.1
Registered Medical Practitioners	84.1	0	4.5	11.4
School Teachers	81.8	2.3	4.5	11.4
Social Worker – CYFS (b)	79.5	4.5	4.5	11.4
Social Worker - statutory	77.3	6.8	4.5	11.4
Plunket Nurses	77.3	6.8	4.5	11.4
Special Education Services	77.3	6.8	4.5	11.4
All professionals who interact with parents	75.0	9.1	4.5	11.4
Mental health professionals	75.0	9.1	4.5	11.4
Public Health Nurses	75.0	9.1	4.5	11.4
Social Workers - health	75.0	9.1	4.5	11.4
Social Workers - school	75.0	9.1	4.5	11.4
Counsellors and therapists	72.7	11.4	4.5	11.4
Practice Nurses	72.7	11.4	4.5	11.4
Day care and child care workers	72.7	11.4	4.5	11.4
Members of Police	70.5	13.6	4.5	11.4
Kindergarten/Preschool workers	68.2	15.9	4.5	11.4
Lawyers	63.6	20.5	4.5	11.4
Truancy Officers	63.6	20.5	4.5	11.4
Midwives	61.4	22.7	4.5	11.4
Corrections Department staff	61.4	22.7	4.5	11.4
Coroners	59.1	25.0	4.5	11.4
Women's Refuge workers	59.1	25.0	4.5	11.4
Maori Wardens	56.8	27.3	4.5	11.4
Hospital Nurses	54.5	29.5	4.5	11.4
Parents As First Teachers	54.5	29.5	4.5	11.4
Dentists	52.3	27.3	9.1	11.4
Film & photo processors	52.3	31.8	4.5	11.4

Table 16 (continued)

	Yes	No	Do not know	No response
	%	%	%	%
School – any person over age of 18 who interacts with children	50.0	34.1	4.5	11.4
Church ministers/pastors	47.7	36.4	4.5	11.4
Housing NZ staff	45.5	38.6	4.5	11.4
All over age of 18	38.6	45.5	4.5	11.4
Abuser themselves	34.1	40.9	4.5	20.5

Note: a. Participants were not specifically given option of 'no', therefore a non-response, may be a 'do not know'.

b. Social worker employed by the Department of Child Youth and Family Services (CYFS).

3.6.4 What Degrees of Abuse Should Exist for Mandatory Reporting

If mandatory reporting were to occur, participants most favoured reporting in cases of confirmed abuse (see Table 17). The results do however indicate that many participants are uncertain about this area of mandatory reporting. For example, the results show that a child considered to be at risk rated higher than a child at serious or severe risk. Conversely, suspected abuse rated lower than in cases when suspected abuse is serious or severe. One participant suggested another option for when to report, "admission by abuser". Comments were offered by participants (see Appendix AA).

Table 17

Degrees of Abuse that Should Exist for Mandatory Reporting

	Yes	No	Do not know	Did not respond
	%	%	%	%
Confirmed abuse (when abuse known to have occurred)	65.9	13.6	9.1	11.4
Only in serious or severe cases of confirmed abuse	54.5	25.0	9.1	11.4
Only in serious or severe cases of suspected abuse	54.5	25.0	9.1	11.4
Suspected abuse	43.2	36.4	9.1	11.4
Child considered to be at risk	40.9	38.6	9.1	11.4
Only when child considered to be at serious or severe risk	27.3	52.3	9.1	11.4
Other	2.3			

Note: a. Participants were not specifically given option of 'no', therefore a non-response, may be a 'do not know'.

3.6.5 Types of Abuse for Mandatory Reporting

Physical abuse, sexual abuse, and neglect of physical needs are the abuse types predominantly selected to be subject to mandatory reporting (see Table 18). A notably reduced majority also endorsed emotional abuse and emotional neglect.

Other types of abuse categories identified by participants were:

- a. domestic violence not involving children (n=1);
- b. witnessing of violence between parents/caregivers (n=1);
- c. indoctrination (n=1);
- d. teaching, encouraging, failing to correct, or modelling criminal behaviours (n=1);
- e. abuse by state agencies (n=1).

A few participants were particularly concerned about defining and assessing emotional abuse (see comments in Appendix AB).

Table 18

Types of Abuse for Mandatory Reporting

	Yes %	No %	Do not know %	No response %
Physical abuse	86.4	0	6.8	6.8
Sexual abuse	86.4	0	6.8	6.8
Neglect of physical needs	81.8	2.3	9.1	6.8
Emotional neglect	56.8	27.3	9.1	6.8
Emotional abuse	54.5	29.5	9.1	6.8
Other	11.4			

Note: a. Participants were not specifically given option of 'no', therefore a non-response, may be a 'do not know'.

CHAPTER FOUR**DISCUSSION****4.1 Summary of the Major Findings**

This study was in 6 major parts: (1) participant demographics; (2) child protection custody and access evaluation procedures; (3) attitudes of report writers; (4) training and resources; (5) best interests of the child standard; and (6) mandatory reporting of child abuse. The research was exploratory in nature as there has been seemingly no study known to the researcher that focused on child protection in relation to custody evaluations. Additionally, and as far as the researcher was aware, prior to the current research, New Zealand (NZ) psychologists have not been involved in research relating to mandatory reporting.

Taken together, the findings of the current study shed light on the most recent activities and attitudes of NZ Family Court report writers in relation to s178 CYPF Act (1989) and, to a lesser extent, s29A Guardianship Act (1968) evaluations. Report writers also indicate the importance of factors associated with the best interest of the child standard. Additionally, report writers indicated whether the mandatory reporting of child abuse should be introduced in NZ, and the dynamics of such a policy if it were introduced.

The major findings of this study indicate that: (a) not all Family Court writers of child protection reports are registered psychologists; (b) report writers are considered to be expert forensic evaluators; (c) report writers spend the greatest proportion of their time preparing custody reports; (d) report writers prepare substantially more custody reports than report writers in a US based sample; (e) report writers allocate little time to research; (f) many of the more popular assessment procedures (e.g., interview of the parents, observe child's interaction with parents, and interview of the child) are the same when compared to US samples⁵²; (g) when compared with US samples, NZ report writers do not rely as much on testing. US samples show a greater use of (i) MMPI and MCMI with respect to adults and (ii) CAT, TAT, other projective tests,

⁵² Noting that 2.4% of participants in Keilin and Bloom (1986) were from Canada.

and achievement tests with respect to children; (h) the BDI and Bene-Anthony Family Relations Test (BAFRT) rates high in NZ but low or not at all in overseas studies; (i) overall, the overseas samples also show a greater variety of tests used; (j) the tests most applied in NZ are the BDI for adults and intelligence tests for children; (k) almost all (97%) report writers are prepared to make recommendations regarding the child's placement, and/or access plan, and/or state whether the parent is sufficiently impaired to be the custodial parent; (l) greater satisfaction with the assessment process is experienced by NZ report writers when compared to the US based sample; (m) neutrality is rated high by both NZ report writers and the US based sample; (n) the majority in this study and the US based sample believe in their importance to the Court (i.e., that they should be used frequently to write reports); (o) report writers here have the perception that their ongoing training needs are not met; (p) numerous factors, including emotional abuse and/or neglect, emotional nurturance, the child's safety with other children, which were added to the Best Interests of the Child Questionnaire (BICQ), were highly rated as necessary considerations by participants; (q) the most and least valued BICQ factors tended to be more similar when compared with the Canadian sample; (r) fifty percent of participants supported the continuation of the voluntary reporting of child abuse whereas 36% supported mandatory reporting; and (s) if mandatory reporting were introduced, most participants indicated their preference for professionals who interact with children, particularly medical doctors and school teachers, to report confirmed instances of physical and sexual abuse and neglect of physical needs. To a lesser extent, participants endorsed other professional groups to report, that is: school teachers; statutory, health and school social workers; plunket and public health nurses; Special Education Services (now Group Special Education); and mental health professionals. Each of these, and other findings are now considered.

4.2 Participant Demographics, Experience, Orientation

The participants represent a group of experienced professionals, the majority of whom are clinical psychologists. The guidelines state that psychologists who are report

writers must be registered (Family Courts' Working Party, 2001)⁵³. However, eight percent (n=3) of the psychologists preparing s178 Children, Young Persons, and Their Families Act (1989) (CYPF) and s29A Guardianship Act (1968) reports reported not being registered. Report writers should also belong to the Psychological Society (NZPsS) or the College of Clinical Psychologists (Family Courts' Working Party, 2001). However, one psychologist was not a member of either. Furthermore, not all NZ Family Court writers of child protection custody and access reports (s178) are psychologists, which is contrary to what was advised by the Department for Courts. One professional preparing such reports in this study is a psychotherapist. Also, now report writers are expected to have five years of clinical experience or equivalent (Family Courts' Working Party, 2001). All but one report writer met this more recent criterion.

Heilbrun (1995) states that the indicators in evaluating whether a mental health professional has the necessary expertise to serve as a forensic evaluator in child custody proceedings are as follows: (a) graduate training which includes specialisation in child and family issues; (b) at least 25% of their time in applied work with child, adolescents and families; (c) at least 25% of time spent preparing child custody evaluations; and (d) involvement in activities contributing to expertise. Many NZ report writers, like the US based sample of report writers (LaFortune & Carpenter, 1998), had appropriate training and applied work experience by these criteria. Overall, more NZ report writers, compared to their American colleagues, reported spending at least 25% of their time preparing child custody evaluations. However, fewer NZ report writers report taking part in other professional activities. Nevertheless, taken together, it would appear that the majority of NZ report writers in this study qualify as forensic experts according to Heilbrun (1995).

However, with respect to research activities in particular, the picture is not as optimistic. The vast majority of participants reported allegiance to the cognitive-behavioural theoretical orientation⁵⁴. Despite a focus on evidence-based practice

⁵³ These revised guidelines were released after the survey was sent to participants. However, psychologists were also expected to be registered and belong to a relevant professional body in the previous guidelines (see Seymour et al., 1995).

⁵⁴ Although Moltzen's (1993) survey requested participant's theoretical orientation, the results were not reported.

within the cognitive-behavioural orientation, the lack of individual commitment to familiarisation with the literature poses a concern. Less than 1% of professional time was used undertaking research activities or participation in working parties associated with the Family Court. Also, just over one quarter had undertaken research in child, adolescent or family issues in the last 5 years. The guidelines state that psychologists should be familiar with the “growing body of research literature” (Maxwell et al., 1995a:1996a, p. 3). Smith (1999a) further emphasised this by stating that the report writer should have an up-to-date knowledge of the research in the area of child custody (see also LaFortune & Carpenter, 1998).

4.3 Child Care and Protection Custody and Access Evaluations

Participants here appear to have substantially more experience in preparing custody reports and spend considerably more of their time writing custody reports compared to the US based sample (LaFortune & Carpenter, 1998). New Zealand report writers reported completing almost twice the number of custody evaluations when compared to the US sample. Within NZ, report writers in this study also prepared twice the number of s29A Guardianship Act reports compared to s178 CYPF reports. This is likely to reflect the fact that more s29A reports are requested by the Family Court due to the greater number of custody and access applications made under the Guardianship Act. Additionally, s178 was only introduced in the CYPF Act of 1989 whereas s29A has been in legislation since 1980. Also, with respect to both s178 and s29A reports, report writers' overall appearances in defended hearings within the last five years were very similar. However, the variability among individual report writers is noteworthy for both types of reports. For some reason(s), a minority of report writers have little or no experience of appearing as a witness to their reports, while others do.

The most popular assessment procedures found in this study and in the US samples (Ackerman & Ackerman, 1997; Keilin & Bloom, 1986; LaFortune & Carpenter, 1998) are similar in all but the area of psychological testing. Participants reported that care and protection assessments typically include the following procedures: individual clinical interview with parents and with children; observing the interaction between each parent and child; reading the family case history; consultation with

lawyers and social workers; and the gathering of school related data. The importance of interviewing significant others such as family was recognised by most participants in this study (see also Ackerman, 1995; Chasin & Grunebaum, 1981). Given the focus of child protection evaluations, assessment differences when compared to divorce type custody evaluations are expected, such as more consultation with social workers versus lawyers. Report writers here reported that they value the information provided by social workers more so than that provided by Counsel for Child. This result is not unexpected given that the social worker usually has had more extensive involvement with the child and family.

4.3.1 Psychological Testing

The primary difference between assessment procedures in the NZ and US samples is in the area of psychological testing. Of the eighteen assessment procedures provided in the current survey, psychological testing of children and adults rated sixteenth and eighteenth in importance, respectively. Participants also appear to use a small range of tests for adults and children and use tests less frequently. The most popular tests for adults are, in this order, the BDI, WAIS, MMPI and MCMI. Unfortunately, neither of the two previous NZ studies (Hong, 1991; Moltzen, 1993) reported the use of specific tests with adults⁵⁵. Report writers in US samples administer tests such as MMPI, MCMI, Rorschach, TAT, and Sentence Completion Tests. The MMPI is the most popular test in the three US studies (Ackerman & Ackerman, 1997; Keilin & Bloom, 1986; LaFortune & Carpenter, 1998). In NZ, the most popular tests for children and adolescents, in this order, are intelligence tests, Bene-Anthony Family Relations Test (BAFRT), projective tests and the CBCL. The most popular tests for children across the US samples include intelligence tests, CAT, TAT, BPS⁵⁶, Sentence Completion, other projective tests, and achievement tests. The US samples did not report the use of the CBCL. However, again, actual usage of tests is limited here compared to the US samples.

The BAFRT was the most popular test used with children in the two earlier NZ studies and the second most popular test in this study whereas the BAFRT was not

⁵⁵ Hong (1991) did not specifically ask participants what tests were administered to adults.

⁵⁶ Only in Ackerman and Ackerman (1997).

popular with the US based samples. The BAFRT lacks adequate reliability, validity, and normative data (Carlson, 1992; Parkin, 2001). Furthermore, Pfeiffer (1992) recommends that BAFRT only be used as a clinical research instrument. The NZ Society's code of ethics warns psychologists against the misuse of instruments (NZPsS, 1985). Furthermore, the guidelines direct the report writer to be cautious as tests currently available, and including the BAFRT given its lack of validity, are not appropriate on which to base firm conclusions (Maxwell et al., 1995a:1996:a).

Ackerman and Ackerman (1997) found that report writers relied more on psychological testing than they did 10 years ago. Some say this is so without due consideration to limitations and to critical reviews regarding reliability, validity, and generalisation (e.g., Ackerman & Ackerman, 1997; Heinz & Grisso, 1996; Weisz, 1999). Some NZ report writers indicated similar concerns (see Appendix J). Others state there are few, if any, reliable instruments specific to child custody disputes (Bolocofsky, 1989; Heilbrun, 1995; Oberlander, 1995).

The results of the Ackerman & Ackerman (1997) study show growth in the use of tests specifically designed or endorsed for custody evaluations, including: Ackerman-Schoendorf (ASPECT); Bricklin Perceptual Scales (BPS); Parent-Child Relationship Inventory (PCRI); Perception of Relationships Test (PORT); Parent Awareness of Skills Survey (PASS); and Custody Quotient. The ASPECT and Bricklin were procedures also used by some participants in LaFortune and Carpenter (1998). The Parent Perception of Child Profile (PPCP) is another such test apparently helpful for custody evaluations (Ackerman & Ackerman, 1997). Not one of these tests specifically designed for child custody evaluations was identified as being used by any participant in this NZ study. This finding raises unanswered questions. Does this result reflect a low priority to research findings as suggested in this study? Are report writers not confident in the value of these tests and also overly concerned about being cross-examined regarding the use of such tests? Have report writers not received the specialised training to administer and interpret these assessment techniques? Do report writers simply eschew testing generally?

It is noteworthy that writers have recommended caution using these specialised tests (e.g., Heinze & Grisso, 1996; Melton et al., 1997; Nicholson, 1999; Otto et al., 2000).

Among the newer instruments are tests aimed at establishing parenting skills and abilities. Although it is generally acknowledged that parenting measures are important factors in custody determinations, some have argued that these measures are flawed for three reasons: (a) lack of agreement as to what constitutes effective parenting (e.g., Grisso, 1986; Maloney, 1985); (b) significant differences with data-gathering procedures (e.g., Maloney, 1985); and (c) there are no personality tests that measure parenting fitness or parenting competencies per se (e.g., Bailey, 1998; Gould, 1999b; Stahl, 1994). Heinze and Grisso (1996) argued that it is unlikely that any test will be able to meet basic scientific standards for making judgements about who is the preferred parent (i.e., lack of predictive validity).

As suggested by the findings, it does not appear that the vast majority of NZ report writers in this study believe that psychological tests or more specific custody and parenting inventories are a valuable aid to custody evaluations. However, when compared to the overseas studies, the cautions around testing are not shared by all in the custody field. Gould (1999b) provides ten reasons⁵⁷ supporting the use of psychological tests in child custody evaluations. Others suggest that psychological tests are useful even if they are selectively administered (e.g., Chasin & Grunebaum, 1981; Gould, 1999b; Grisso, 1986; Landberg, 1982). Stahl (1994) suggested that psychological testing could provide insight on issues associated with parenting or the custody dispute. Although the newer tests may be helpful, more research is required to guide the report writer as to the extent that such tests can be used (e.g., Melton et al., 1997; Otto et al., 2000; Stahl, 1999). Psychologists must therefore educate themselves about the strengths and limitations of general and specific assessment methods (e.g., Weissman, 1991). A set of guidelines for the use of tests, and the positives and negatives of specific tests, would be of assistance to the NZ report writer.

⁵⁷ Gould (1999b) suggests that testing: (a) provides objective information; (b) confirms or otherwise information gathered from other sources; (c) provides the opportunity for additional hypotheses; (d) provides enhanced means to understand personality features; (e) provides a way of better understanding cognitive and personality styles; (f) provides a way of assessing the psychological and emotional match between significant parties; (g) provides a way of measuring the "goodness of fit" (p. 172) between the parent's emotional, intellectual, and psychological characteristics and those of each child; (h) provides information about potential areas of divergence between family members; (i) provides information about possible emotional reactions to the family changes; and (j) provides an ability to determine the litigant's response style to the evaluation.

4.3.2 Assessing Maori and Pacific Island Families

Already within the NZ guidelines is an emphasis upon culture (Family Courts' Working Party, 2001; Maxwell et al., 1995a:1996a; Maxwell et al., 1995b:1996b). The first notable finding within this area, and also found in the two previous NZ studies (Hong, 1991; Moltzen, 1993), was that no report writer identified himself or herself as Maori or Pacific Islander. However, when assessing Maori or Pacific Island families, the majority of participants in this study state that their approach is different than when assessing non-Maori or non-Pacific Island families. Although difficult to make a direct comparison with Moltzen (1993), it would appear that more report writers are now indicating that they are utilising different culturally appropriate assessment procedures (e.g., obtaining cultural advice). However, the assessment of Maori and Pacific Island families did not always differ among report writers despite the guidelines which state that psychologists should be flexible in their methods and be aware of the importance of culturally appropriate advice (Maxwell et al., 1995a:1996a). Members of the NZ Psychological Society adopted a new code of ethics in 2002 (NZPsS, 2002), replacing the 1986 Code of Ethics, which was older than the CYPF Act. Referring to the 1986 Code, Dixon (1995) stated, "there are complex questions of bicultural accountability (and others) that test the code" (p. 5). The 2002 Code does now address the matter of working cross-culturally. This may result in some changes in practice. It is of interest that culture, a factor added in the Best Interests of the Child Questionnaire (BICQ), rates fiftieth (out of 94 factors) when determining child placement and access outcomes.

4.3.3 Co-working

Although report writers generally, but did not always appear to, obtain the views of other professionals (such as social worker and doctor) involved with the family, the vast majority prepared the assessment on their own. Kearns (1999) states that psychologists know that their report provides part of the picture for the Court to consider. Would it not benefit the Court to provide a more complete and succinct picture of the child and family? This objective, together with the possible added

advantage of producing a report more readily accepted⁵⁸ by all parties, may be achievable utilising a team approach to evaluations similar to that used by the University of Wisconsin in difficult child protection or child custody cases (see Westman, 1998). An inter-disciplinary approach is also recommended while there is a lack of standardisation and objective measures (Gourley & Stolberg, 2000). Furthermore, collaboration with other professionals can challenge the clinician's beliefs and biases (French & Stout, 1991; Gould & Stahl, 2000). An NZ inter-disciplinary team could include a psychologist, lawyer specialising as a child's advocate, social worker, paediatrician or psychiatrist, education professional, and cultural advisor (as the child's ethnicity dictates). The issues arising from such a proposal include who testifies in Court, attributing professional accountability if the evaluation is challenged, and the extra cost. However, the savings generated from avoiding protracted Court proceedings may offset any extra cost.

4.3.4 Reporting Procedures

The final part in the evaluation process itself is the report. The Principal Family Court Judge issued a Practice Note⁵⁹, which included guidelines to report presentation (Seymour et al., 1995). These guidelines were, on the whole, general in nature. Of the twenty report content factors presented in this survey, one of which is specifically from the Practice Note, it was found that overall these factors were included on a regular basis. However, within the group of report writers, some variability exists. Overall, and as seen in Table 9, the results here indicate that there is not a presentation standard followed across these written reports.

Hong (1991) found that 55% (n=12) had provided custody recommendations 'often', 'very often' or 'always'. The results of this study indicate that as a group, report writers continue to provide recommendations on a regular basis. Furthermore, the vast majority of current report writers (97%) provide recommendations to the Family Court to varying degrees. Therefore, these report writers believe that providing recommendations is within their role. This view is outside the present guidelines for

⁵⁸ Readily accepted due to a full picture presented to parties with a complete set of conclusions, and ideally supported by empirical research.

⁵⁹ The Practice Note was superseded after the survey was sent to participants. However, the new Practice Note (Family Courts' Working Party, 2001) does not include guidelines to report presentation.

s29A report writers (Maxwell et al., 1995a:1996a) and presumably, by extension, s178 report writers. Psychologists are also warned to be cautious when making future predictions in relation to custody and access decisions (Maxwell et al., 1995a:1996a). However, as shown, report writers often offer qualified opinions likely to affect outcomes of placement and access decisions.

Presenting relevant empirical research data to support opinions or conclusions was the lowest rated item in this study. Providing empirical research is however consistent with best practice (Seymour & McDowell, 1996). It is argued that providing such information not only assists the Court in decision-making, but also is educative for parents (Seymour & McDowell, 1996). This information may also reduce the demand for second opinion expert reports and defended hearings. Furthermore, not all report writers consistently draw attention to the limitations of their report. Caldwell (1995) argued that in recognising the difficulties inherent in custody reports, and the Society's Code of Ethics that stipulates that psychologists recognise their own boundaries of their competence, that it is "good practice" (p. 190) for psychologists to draw attention to the problems of any report. An increased use of research findings would no doubt be useful in this regard.

4.4 Attitudes of Report Writers

Not only were the actions of report writers examined, but so too were their attitudes. The level of dislike associated with preparing and presenting s178 reports is consistently lower in NZ than found in the US sample (LaFortune & Carpenter, 1998). This might be unexpected given that s178 evaluations revolve around issues of abuse and the neglect of children. On a similarly positive note, the vast majority provided positive comments concerning their involvement with s178 evaluations. Report writers believe that their service is meaningful, particularly contributing to achieving the best-interests-of-the-child and providing assistance to the Court. Both NZ and US sample groups agreed their greatest dislike was associated with formal complaints. In a general sense, the results indicate that NZ report writers may not find the adversarial nature of the work as intense as their American colleagues.

The majority of current participants favour the concept of a report writer being used in a consultant role in access and placement decisions. If this were the case, such a neutral role is likely to: (a) add to the quality of decision making; (b) assist in the process of implementing those decisions; (c) reduce any detrimental effect to the child and significant others as a result of Court proceedings; and (d) reduce the number of fiercely fought and/or protracted cases by contracting an independent Court appointed report writer at an earlier point in proceedings.

Providing evaluations from such a neutral perspective, such as at the request of the Court, is a value shared by report writers in this study and the US based sample (LaFortune & Carpenter, 1998). The same majority of both groups also believe that report writers should be used routinely. Zelas (1995) states that as financial constraints have restricted the involvement of experts, and the Family Court has become more adult rather than child focused, fewer children have had their rights or needs appropriately determined and represented. Zelas' (1995) opinion is one to be confirmed or otherwise by future research.

In relation to money, report writers are not overly satisfied with fees. At the time of this study, there was not a standard fee for report writers and no formal payment guidelines (H. Walker, personal communication, February 21, 2002). Zelas (1995) argued that the \$75 an hour paid by the Family Court was not competitive and did not compensate adequately. Zelas (1995) further argued that the risk is that less trained and experienced report writers will be called on as other more experienced and qualified report writers are attracted to other work. At this time, it appears that the Family Court has kept the services of a number of experienced report writers.

4.5 Training and Resources

Generally implicit when referring to such terms as 'experienced' or 'professional' is a significant training component. Formal training is recommended by various writers (e.g., Gourley & Stolberg, 2000). In addition, NZ guidelines expect the report writer to have relevant training (Family Courts' Working Party, 2001). This study shows that report writers have the perception that their on-going training needs are generally not being met. If such a situation continues, it would allow several knowledge and

skill gaps to occur. The consequences arising from this situation may include a reduced quality of information provided to the Court. If gaps exist in the report writer's knowledge and skills, these gaps may be identified through an analysis of reports combined with a continuing accreditation process. The Principal Family Court Judge concurs that it is the responsibility of the professional body to provide such specialised training (Family Court's Working Party, 2001). However, as it is only the Family Court that can order a s178 CYPF report, should the Court also be involved in the provision of such training? Some report writers in this study think so (see Appendix T).

4.6 Best Interests of the Child Standard

Clearly what informs report writers becomes critical when evaluating significant issues facing children and their families. The results of the Best Interests of the Child Questionnaire (BICQ) show that current and historic abuse rated the highest in importance when determining child placement and access outcomes. Many of the factors introduced for this study were highly rated by report writers, particularly emotional abuse and neglect, historic abuse and neglect, emotional nurturance, child's safety with other children, parent's ability to manage conflict and anger, and the child's vulnerability. When excluding the 35 factors added for this study, there were some similarities and notable differences with the Canadian study by Jameson et al. (1997).

The similarities tended to be in those factors rated the highest (e.g., abuse and neglect) and factors rated low (e.g., each parent's ability to provide the child with access to stable community involvement, keeping a young child and mother together, and each parent's financial sufficiency). The notable differences included the importance given to the following: children's preferences; parent's access to support from family and friends; parental pressure on the child to choose one parent; and the parent's psychiatric history. Smith (1999b) stated that the accepted practice in NZ is to take into account a child's preferences, particularly when a child is aged 10 years and over. The results of this study suggest that report writers are more likely to take into account the views and preferences of those children 12 years and over. Judges want to know what children need and who can provide this need (Flynn & Seibert, 1997);

however, there are no standardised techniques for assessing children's custody preferences (Grisso, 1986). With this in mind, Hynan (1998) strongly recommends that clinicians and researchers work together to improve child custody-based interviews. Other factor ratings which may raise questions in terms of whether these have been given due recognition include: child's need for a sense of stability and continuity rated 27 out of 94; parent's change of attitude and behaviours significant in the child care and/or protection concerns rated 37; child's need to be with the psychological parent rated 40; each parent's ability to provide a "family environment" rated 77; and keeping siblings together rated 79.

The vast majority of participants did not suggest additional assessment factors, which would imply that given the extensive experience of many report writers, all factors were included in this study. Of the seven suggested factors offered by five participants, just one factor, "psychological meaning of child to parent" was not specifically included in the BICQ. The five other suggestions are considered to be recognised within the BICQ. The one other factor suggested, "access to transport/telephone", is not regarded by the researcher as important on its own unless associated with a key issue affecting the best interests of the child (e.g., health needs which is already included as an assessment factor). Recommended changes to the wording of certain factors as they currently appear in the BICQ are provided (see Appendix AC).

The BICA model (see Appendix A) is intended to provide a framework, that is empirically relevant, and which would not be spontaneously available to the report writer. The model allows the report writer to move from all encompassing areas to the relevant best interests of the child assessment factors. The model ensures that the report writer does not miss important factors and thus provides focus. Although Gould (1999a) had previously criticised the model for not providing all BIC assessment criteria, the factors introduced for this study are considered to be a move closer to achieving that objective. The factors introduced for this study do not necessitate a change in the best-interests-of-the-child assessment (BICA) model, as the 'areas of concern' are sufficiently general. Hynan (1998) has stated that the assessment factors used by report writers in Jameson et al. (1997) are not based on empirical findings concerning children of divorce. It is a matter for further analysis to

provide more substance to this criticism and furthermore, whether the new factors added for this study prove to be valid. On the other hand, the NZ guidelines provide report writers little assistance with respect to evaluation procedures and assessment factors. The BICA model and BICQ used here does go some way in potentially addressing this deficit.

4.7 Mandatory Reporting

Mandatory reporting is generally discussed in the context of child care and protection. The continuation of the voluntary reporting of child abuse is supported by 50 percent of participants in this study. Thirty-six percent supported the introduction of mandatory reporting. If mandatory reporting were to be introduced, the largest majority of participants want professionals who interact with children, particularly medical doctors and school teachers, to report confirmed incidents of physical abuse, sexual abuse and the neglect of physical needs. The majority of participants did not support non-professionals being subject to mandatory reporting laws. Eighty-four percent of participants stated that all professionals who interact with children should be mandated to report and seventy-five percent of participants stated that all professionals who interact with parents should be mandated to report. However, this level of support was not translated to all professional/agency groupings that do interact with children and parents.

Participants did not suggest any other system of mandatory reporting or group of people who should report child abuse not already identified in this current survey. One participant did recommend the additional criteria of a specific timeframe: reporting if abuse was known or suspected to have occurred in the previous six months. If mandatory reporting were seriously contemplated, the major issues in such a debate include: (a) the objectives of mandatory reporting; (b) the dynamics of a mandatory system more likely to achieve such objectives; (c) whether research has provided adequate evidence that such a system meets specific objectives; and (d) whether adequate funding is available to meet the demands of mandatory reporting. The dynamics of a mandatory system include such issues as who reports (e.g., Lawrence-Karski, 1997; Swift, 1997); definitions of abuse (e.g., Kalichman, 1999; Loue, 1998); the degree of certainty that abuse has occurred or likely to occur (e.g.,

Walters, 1995); sanctions against those who do not report (e.g., Walters, 1995), and professional discretion (e.g., Agatstein, 1989; Anderson, Steinberg, Ferretti, Levine, Sharma, & Wallach, 1992; Ebert, 1992; Emery & Laumann-Billings, 1998; Finkelhor & Zellman, 1991).

Emotional abuse rated second equal with physical abuse in the BICQ in terms of its importance in child placement and access evaluations. However, only fifty percent of participants supported its inclusion in the mandatory reporting criteria. If emotional abuse were adequately defined (see comments by participants in Appendices AA and AB), it is possible that more professionals would support its inclusion. There was one suggestion of adding domestic violence not involving children to the types of abuse reported. This abuse type might be considered as one category of emotional abuse.

The results of this study may have differed if mandatory reporting were being seriously proposed by government, rather than as a hypothetical exercise. Until then, Henare (2000) argues that voluntary reporting implies a professional and moral obligation to report child abuse and neglect. When the next child dies or is significantly abused, and that incident raises media interest, the subject of mandatory reporting will undoubtedly be raised once again.

4.8 Limitations of the Study

This study does have limitations. The percentage of the total number of s178 CYPF child protection report writers represented in this study is unknown. This is due to the fact that the exact number of Family Court report writers is unknown to the Department for Courts. Second, of all report writers, the number of those who do or do not undertake s178 reports is unknown. Even in the current study, four people who were Family Court report writers and did not complete the survey advised that they do not accept s178 referrals from the Family Court. However, as an estimate, about 30 percent of Family Court report writers responded to this study. As the response rate may appear moderately low, it is difficult to determine the potential differences between participants and non-participants (see Kerlinger & Lee, 2000). It is acknowledged that the survey was extensive and thus possibly contributed to a lower response rate. Two people who returned the survey uncompleted, and another

who did complete the survey stated that the questionnaire was too long. One participant also suggested that s178 evaluations and mandatory reporting were two separate issues.

Report writers may have misreported their evaluation procedures, attitudes and opinions (Visser et al., 2000). The intentions and stated practices of participants are not independently verifiable, as the researcher did not have access to the report writer's evaluations (Moser & Kalton, 1971). Also, the findings may not be generalised across other psychologists, other professional disciplines, or to the general public (Bordens & Abbott, 1996; Visser et al., 2000). In relation to mandatory reporting, there has been relatively little debate involving report writers, psychologists, and others concerning mandatory reporting. Thus, while the current study does meet content validity criteria (Bordens & Abbott, 1996), further debate may produce different results with respect to mandatory reporting.

In this study, report writers were presented with a list of evaluation procedures. Report writers were then requested to answer on the basis that each procedure was relevant for each family to be assessed. If report writers were asked to rate each item based solely on their experiences of preparing evaluations, the results would not indicate if procedures were not undertaken: (a) out of choice; (b) there were circumstances which prevented carrying out the procedure; or (c) the procedure was not applicable (e.g., no children under the age of six to interview). If participants did answer as requested, one would expect many of the procedures to have higher ratings than what was found (e.g., interview with mother $M=4.92$ out of 5). It is possible that some participants did rate each of the procedures according to their actual evaluation experiences.

4.9 Future Research

The following research suggestions are made to assist in further developing the expertise of report writers, to assist the Family Court in its objective to make decisions in the best interest of the child, and in determining the generalisation of the mandatory reporting results:

- (1) An analysis of actual s178 CYPF reports to confirm whether report writers actually do what they state. There is no study involving the analysis of actual custody evaluations (Nicolson & Norwood, 2000);
- (2) An analysis of judge's decisions: what factors were important in their decision-making and the weighting given to those factors;
- (3) A study of children subject to previous Family Court decisions including: (a) identifying the dynamics of positive and negative outcomes; (b) the usefulness of assessment procedures; (c) the possible impact upon the decision making when a report writer was or was not used. Outcome research is lacking (e.g., Caldwell, 1995; Okpaku, 1976; Weisz, 1999; Zelas, 1995);
- (4) How report writers identify the existence of psychopathology and other problems (e.g., risk factors) in parents, and how report writers determine the effect such disorders have on the parent's ability to provide care;
- (5) Compare BICQ related results of this study with ratings from others including social workers, Counsel for Child, other Family Court lawyers, and Family Court judges;
- (6) Research on methods on how to obtain the child's wishes and preferences, and guidance as to the relative importance of these views;
- (7) Further research with other professionals and the public to confirm the generalisability of findings here including mandatory reporting results.

4.10 Conclusion

Unlike the clinical setting, the mental health professional engaged in forensic work can expect that their credibility will be carefully examined (Galatzer-Levy & Kraus, 1999). Continued research will contribute to the probability of better outcomes for them and for the child subject to Family Court care and protection proceedings. Outcome studies, although complex, would not only assist judges, but also report writers by enhancing assessment procedures and standardising the weighting given to factors associated with the best interests of the child. Seymour and McDowell (1996) argued that one does not need to be pessimistic about the status of empirical research relevant to custody and access decisions. Given the complex and multiple factors that impact on the child and family, the nature of human behaviour, and the relative newness of tests possibly relevant to child custody, the opinion based on the report

writer's evidence-based knowledge and expertise is possibly the best the Court can obtain. A team approach to assessment evaluations is likely to provide a feasible option, even if only used in highly complex cases.

To the question as to whether report writers are operating within the guidelines: many report writers do not appear to be meeting the standard with respect to: (a) up-to-date knowledge of the literature; (b) relevant on-going training; (c) providing recommendations; (d) the importance of culture; and (e) administering potentially appropriate tests. Furthermore, four sets of guidelines for report writers do seem inefficient and confusing. It is recommended that one set of guidelines be developed for report writers of both s178 CYPF Act (1989) and s29A Guardianship Act (1968) reports and that report writers are given greater guidance in the use of specific assessment procedures. Ongoing research should lead to the assessment and potential revision of practice guidelines. In conclusion, this study has provided a view of the experiences, assessment practices, and attitudes of Family Court writers of s178 psychological reports. As an aid to such reports, the BICA model does promote a comprehensive approach to assessments. In relation to mandatory reporting, many professionals in this study are not convinced that this policy will benefit the most vulnerable of our society.

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Appendix A

Best interests of the child assessment model

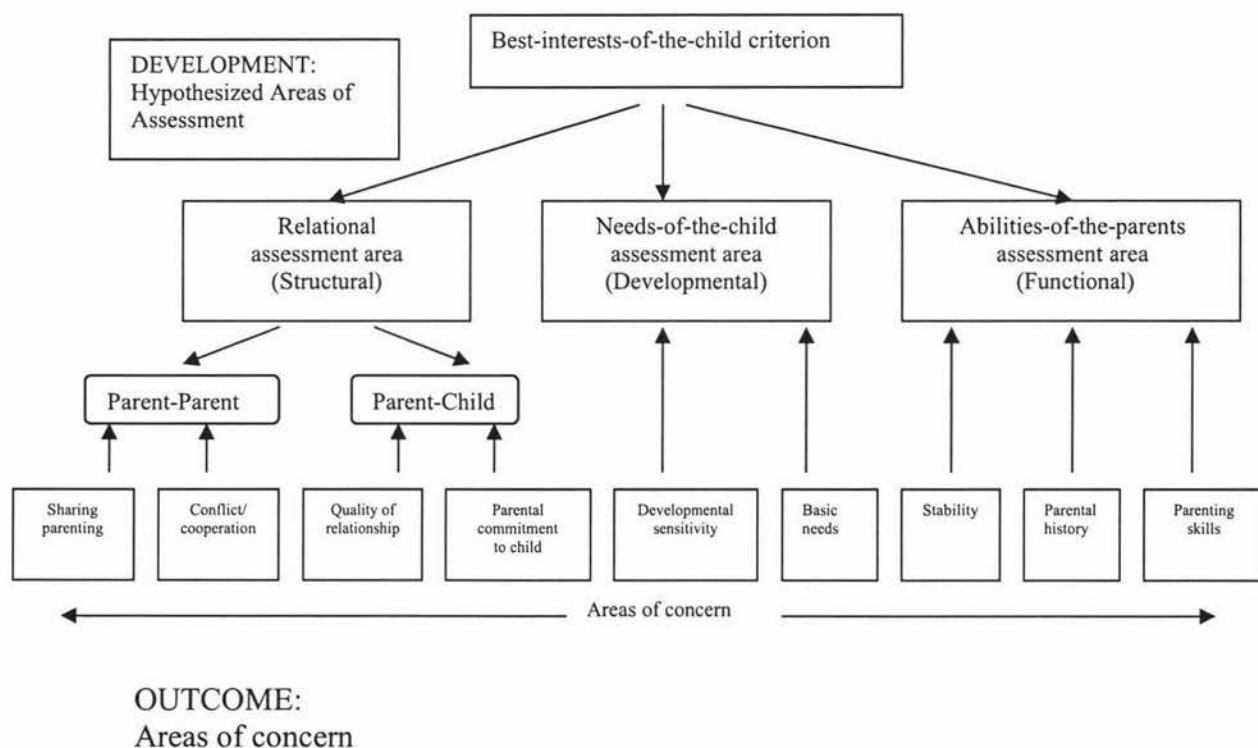


Figure 1. Best-interests-of-the child assessment model: development and outcome (Jameson et al., 1997, p. 260)

Appendix B

Definition of child in need of care or protection

Section 14 of the Children, Young Persons, and Their Families Act (1989) states that a child or young person is in need of care or protection if:

- (a) The child or young person is being, or is likely to be, harmed (whether physically or emotionally or sexually), ill-treated, abused, or seriously deprived; or
- (b) The child's or young person's development or physical or mental or emotional wellbeing is being, or is likely to be, impaired or neglected, and that impairment or neglect is, or is likely to be, serious and avoidable; or
- (c) Serious differences exist between the child or young person and the parents or guardians or other persons having the care of the child or young person to such an extent that the physical or mental or emotional wellbeing of the child or young person is being seriously impaired; or
- (d) The child or young person has behaved, or is behaving, in a manner that –
 - (i) Is, or is likely to be, harmful to the physical or mental or emotional wellbeing of the child or young person or to others; and
 - (ii) The child's or young person's parents or guardians, or the persons having the care of the child or young person, are unable or unwilling to control; or
- (e) In the case of a child of or over the age of 10 years and under 14 years, the child has committed an offence or offences the number, nature, or magnitude of which is such as to give serious concern for the wellbeing of the child; or
- (f) The parents or guardians or other persons having the care of the child or young person are unwilling or unable to care for the child or young person; or
- (g) The parents or guardians or other persons having the care of the child or young person have abandoned the child or young person; or
- (h) Serious differences exist between a parent, guardian, or other person having the care of the child or young person and any other parent, guardian, or other person having the care of the child or young person to such an extent that the physical or mental or emotional wellbeing of the child or young person is being seriously impaired; or

(i) The ability of the child or young person to form a significant psychological attachment to the person or persons having the care of the child or young person is being, or is likely to be, seriously impaired because of the number of occasions on which the child or young person has been in the care or charge of a person (not being a person specified in subsection (2) of this section) for the purposes of maintaining the child or young person apart from the child's or young person's parents or guardians.

Appendix C

Information Sheet

Family Court Report Writers

Survey of Practices and Attitudes Regarding Child Protection Reports and Opinions Regarding Mandatory Reporting

This study is being carried out by Garry Field for a Masterate thesis under the supervision of Dr. Kevin R. Ronan in the Department of Psychology at Massey University. This is not a Department for Courts project. This thesis research proposal has been reviewed and approved by the Massey University Human Ethics Committee.

Your name was obtained from either yourself, your professional association, or identified by a colleague as a person who is, may be, or has previously prepared s178 (Children, Young Persons and Their Families Act 1989) reports for the Department for Courts. We were given your name by a member of the _____

We are dedicated to advancing knowledge and practice concerning child protection, custody and access. Much publicity has occurred in recent years concerning fatal or severe cases of child abuse. We recognise that working with children and families involved in child protection, custody and access disputes, is one of the most challenging and high risk areas of practice.

In this research we are interested in: (a) the current practices and attitudes of Family Court report writers with regard to reports requested under s178 CYPF Act; (b) the factors, and their relative importance, associated with the 'best interest of the child' standard; and (c) mandatory reporting. In part, this research replicates and extends recent overseas research concerning general custody evaluations.

The potential benefits of this research are fourfold: (1) The focus on s178 reports has not been undertaken in New Zealand; (2) to increase the knowledge of what report writers actually do and their attitudes in relation to this work; (3) to review a list of criteria, primarily culled from psychological literature, that represents a detailed exploration of the Best Interests of the Child (BIC) standard, thus further developing the BIC Assessment model which is an organisational tool for professionals engaged in child placement and access work; (4) current views in relation to mandatory reporting.

We invite you to take part in this research. Filling out the questionnaire implies consent to this research project.

If the research is presented at conferences or published in any form, participants will remain confidential unless you wish for your contribution to be acknowledged. A report will be written at the end of the study summarising the findings.

Please state your contact details on the Summary of Results form at the end of the questionnaire if you would like a summary of these findings sent to you. These contact details will be separated from the survey upon receipt. You are welcome to send your completed questionnaire and contact details separately. The findings will be available early 2001. In addition, an acknowledgement list will be appended to the summary of results and to the written thesis to recognise those report writers who have contributed their time and expertise to this study and who wish to be acknowledged. Participants who wish to be acknowledged may indicate their preferences for acknowledgment on the Summary of Results form.

All survey raw data information will be confidential to the researcher and his Supervisor (Dr Kevin R. Ronan). Survey information will be stored securely and held separately to identification information. All identification information will be destroyed following the feedback at the end of the research period. Survey information will be held in safe archival storage by Dr Ronan at the end of the research, to be used by future researchers if any follow-up is sought from the present study.

Participation is entirely voluntary. Filling out the questionnaire will take approximately 45 minutes. If you decide to participate, we would appreciate it if you could attempt to answer all questions, but you have the right to refuse to answer any particular questions.

Summary of your rights:

- to decline to participate;
- to refuse to answer any particular questions;
- to withdraw from the study at any time;
- to ask any questions about the study at any time during participation;
- to provide information on the understanding that your name will not be used unless you give permission to the researcher;
- to be given access to a summary of the study findings when it is concluded.

If you have any questions about this study, please feel free to contact Dr Kevin R. Ronan at the Department of Psychology, Massey University, telephone (06) 350-5799 extn 2069 or Garry Field telephone (06) 358-4024 (work), fax (06) 355-3423 (work), or email g.n.field@inspire.net.nz.

Please complete the enclosed questionnaire and return it to us in the freepost addressed envelope provided. Your earliest response would be appreciated. A reminder letter will be sent after two weeks to those potential participants we are able to contact.

We thank you for your valuable time in considering, and if you chose, participating in this research.

Garry Field
Masterate Student

Kevin R. Ronan (PhD)
Associate Professor of Psychology

Appendix D

Information Sheet

Family Court Report Writers

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We invite you to take part in this research. Filling out the questionnaire implies consent to this research project.

If the research is presented at conferences or published in any form, participants will remain confidential unless you wish for your contribution to be acknowledged. A report will be written at the end of the study summarising the findings.

Please state your contact details on the Summary of Results form at the end of the questionnaire if you would like a summary of these findings sent to you. These contact details will be separated from the survey upon receipt. You are welcome to send your completed questionnaire and contact details separately. The findings will be available early 2001. In addition, an acknowledgement list will be appended to the summary of results and to the written thesis to recognise those report writers who have contributed their time and expertise to this study and who wish to be acknowledged. Participants who wish to be acknowledged may indicate their preferences for acknowledgment on the Summary of Results form.

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Participation is entirely voluntary. Filling out the questionnaire will take approximately 45 minutes. If you decide to participate, we would appreciate it if you could attempt to answer all questions, but you have the right to refuse to answer any particular questions.

Summary of your rights:

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- to withdraw from the study at any time;
- to ask any questions about the study at any time during participation;
- to provide information on the understanding that your name will not be used unless you give permission to the researcher;
- to be given access to a summary of the study findings when it is concluded.

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Please complete the enclosed questionnaire and return it to us in the stamped addressed envelope provided. Your earliest response would be appreciated. A reminder letter will be sent after two weeks to those potential participants we are able to contact.

We thank you for your valuable time in considering, and if you chose, participating in this research.

Garry Field
Masterate Student

Kevin R. Ronan (PhD)
Associate Professor of Psychology

**Family Court Report Writers
Survey of Attitudes and Practices Regarding Child Protection Reports
and Opinions Regarding Mandatory Reporting**

I. Personal and Professional Information

1. What is your gender? Male Female
2. Age: _____ years
3. Ethnic/Racial background (tick all that apply):
- | | |
|---|--------------------------------------|
| <input type="checkbox"/> Asian | <input type="checkbox"/> Pakeha |
| <input type="checkbox"/> Maori | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Pacific Islander | |
4. Please indicate the professional qualifications that you have obtained (tick all that apply):
- | | |
|---|---|
| <input type="checkbox"/> Psychiatrist | <input type="checkbox"/> Psychotherapist |
| <input type="checkbox"/> Ph.D | <input type="checkbox"/> M.A./ M.Sc./ M.Soc.Sc. |
| <input type="checkbox"/> Clinical Psychologist | <input type="checkbox"/> B.A. (Hons) |
| <input type="checkbox"/> Educational Psychologist | <input type="checkbox"/> Other _____ |
5. Please indicate what professional association, if any, you belong to (tick all that apply):
- Royal Australian and New Zealand College of Psychiatrists
 - College of Clinical Psychologists
 - NZ Psychological Society
 - NZ Association of Psychotherapists
 - Registered Psychiatrist
 - Registered Psychologist
 - None
 - Other _____
6. Number of years clinical experience since finishing your training: _____ years
7. Current employment settings (e.g., Private Practice, Hospital Mental Health, University Psychology Department). List primary setting first:
- _____
8. What theoretical/clinical orientations most influence your approach to practice?
- _____
- _____
9. Tick below training experiences you have had (tick as many as apply):
- a. At least one semester (or term) long graduate level course specifically devoted to assessment of children, adolescents, and families
 - b. At least one semester (or term) long graduate level course in forensic mental health issues
 - c. At least one semester (or term) long graduate level course in child development or children with special needs

- d. Practicum training (e.g., endorsement placement) in child, adolescent, family, or forensic assessment.
Estimate total number of hours : _____
- e. A clinical internship for which at least 25% was devoted to child, adolescent, family, or forensic assessment
- f. Work in a setting following training for which at least 25% was devoted to forensic mental health or child, adolescent, family issues
- g. Other specialized training (e.g., workshops) in child, adolescent, family, or forensic assessment.
Estimate total number of hours : _____
- h. Other specialized training, (e.g., workshops) in child, adolescent, family, or forensic mental health issues (excluding a to g).
Estimate total number of hours : _____

Comment: _____

10. What percentage of your professional time do you devote to each of the following areas (enter values in **a.** through **m.** that sum to 100%)

- ___ a. s178 & s29A reports for the Family Court
- ___ b. Other forensic assessments for the Court (including Youth Court, Domestic Violence Act and criminal proceedings)
- ___ c. Report as a result of Family Group Conference when case not within the Family Court
- ___ d. Formal assessment of adults (excluding a, b & c)
- ___ e. Formal assessment of children/adolescents (excluding a, b & c)
- ___ f. Formal assessment of families (excluding a, b & c)
- ___ g. Therapy/counselling with adults (including work for the Family Court)
- ___ h. Therapy/counselling with children/adolescents (including work for the Family Court)
- ___ i. Therapy/counselling with families (including work for the Family Court)
- ___ j. Clinical Supervision for self
- ___ k. Supervision (of colleagues and others working in or for the Family Court)
- ___ l. Research (related to Family Court proceedings, parenting, family, and abuse) and working parties associated with the Family Court
- ___ m. Other (or remainder of your professional time)

100%

Comment: _____

11. Tick below those activities you have done during the past five years

- a. Research in an area relevant to child, adolescent, or family issues
- b. Published in a professional journal or presented at a professional conference in an area relevant to child, adolescent, or family issues

- c. Taught a university level course in an area relevant to child, adolescent, or family issues
- d. Provided formal supervision/training to other Family Court report writers in an area relevant to child, adolescent, or family issues
- e. other _____

12. Which year did you begin writing s178 (CYPF Act) and/or s29A (Guardianship Act) reports? (estimate if necessary) _____

13. Have you been a report writer continuously since the year in which you began? Yes No

Comment _____

14. How many reports have you undertaken in total? (estimate if necessary)

(a) CYPF Act s178 reports _____

(b) Guardianship Act reports s29A _____

15. In the last 5 years, estimate the percentage of your cases in which you appeared in a defended Family Court hearing as a witness to your report(s) (bearing in mind that one case can involve one or more reports):

(a) s178 cases? _____ % (of total s178 cases)

(b) s29A cases? _____ % (of total s29A cases)

Comment _____

16. In the last 5 years, estimate the percentage of your s178 reports that included as its primary focus, issues related to placement of the child or access? _____ %

Comment: _____

II. Attitudes towards s178 reports

17. What do you **dislike** most about undertaking s178 CYPF Act reports?

	Not a Factor		Strong Dislike		
	1	2	3	4	5
a. Too time consuming	1	2	3	4	5
b. Unrealistic expectations of lawyers/court	1	2	3	4	5
c. Being employed in an adversarial situation	1	2	3	4	5
d. Lack of valid psychological methods to adequately contribute to decisions	1	2	3	4	5
e. Determining the effect of parent's mental health problems upon their ability to be a custodial parent	1	2	3	4	5
f. Increased likelihood of a complaint made to the Family Court or professional body	1	2	3	4	5
g. Working with parents who have strong motivation to distort	1	2	3	4	5
h. Fees are not relative to the services provided	1	2	3	4	5
i. Difficulty in collecting payment	1	2	3	4	5

- | | | | | | |
|--|---|---|---|---|---|
| j. Having your time at the court's mercy (disruption to practice) | 1 | 2 | 3 | 4 | 5 |
| k. Hostile environment of court proceeding (e.g., hostile cross-examination, being disparaged on the witness stand) | 1 | 2 | 3 | 4 | 5 |
| l. Multiple experts or contamination of participants making it difficult to be confident in results | 1 | 2 | 3 | 4 | 5 |
| m. Being at the mercy of lawyers and court procedures making it hard to really present an accurate, complete picture | 1 | 2 | 3 | 4 | 5 |
| n. The courts seem disinclined to appreciate the variability of human nature, pushing instead for "yes" and "no" conclusions | 1 | 2 | 3 | 4 | 5 |
| o. s178 referral brief not clear in terms of issues to be addressed or referral brief not sufficiently detailed or specific | 1 | 2 | 3 | 4 | 5 |
18. Opinions will differ as to the extent to which s178 CYPF Act reports aid various aspects of proceedings. Please rate how much you think they **typically** help for each of the following.
- | | Not at all
Helpful | | | | Very
Helpful |
|--|-----------------------|---|---|---|-----------------|
| | 1 | 2 | 3 | 4 | 5 |
| a. Help the lawyer(s) better understand the situation | 1 | 2 | 3 | 4 | 5 |
| b. Help the lawyer(s) prepare their case | 1 | 2 | 3 | 4 | 5 |
| c. Help social work agency better understand the situation | 1 | 2 | 3 | 4 | 5 |
| d. Help the parties find a good resolution | 1 | 2 | 3 | 4 | 5 |
| e. Help parents feel they got their full "day in court" | 1 | 2 | 3 | 4 | 5 |
| f. Help the court accurately perceive the situation | 1 | 2 | 3 | 4 | 5 |
| g. Work in the child's best interests | 1 | 2 | 3 | 4 | 5 |
19. Please rate how much you agree or disagree with each statement.
- | | Strongly
Disagree | | | | Strongly
Agree |
|--|----------------------|---|---|---|-------------------|
| | 1 | 2 | 3 | 4 | 5 |
| a. Report writers should be frequently or routinely used to write reports | 1 | 2 | 3 | 4 | 5 |
| b. Report writers should be used only after a Family Group Conference has been held | 1 | 2 | 3 | 4 | 5 |
| c. Report writers should be used primarily in a neutral way, such as at the request of the Family Court | 1 | 2 | 3 | 4 | 5 |
| d. Report writers should be used only when other information suggests an impairing mental condition, or grossly inadequate or abusive parenting, or an issue of the child's psychological attachment | 1 | 2 | 3 | 4 | 5 |
| e. Report writers should be routinely used as consultants regarding placement and access issues after CYPF s78 Interim Custody Order or s101 Custody Order made | 1 | 2 | 3 | 4 | 5 |
| f. Information and/or opinions of Counsel for Child are always significant for the purposes of the s178 report | 1 | 2 | 3 | 4 | 5 |
| g. Information and/or opinions of social work agency are always significant for the purposes of the s178 report | 1 | 2 | 3 | 4 | 5 |

Comment: _____

20. What do you find rewarding about your involvement with s178 reports?

III. Children, Young Persons, and Their Families Act s178 reports

21. (a) With regard to s178 reports, indicate how often you co-work with another professional (tick one).

Never		Half the time		Always
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1	2	3	4	5

(b) If so, please briefly describe: _____

22. Please rate your use of the following procedures when conducting s178 reports which include issues of placement, parenting, and access (include work by a co-worker). For each of the following procedures, answer as though each person is involved and each situation exists for each report (e.g., there is at least one child aged under 6 years old and one child over 6 years old, child is placed in an alternative family setting, at least one child attending school):

Activity	Never					Always
	1	2	3	4	5	
Clinical interview: mother	1	2	3	4	5	
Clinical interview: father	1	2	3	4	5	
Psychological testing of adults	1	2	3	4	5	
Clinical interview of younger child(ren) (under age 6)	1	2	3	4	5	
Clinical interview of older child(ren) (age 6 or older)	1	2	3	4	5	
Clinical interview of children together	1	2	3	4	5	
Psychological testing of child(ren)/adolescents	1	2	3	4	5	
Observe mother/child interaction	1	2	3	4	5	
Observe father/child interaction	1	2	3	4	5	
Observe mother and father interact together, or parents & their current partner together	1	2	3	4	5	
Observe immediate biological family interaction, including the child(ren)	1	2	3	4	5	
Observe child in alternative family setting (i.e., foster family, extended family placement)	1	2	3	4	5	
School data (teacher interview, records, observation)	1	2	3	4	5	
Consultation with lawyers and social workers	1	2	3	4	5	
Consultation with professionals (other than lawyers & social workers e.g., doctor)	1	2	3	4	5	
Interviews with significant others (e.g., foster parent, grandparent, step-parent)	1	2	3	4	5	
Reading information specifically related to the child and family (e.g., Court file)	1	2	3	4	5	
Viewing Department of Child, Youth, and Family Services video interview of child	1	2	3	4	5	
Other _____	1	2	3	4	5	

Comment: _____

23. Please state what, if any, psychological instruments you use for adults and rate the frequency of your use of these tests in s178 evaluations (include co-worker).

	Never			Always	
a. _____	1	2	3	4	5
b. _____	1	2	3	4	5
c. _____	1	2	3	4	5
d. _____	1	2	3	4	5
e. _____	1	2	3	4	5

24. Please state what, if any, psychological instruments you use for children and adolescents and rate your use of these tests used in s178 evaluations (include co-worker).

	Never			Always	
a. _____	1	2	3	4	5
b. _____	1	2	3	4	5
c. _____	1	2	3	4	5
d. _____	1	2	3	4	5
e. _____	1	2	3	4	5

25. Please note any specific child, adolescent or adult psychological tests you avoid when completing s178 reports: _____

Why do you avoid these tests? _____

26. Is there information that you are often not able to access, but would be relevant to your reports? Please comment _____

27. Do your s178 evaluations differ in any way when assessing Maori or Pacific Island families from those you may use when assessing non-Maori or non Pacific Island families? (tick one)

Never			Half the time			Always
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1	2	3	4	5	6	7

In what ways do your evaluations differ?

IV. Reporting

28. How often do your s178 written reports, when addressing issues of placement, parenting and access, include the following information:

	Never			Always	
a. Names of all procedures and tests used	1	2	3	4	5
b. Record of written material viewed	1	2	3	4	5
c. Observations which could not be made because of limitations imposed	1	2	3	4	5
d. Validity of results (e.g., defensiveness)	1	2	3	4	5
e. A statement regarding the validity of report writer's evaluations for determining placement or custody (e.g., limitations)	1	2	3	4	5

1	2	3	4	5	6	7
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Irrelevant	Not Important	Marginally Important	Important	Very Important	Extremely Important	Essential

Other Items: This provides space for you to write any items not already included in the questionnaire that may be important to you when determining s178 child placement and access outcomes.

	1	2	3	4	5	6	7
1. _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

VI. Training and Resources

30. Is the provision of ongoing training for s178 specialist report writers adequate to meet your needs? (tick one)

Does not meet my training needs at all							Does meet all my training needs
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1	2	3	4	5	6	7	

Comments: _____

31. What recommendations would you make to assist in the provision of training specialist Family Court writers of s178 reports before and/or after undertaking such reports?

32. What do you regard as your five key material resources (e.g., books, articles, guidelines, etc.) that assist you in the preparation of s178 reports?

1st _____
 2nd _____
 3rd _____
 4th _____
 5th _____

VIII. Mandatory Reporting of Child Abuse

33. Should voluntary reporting of child abuse, as it exists now, continue? (tick one) Yes No

34. If mandatory reporting were to occur, which broad system of reporting would you prefer? (tick one)

- Person(s), other than abuser, designated by statute to report.
- Abusers report themselves within a certain time period, otherwise person(s) designated by statute to report if abuse known to that designated person.
- Abusers and person designated by statute jointly report to the statutory service and attempt an agreed course of action.
- System of voluntary reporting in cases in which the abuser enters into a therapeutic contract to prevent further abuse. If contract is broken, abuser is reported.
- Other _____

Comment: _____

35. If mandatory reporting were to occur, who should be mandated to report? (tick all that apply):

- | | |
|---|---|
| <input type="checkbox"/> Abuser themselves | <input type="checkbox"/> Midwives |
| <input type="checkbox"/> All persons over age of 18 | <input type="checkbox"/> Parents As First Teachers |
| <input type="checkbox"/> All professionals who interact with children | <input type="checkbox"/> Plunket Nurses |
| <input type="checkbox"/> All professionals who interact with parents | <input type="checkbox"/> Practice Nurses |
| <input type="checkbox"/> Church ministers/pastors | <input type="checkbox"/> Public Health Nurses |
| <input type="checkbox"/> Counsellors and therapists | <input type="checkbox"/> Registered Medical Practitioners |
| <input type="checkbox"/> Coroners | <input type="checkbox"/> School Teachers |
| <input type="checkbox"/> Corrections Department staff | <input type="checkbox"/> School – any person over age of 18 who interacts with children |
| <input type="checkbox"/> Day care and child care workers | <input type="checkbox"/> Social Worker – Child, Youth, & Family Services |
| <input type="checkbox"/> Dentists | <input type="checkbox"/> Social Worker - (employed to undertake statutory social work) |
| <input type="checkbox"/> Film and photo processors | <input type="checkbox"/> Social Worker (school) |
| <input type="checkbox"/> Hospital Nurses | <input type="checkbox"/> Social Worker (health) |
| <input type="checkbox"/> Housing NZ staff | <input type="checkbox"/> Special Education Services |
| <input type="checkbox"/> Kindergarten/Preschool workers | <input type="checkbox"/> Truancy Officers |
| <input type="checkbox"/> Lawyers | <input type="checkbox"/> Women's Refuge workers |
| <input type="checkbox"/> Maori Wardens | <input type="checkbox"/> other _____ |
| <input type="checkbox"/> Members of Police | <input type="checkbox"/> other _____ |
| <input type="checkbox"/> Mental health professionals | |

Comment: _____

36. If mandatory reporting were to occur, what degree(s) of abuse should exist for mandatory reporting to occur (tick all that apply):

- Confirmed abuse (when abuse known to have occurred)
- Only in serious or severe cases of confirmed abuse
- Child considered to be at risk
- Only when child considered to be at serious or severe risk
- Suspected abuse
- Only in serious or severe cases of suspected abuse
- Other _____

Comment: _____

37. If mandatory reporting were to occur, what type(s) of abuse should be subject to mandatory reporting (tick all that apply):

- | | |
|--|---|
| <input type="checkbox"/> emotional abuse | <input type="checkbox"/> physical abuse |
| <input type="checkbox"/> emotional neglect | <input type="checkbox"/> sexual abuse |
| <input type="checkbox"/> neglect of physical needs | <input type="checkbox"/> other _____ |

Comment: _____

VII. Additional Comments

38. You may have other specific comments, issues, concerns or solutions that characterise your experiences and attitudes regarding s178 reports and mandatory reporting. Please write them below.

SUMMARY OF RESULTS FORM

Please provide me with your mailing address if you would like a copy of the results sent to you. This page will be detached from the survey upon receipt to ensure anonymity of responses.

Name _____

Mailing address: _____

Do you wish for your contribution to be acknowledged in the appendix to the Summary of

Results and written thesis? Yes No

If yes, how do you wish your name to be recorded?

In an effort to reach all eligible participants in New Zealand, we are asking participants to telephone, fax, email, or write the names and phone numbers of colleagues (specifically clinical psychologists, psychotherapists & psychiatrists) who practice in this area so we can invite them to participate.

Eligible participants & phone number

You may also send this page separately from the rest of the questionnaire.

Your participation in this study is greatly appreciated. Please return the questionnaire in the postage-paid, addressed envelope provided.

Thank you

Appendix F

Participants who accepted invitation to be acknowledged

These are the participants who indicated a choice given to them to have their participation acknowledged:

- T.M. Breen
- Jocelyn Burlton-Bennet
- Michael Davidson
- John Dwyer
- Annette Fea
- Bernard F Norman
- John Watson
- C.J. Wilden

Appendix G

Information Sheet Reminder

Family Court Report Writers

Survey of Practices and Attitudes Regarding Child Protection Reports and Opinions Regarding Mandatory Reporting

It has been at least two weeks since we sent you our questionnaire. To date we do not have a reply. We again invite your participation and hope that you reconsider your previous decision not to participate. We hope that the results from this research will inform and assist Family Court report writers. As you will be aware, the greater the response rate, the more beneficial the results become. You are, of course, free not to participate in this research.

This study is being carried out by Garry Field for a Masterate thesis under the supervision of Dr. Kevin R. Ronan in the Department of Psychology at Massey University. This is not a Department for Courts project. This thesis research proposal has been reviewed and approved by the Massey University Human Ethics Committee.

Your name was obtained from either yourself, your professional association, or identified by a colleague as a person who is, may be, or has previously prepared s178 (Children, Young Persons and Their Families Act 1989) reports for the Department for Courts.

In this research we are interested in: (a) the current practices and attitudes of Family Court report writers with regard to reports requested under s178 CYPF Act; (b) the factors, and their relative importance, associated with the 'best interest of the child' (BIC) standard; and (c) mandatory reporting. In part, this research replicates and extends recent overseas research concerning general custody evaluations.

The potential benefits of this research are fourfold: (1) The focus on s178 reports has not been undertaken in New Zealand; (2) to increase the knowledge of what report writers actually do and their attitudes in relation to this work; (3) to review a list of criteria, primarily culled from psychological literature, that represents a detailed exploration of the BIC standard, thus further developing the BIC Assessment model which is an organisational tool for professionals engaged in child placement and access work; (4) current views in relation to mandatory reporting.

Filling out the questionnaire implies consent to this research project.

If the research is presented at conferences or published in any form, participants will remain confidential unless you wish for your contribution to be acknowledged. A report will be written at the end of the study summarising the findings.

Please state your contact details on the Summary of Results form at the end of the questionnaire if you would like a summary of these findings sent to you. These contact details will be separated from the survey upon receipt. You are welcome to send your completed questionnaire and contact details separately. The findings will be available early 2001. In addition, an acknowledgement list will be appended to the summary of results and to the written thesis to recognise those report writers who have contributed their time and expertise to this study and who wish to be acknowledged. Participants who wish to be acknowledged may indicate their preferences for acknowledgment on the Summary of Results form.

All survey raw data information will be confidential to the researcher and his Supervisor (Dr Kevin R. Ronan). Survey information will be stored securely and held separately to identification information. All identification information will be destroyed following the feedback at the end of the research period. Survey information will be held in safe archival storage by Dr Ronan at the end of the research, to be used by future researchers if any follow-up is sought from the present study.

Participation is entirely voluntary. Filling out the questionnaire will take approximately 45 minutes. If you decide to participate, we would appreciate it if you could attempt to answer all questions, but you have the right to refuse to answer any particular questions.

Summary of your rights:

- to decline to participate;
- to refuse to answer any particular questions;
- to withdraw from the study at any time;
- to ask any questions about the study at any time during participation;
- to provide information on the understanding that your name will not be used unless you give permission to the researcher;
- to be given access to a summary of the study findings when it is concluded.

If you have any questions about this study, please feel free to contact Dr Kevin R. Ronan at the Department of Psychology, Massey University, telephone (06) 350-5799 extn 2069 or Garry Field telephone (06) 358-4024 (work), fax (06) 355-3423 (work), or email g.n.field@inspire.net.nz.

Please complete the enclosed questionnaire and return it to us in the freepost addressed envelope provided. Your earliest response would be appreciated.

We thank you for your valuable time in considering, and if you chose, participating in this research.

Garry Field
Masterate Student

Kevin R. Ronan (PhD)
Associate Professor of Psychology

Appendix H

Information Sheet Reminder

Family Court Report Writers

Survey of Practices and Attitudes Regarding Child Protection Reports and Opinions Regarding Mandatory Reporting

To ensure anonymity you may be receiving a second survey. If you have already responded we thank you, and please ignore this reminder.

It has been at least eight weeks since we sent you our questionnaire. To date we do not have a reply. We again invite your participation and hope that you reconsider your previous decision not to participate. We hope that the results from this research will inform and assist Family Court report writers. As you will be aware, the greater the response rate, the more beneficial the results become. You are, of course, free not to participate in this research.

This study is being carried out by Garry Field for a Masterate thesis under the supervision of Dr. Kevin R. Ronan in the Department of Psychology at Massey University. This is not a Department for Courts project. This thesis research proposal has been reviewed and approved by the Massey University Human Ethics Committee.

Your name was obtained from either yourself, your professional association, or identified by a colleague as a person who is, may be, or has previously prepared s178 (Children, Young Persons and Their Families Act 1989) reports for the Department for Courts.

In this research we are interested in: (a) the current practices and attitudes of Family Court report writers with regard to reports requested under s178 CYPF Act; (b) the factors, and their relative importance, associated with the 'best interest of the child' (BIC) standard; and (c) mandatory reporting. In part, this research replicates and extends recent overseas research concerning general custody evaluations.

The potential benefits of this research are fourfold: (1) The focus on s178 reports has not been undertaken in New Zealand; (2) to increase the knowledge of what report writers actually do and their attitudes in relation to this work; (3) to review a list of criteria, primarily culled from psychological literature, that represents a detailed exploration of the BIC standard, thus further developing the BIC Assessment model which is an organisational tool for professionals engaged in child placement and access work; (4) current views in relation to mandatory reporting.

Filling out the questionnaire implies consent to this research project.

If the research is presented at conferences or published in any form, participants will remain confidential unless you wish for your contribution to be acknowledged. A report will be written at the end of the study summarising the findings.

Please state your contact details on the Summary of Results form at the end of the questionnaire if you would like a summary of these findings sent to you. These contact details will be separated from the survey upon receipt. You are welcome to send your completed questionnaire and contact details separately. The findings will be available early 2001. In addition, an acknowledgement list will be appended to the summary of results and to the written thesis to recognise those report writers who have contributed their time and expertise to this study and who wish to be acknowledged. Participants who wish to be acknowledged may indicate their preferences for acknowledgment on the Summary of Results form.

All survey raw data information will be confidential to the researcher and his Supervisor (Dr Kevin R. Ronan). Survey information will be stored securely and held separately to identification information. All identification information will be destroyed following the feedback at the end of the research period. Survey information will be held in safe archival storage by Dr Ronan at the end of the research, to be used by future researchers if any follow-up is sought from the present study.

Participation is entirely voluntary. Filling out the questionnaire will take approximately 45 minutes. If you decide to participate, we would appreciate it if you could attempt to answer all questions, but you have the right to refuse to answer any particular questions.

Summary of your rights:

- to decline to participate;
- to refuse to answer any particular questions;
- to withdraw from the study at any time;
- to ask any questions about the study at any time during participation;
- to provide information on the understanding that your name will not be used unless you give permission to the researcher;
- to be given access to a summary of the study findings when it is concluded.

If you have any questions about this study, please feel free to contact Dr Kevin R. Ronan at the Department of Psychology, Massey University, telephone (06) 350-5799 extn 2069 or Garry Field telephone (06) 358-4024 (work), fax (06) 355-3423 (work), or email g.n.field@inspire.net.nz.

Please complete the enclosed questionnaire and return it to us in the freepost addressed envelope provided. Your earliest response would be appreciated.

We thank you for your valuable time in considering, and if you chose, participating in this research.

Garry Field
Masterate Student

Kevin R. Ronan (PhD)
Associate Professor of Psychology

Appendix I

Evaluation procedures: comments by participants

Comments by participants:

- “the report writer needs to be fully informed and all the data sources need to be explored”;
- “ideal options not always available e.g., whanau may be in another area/inaccessible, parents may not both be available (e.g., father in prison) etc”;
- with reference to ‘observe mother/father or parents & their current partner interaction’; one participant stated that this “opportunity is rare”.

Additional procedures noted by participants

- Police domestic violence data in cases involving violence allegations (n=1)
- reviewed the history of child/family (n=1)

Appendix J

Psychological tests not used and why: comments by participants

Participants were asked to specify psychological tests that are avoided and why. Of the seventeen (45%) participants who responded, the responses were:

- “not trained to use them”;
- “almost all – unnecessary”;
- “most of them – they are not generally useful/relevant”;
- “I would be/am reluctant to use any psychological tests – fear of being cross examined and disparaged on witness stand due to lack of understanding of use of tests by lawyers etc”;
- “most – too hard to justify in court”;
- “avoid total reliance on tests – use them as adjunct only to interviewing”;
- “in general I avoid standardised tests on families in deep distress & perhaps divided”;
- “Bene-Anthony used less frequently lately – norms not designed to be robust in court cases”;
- “Family Relations Test – poorly validated”;
- “BDI & II – client over reporting, no internal validity scales”;
- “projective – inadequate validity/reliability”;
- “projective testing – invalid, not empirically validated”;
- “projective”;
- “MMPI – do not believe personality tests add to my assessment”;
- “WAIS, WISC, MMPI – information usually not helpful to referral questions”;
- “personality tests – unreliable” and “normed IQ assessments – ethical reasons”;
- “NA”.

Appendix K

Access to information for s178 reports: comments by participants

Participants were asked what information is often not able to accessed, but relevant for the reports. The following were the responses from participants:

- “parent’s criminal histories”;
- “criminal history”;
- “sometimes past probation or district court convictions”;
- “historical information e.g., sexual abuse allegation concerning an older sibling who is not a subject of the report”;
- “sometimes evidential interview tapes”;
- “maybe doctors information and of course information from families who are protecting others”;
- “better designed instruments to sensitively assess children’s preferences in relation to the roles various family members play or do not play. Some of these instruments exist but they are not widely enough researched”;
- “mental health status of adults from mental health services. Sometimes available”;
- “the truth”;
- “if I need information I take the appropriate steps to get it. If I go through the right process, this information is mostly available”.

Appendix L

Assessing Maori or Pacific Island families: comments by participants

In what ways do your evaluations differ when assessing Maori or Pacific Island families. Comments provided by 33 (87%) participants were⁶⁰:

- “Extended family involvement more likely with Maori”;
- “May interview a family group. Have a support person present”;
- “For Maori, access whanau in a wider sense than with Pakeha. Do not use tests which may have cultural biases (e.g., MMPI) or which lack NZ norms”;
- “Whanau interviews. Seek cultural advice”;
- “Often need to treat a meeting of whanau/family differently. Some Maori families are isolated and therefore procedures can be similar to Pakeha families”;
- “M-Pacific Island chn – greater involvement of wider family”;
- “Process – take a/c of the specific expectations of family. Consultation with appropriate cultural person”;
- “Ask more q’s about relationships, cultural implications etc”;
- “Recognition of family systems, family relationships, hierarchies in relationships & impact of religion”;
- “For Maori and P.I.: more likely to interview grandparents and other extended family, extra care to identify roles and relationships, interpretation of responses and other data will be based on different cultural norms and perspective”;
- “Sometimes I have a family & whanau meeting on Marae as well as conducting individual assessments”;
- “More time put in to meet extended family. Visit older people at their home. Use of interpreter”;
- “More time observing with wider family”;
- “The way we interact with Maori/Pacific Island families, karakea before starting assessment. Perhaps talking to more extended family members”;

⁶⁰ Each participant’s total response is placed roughly in groupings.

- “Try to take cultural beliefs and norms into account regarding placement (tho not necessarily parenting practices)”;
- “Take note of hapu & iwi applications, follow appropriate kawa”;
- “I take into account of the different cultural experience and background”;
- “Hard to necessarily describe – themes, issues and approach tend to all differ”;
- “Look for relevant cultural issues, consider use of cultural interpreter”;
- “Awareness of special beliefs/customs relevant to any culture & making use of consultants”;
- “Take into account differences in interpretation and experience of life, family structure, belief systems & expression of emotion”;
- “Different questions asked, evaluation of cultural context, interpreter often used for PI, take case to cultural supervisor, more likely to interview children as a group, interview more family members”;
- “Use of cultural representative, home vs office as first place of meeting, first meeting often just that, not an actual assessment meeting”;
- “I try and obtain a Maori Cultural Advisor or PI advisor to work with me or consult with someone when culture is an issue. The Courts are beginning to assist in this respect”;
- “Cultural consultation, wider family consultation”;
- “Use a cultural consultant if I feel the need. Try to take into account the different way that the whanau may work to incorporate alternative parenting options. Look more widely in the iwi for placement or care options”;
- “If cultural issues are part of the dispute, I would seek advice from a cultural advisor. I’m more careful about inviting myself into the homes so that I’m not doing anything rude or culturally inappropriate. I ask tribal affiliations if that’s an issue”;
- “It varies enormously, I would always seek culturally appropriate supervision/advice and action would depend on this”;
- “I will usually seek explicit cultural supervision. I will usually invite support people”;

- “Non use of psychological tests, use of elder (kuia, kaumatua), incorporation of whanau, use of cultural advisor”;
- “NA”;
- “Haven’t done any”;
- “Haven’t done Maori/Pacific Island evaluations”.

Appendix M

Contents of reports: comments by participants

Comments by participants were:

- “court’s job” to determine placement or custody;
- with reference to a recommendation regarding the child’s placement and recommendations for a access plan, “not my job to make that decision – I don’t have all the info – the Judge does & is paid to take that responsibility”;
- with reference to providing relevant empirical data - “rarely, specifically instructed not to bulk out reports with this”.

The number of participants who gave the following report contents a rating of 1 (never) were:

- ‘state that the parenting ability of a parent is sufficiently impaired to the extent that the person should not be a custodial parent’ (n=1);
- ‘state that the mental health of a parent is sufficiently impaired to the extent that the person should not be a custodial parent’ (n=3);
- ‘statement as to whom you perceive to be the better caregiver’ (n=1);
- ‘a clear recommendation regarding the child’s placement’ (n=4);
- ‘provide recommendations as to an access plan (even if not requested)’ (n=2).

Appendix N

When to use a report writer and opinion towards social work agency and counsel for child: comments by participants

Comments in relation to this question were:

- “some CC and social workers have their own agendas and do not like it when report writers gives a different perspective. Lay people v professional”;
- with reference to the statement ‘report writers should be used only after a Family Group Conference has been held’; one participant stated that “doesn’t exclude CYF hiring report writer as part of their investigation”;
- With reference to the statement ‘report writers should be used primarily in a neutral way, such as at the request of the Family Court’; one participant stated that “experts should always adhere to independent advice regardless of who hires them. They are not “report writers” unless hired by Family Court”;
- with reference to the statement ‘information and/or opinions of social work agency are always significant for the purposes of the s178 report’; one participant stated that the social work agency is “often biased”;
- with reference to the statement ‘information and/or opinions of Counsel for Child are always significant for the purposes of the s178 report’; one participant stated, “not for the report but for the outcome. The report should be independent of Counsel for Child’s opinions”;
- “my colleagues are beginning to say that they are not being paid to make decisions or recommendations more in the arena that Judges should be making. All they can do is base their statements on literature currently existing”.

Appendix O
Report writers contribution to legal procedures and decisions: comments by participants

Comments made by participants were:

- “CYPS often do not accept” the reports;
- to the statement ‘help the lawyer(s) better understand the situation’; one participant states, “because they often do minimal investigation of their own”;
- “if report is sympathetic to one party, the other party’s lawyer is not going to find it helpful”;
- to the statement ‘help parents feel they got their full day in court’; one participant states, “always disgruntled”;
- to the statement ‘work in the child’s best interests’; one participant states, “although often not accepted by parents”.
- “it depends on who writes the reports”.

Appendix P

General comments by participants concerning s178 reports

- “It is important that any report or involvement of an assessor, is as positive as possible for the child & family concerned. Systematic understanding helps to avoid blame. Blame does not facilitate positive change. The family needs to have as much control over their own lives as possible, so opportunities to provide evidence of change should be given when at all possible. However, safety & wellbeing of child is paramount”.
- “There is a particular problem with allegations being made in the middle of a court case, the protocols for dealing with this need to be very clear otherwise it can turn into a slanging match with the child in the middle & the likelihood of being reported to the Disciplinary Committee. This Committee is said to have the reputation of being unusually severe when compared to the committees of other professionals and is said to be a laughing stock among lawyers and fair game for a vexatious complaint against the psychologist”.
- “S178 reports are extremely challenging and difficult”.
- “Report writers must have a considerable track record in Care and Protection matters”.

Appendix Q

Dislikes surrounding the undertaking of the s178 evaluation: comments by participants

Participants provided the following comments:

- “report writing” is too time consuming;
- concerning collecting the fee payment, “sometimes slow but does come”;
- concerning experts, “some aren’t but say they are, which is a serious concern to the profession”;
- “what I dislike most is hostility of adolescents and their families to this investigation”;
- “brief does not specify issues which become apparent as more important”;
- “cases too complex with many children & people requiring great deal of time and not always easy to see wood for trees”.
- “providing letters written to Manager Family Court to obtain approvals”.

One participant, not a report writer, stated “I do not undertake Family Court work/CYF work because of the factors identified in Q17” (this participant noting question 17 a, b, f, h, and i).

Responses from three people who returned, but did not complete, the survey:

- “I wouldn’t touch this sort of work with a large pole & reprehend those who do & get themselves into inevitable strife with anxiety disordered people ...”.
- “I am not a Family Court or CYPF writer. Thank God!”
- “I have completed one report since I have been in private practice. Do not intend to do any of these any more – too stressful because young people referred are usually very disturbed from past life experience beyond their control”.

Appendix R

Rewarding elements of preparing s178 reports: comments by participants

Participants were asked what did they find rewarding about their involvement with s178 reports. The following are the statements made⁶¹:

Challenging

- “helping to resolve “stuck” cases in interests of child”;
- “challenge of seeking solutions to difficult problems, privilege of being able to bring clarification to issues”;
- “very interesting, complex work”;
- “complex, challenging, element of auditing and assisting CYFS, assist important decision-making for children”;
- “they are a stimulating challenge – with potential for positive outcomes for most involved”;
- “working through a clear problem and solving process. Acting in the best interests of the young person”;
- “professionally challenging, positive relationship with other professionals, feeling that have contributed to solution of a problem situation”;

Child’s benefit

- “working towards making a difference for children”;
- “helping children”;
- “child’s benefit”;
- “working with the children. The assessment process and developing a formulation”;
- “trying to find what’s best for child(ren) often in the face of prejudice”;
- “facilitating as good as possible outcome for child(ren) & encouraging change in family/parents behaviours”;
- “presenting the child’s position & interests, raising likelihood of settlement”;

⁶¹ Each participant’s total response is placed roughly in groupings.

- “acting in best interests of child, providing objectivity and skills within a system which can sometimes neglect or not have full appreciation of child’s best interests”;
- “positive outcomes for children”;
- “putting the pieces together to give a voice for the best interests of the child”;
- “the chance to assist in resolving a situation of ongoing stress for a child. However the court process is not always the most sensible venue for good decision-making as it relies on lawyer’s skills”;
- “working through what is in the child’s interests, collaboration with other professionals”;
- “helping all concerned understand child better”;
- “influence in child safety issues”;
- “trying to achieve a safe care outcome for the child!”;

Working with other professionals

- “working with professionals outside my occupational group”;
- “working with other professionals”;
- “opportunities to meet with all the parties, to appreciate the child’s interests. Research is limited sometimes, challenge to find material”;

Not positive

- “not much”;
- “very little unfortunately”;

General

- “variety of work”;
- “changes in families that can occur as a result, e.g., reintegration”;
- “knowing that a thorough look is being taken at the situation before decisions are made affecting the child”;
- “comprehensive assessment”;
- “providing a psychological perspective & interpretation”;
- “contribution to FGC’s and family knowledge” ;
- “occasional positive outcome”.

Appendix S

Whether ongoing training is meeting the need: comments by participants

Participants were asked whether the provision of ongoing training for s178 specialist report writers was adequate to meet their need. Seventeen participants offered comments. The following are the comments offered:

- “I am not aware of any specific s178 training. It is a question of attending training which addresses relevant issues”;
- “nothing targeted specifically for s178 Reports Writers”;
- “am not aware of specific ongoing training for specialist report writers”;
- “is there ongoing training?”;
- “what on-going training”;
- “what ongoing training? (I may be ‘out of the network)’”;
- “there is really very little formal input offering locally – I am in a provincial centre”;
- “this is variable, often linked only to conferences or in a ‘main’ centre (ie Auckland, Wellington, Christchurch) and may not be well advertised or with sufficient lead time to arrange attendance”;
- “apart from odd Registration Board or Psych Soc seminar/w.shop very little is available - your on your own as sole practitioner in private practice”;
- “depends on what year – more provided some years”;
- “I am frequently on the look out for relevant courses & conferences”;
- “it is clearly responsibility of Report Writers to seek out own ongoing training”;
- “requirement to keep up to date with current literature/research. Adequate b/background clinical experience with children & families is essential”;
- “trained ages ago and a lot of my knowledge & beliefs are somewhat dated. I find it hard to keep up as this is only 1 small area of my practice”;
- “I have extensive experience & networks & training needs are not high but there is no training readily available. You have to hunt out training, use colleagues to consult etc”;

- “I do not perceive any current need”;
- “The CYPS has been in such a state of change, the biggest issue is quality of social work”.

Appendix T

Ideas for the provision of training: comments by participants

The following are the responses to: ‘what recommendations would you make to assist in the provision of training specialist Family Court writers of s178 reports before and/or after undertaking such reports’⁶²:

University training and education

- “essentially a clinical psychology type training programme”;
- “extensive training & experience in clinical or similar psychology”;
- “university support courses. Ongoing workshops”;
- “make requirement for clinical experience essential. Opportunities for group discussion/learning/supervision in local communities. Workshops on recent research”;
- “focus on education re (a) the legal issues; (b) risk factors; (c) cultural issues, especially Maori, Pacific Island, Asian”;
- “must understand child development, clinical assessment of children and clinical assessment of adults. Cultural awareness. Cross examination”;
- “an understanding of child development and family process is crucial”;
- “need a good understanding of dynamics of violence, abuse (including sexual), law with regard to domestic violence, removal of children, restraining orders etc”;
- “should have some experience at parenting assessments, lots with children (assessing). Training by specialist services. Other areas such as impact of mental health, intellectual disability, D&A on parenting”;
- “training in parenting skill assessments”;

Training specifically for report writers

- “3 day training re expectation of report writers would suffice for new people. Good written resources available. Quarterly newsletter would be sufficient to keep report writers up to date”;

⁶² Each participant’s total response is placed roughly in groupings.

- “a full day workshop run by Department for Courts run at least every two years. Input from Family Court Coordinator, Family Court Judge, current report writers, highlight important issues, structure for report writing etc”;
- “Department for Courts to hold regular training seminars for potential and current report writers”;
- “pay those that know to offer seminars covering all the relevant stuff. Supervision, peer presentations/discussions. Literature searchers on specific questions”;
- “ongoing training that is appropriate for experienced & senior practitioners i.e. not too ‘basic’ that becomes a waste of time”;
- “an opportunity to sit through some cases to gain court experience”;
- “report writer MUST update knowledge continuously by official workshop attendance at least 10% of time should be spent on continuing education”;
- “annual conference funded by the Court. Free access to a University Library/Interloan.”;

Seminars/Road shows

- “Department for Courts could organise seminars to allow report writers opportunities to share ideas, discuss issues etc”;
- “travelling road show to provide annual update to each metropolitan centre with a Court Service Industry”;
- “travelling road shows – yearly basis. University papers”;
- “regular seminars by Clinical College”;

Support from colleagues

- “buddy system’ initially, access to 1-3 experienced writers so can see range of good practice”;
- “a basic comprehensive training with ongoing specialist supervision & or co-working. Some type of re-licensing system”;
- “careful discussion of individual needs with a supervisor/mentor and development of a training plan. Family Court Co-ordinator to be aware of areas of strength etc”;

- “need to be open/available to supervision & experienced family court report writers – range of models available – need debriefing”;
- “I highly recommend the Court pay for an initial number of supervision sessions to be considered as training”;
- “better discussion among all professionals so it becomes a team effort & how to do it”;

General

- “I have never worked for CYF and would benefit for more understanding about social work mandatory responsibilities, work systems etc”.

Appendix U

Best interest of the child standard - factors suggested by participants

Participants were asked to include any items considered to be important when determining child placement and access outcomes. The following items were offered:

- “Psychological meaning of child to parent (child as symbol)”, rated 7 (n=1);
- “Stability of attachment to significant others”, rated 7 (n=1);
- “Skills, therapeutic programmes taken by parent”, rated 4 (n=1);
- “Acceptance of a period of monitoring or a reassessment”, rated 7 (n=1);
- “Threats made by parent re usurping Court”, rated 4 (n=1);
- “The child’s resourcefulness & independence/ability to deal with risk – be self reliant/keep self safe”, rated 7 (n=1);
- “Access to transport/telephone”, rated 5 (n=1).

Appendix V

Best interest of the child standard – participant’s comments on factors

Parent-Child and Parent-Parent Relational Assessment

Factor: Each parent’s affection for the child

- Is the parent’s affection for the child – from the parent’s perspective or “actually experienced as such by child?”
- “Would consider attachment more relevant than ‘affection’, as latter is quite subjective and doesn’t denote actual impact on child”.

Factor: Keeping a young child and mother together

- “Depends whether there were already together”.
- “Depends on quality of relationship & parents ability to parent”.
- “Contingent on other issues”.
- “If she’s ok”.
- “Depends on parenting skill”.

Factor: Keeping a parent and child of the same gender together

- “Contingent on other issues”.
- “Depends on parenting skill”.
- “Depends on age” (n=2).

Needs of the Child Assessment

Factor: Child’s views and preferences regarding contact with each parent and possible placement/access arrangements.

- “Needs should be differentiated from wishes. Wishes and information always taken into account but should not determine decision”.

Factor: The child’s gender

- “Imp in relation to surrounding circumstances but not in isolation or in of itself”.

- “Changes with age, more important in adol(escence)”.

Factor: Child’s need to be with the ‘psychological parent’

- “While child may want to be with a particular “parent” we may (have) information about that parent that makes them an undesirable caregiver”.
- Define psychological parent.

Factor: Length of time child has been in current living situation

- “depends on whether satisfactory or not”.

Factor: Any fears the child has about current family situation

- “depends on age and associated ability to articulate”.

Factor: Keeping siblings together

- “depends on attachment issues”.

Factors: The child’s desire to see his or her friends

The child’s interests and preferred activities

The child’s daily routine

- “age dependent”.

Abilities of the Parent Assessment

Factor: Each parent’s capacity to contribute to child’s moral development

- define moral.

Factor: Each parent’s understanding of child development

- “Some parents don’t understand but have the knowledge intuitively through their own experience”.

Factor: Each parent’s ability to provide a “family” environment

- Three participants were not sure of definition or meaning of family environment.

Factors: Each parent's sexual orientation

Each parent's religious orientation

- "depending on impact".

Appendix W
Factors Determining Child Placement and Access Outcomes

Table W1

Factors Determining Child Placement and Access Outcomes

	Current study			Jameson, Ehrenberg, and Hunter (1997)			
	M	SD	Rank	Rank without new items	rank	M	SD
Current sexual abuse of the child by a parent (PC)	6.93	.35	1	1	1	6.83	0.57
Current emotional abuse and/or neglect of the child by a parent (PC)	6.88	.40	2				
Current physical abuse of the child by a parent (PC)	6.88	.40	3	2	2	6.69	0.59
History of sexual abuse of the child by a parent (PC)	6.83	.44	4				
History of emotional abuse and/or neglect of the child by a parent (PC)	6.73	.50	5				
History of physical abuse of the child by a parent (PC)	6.73	.50	6				
Overall quality of each parent's relationship with the child (PC)	6.63	.66	7	3	7	6.00	0.94
Each parent's ability to understand their child's needs and separate them from their own needs (AP)	6.56	.82	8	4	5	6.10	0.91
Emotional needs of the child (NC)	6.56	.71	9	5	4	6.11	0.94
Each parent's ability to provide a safe physical environment for the child (AP)	6.51	.78	10	6	6	6.10	1.03
Each parent's ability to provide emotional nurturance for the child (AP)	6.49	.90	11				
Physical violence in the parents' relationship (PP)	6.46	.71	12	7	9	5.96	1.01
The child's safety with other children (NC)	6.44	.71	13				
Parent's ability to manage conflict, anger, hostility & aggression (AP)	6.41	.71	14				
The child's physical or psychological vulnerability (NC)	6.37	.80	15				
Parent's attempt to undermine or sabotage the child's placement (AP)	6.34	.96	16				
Child's views and preferences when child is 15 years or older (NC)	6.34	.82	17	8	3	6.19	1.06
Any fears the child has about current family situation (NC)	6.33	.76	18	9	15	5.51	1.12
Each parent's potential to sustain the changes required to care for the child (AP)	6.32	.76	19				
Child being recognised as member of the family (NC)	6.24	.86	20				
The level of conflict between parents or between the parent and their partner (PP)	6.22	1.01	21	10	16	5.50	1.08

Table 68 continued

	Current study				Jameson et al., (1997)		
	M	SD	Rank	Rank without new items	rank	M	SD
Each parent's current alcohol or drug use (AP)	6.22	.82	22	11	10	5.85	1.02
The child's comfort level with each parent (PC)	6.20	.87	23				
Each parent's affection for the child (PC)	6.17	1.02	24	12	13	5.54	1.16
Each parent's feelings of responsibility for the child (PC)	6.12	1.00	25	13	22	5.31	1.14
The child's affection for each parent (PC)	6.12	.98	26	14	17	5.47	1.08
The child's need for a sense of stability and continuity (NC)	6.10	.84	27				
Current inconclusive allegations of abuse against a child by the parent (PC)	6.10	.97	28				
Each parent's willingness to allow child contact with the other parent (PP)	6.10	.86	29	15	14	5.53	1.22
Each parent's history of violent relationships (PP)	6.10	.89	30				
Physical handicaps or special health needs of the child (NC)	6.07	.98	31	16	19	5.45	1.03
Significant behavioural and/or psychological concerns of the child (excluding need for psychological parent) (NC)	6.05	.93	32				
Likelihood of parent removing child from the Court's jurisdiction (AP)	6.05	.90	33				
Each parent's psychological adjustment (AP)	6.00	.84	34	17	11	5.73	1.12
Each parent's current criminal behaviour (AP)	6.00	.87	35				
Each parent's ability to accommodate child's health needs (AP)	5.98	1.11	36	18	12	5.61	0.98
Each parent's change of attitude and behaviours significant in the child care and/or protection concerns (AP)	5.95	1.05	37				
Child's views and preferences when child is 12 to 14 years old (NC)	5.95	1.02	38	19	8	5.97	0.94
Historic inconclusive allegations of abuse against a child by the parent (PC)	5.93	1.13	39				
Child's need to be with the 'psychological' parent (NC)	5.93	.89	40	20	21	5.35	1.32
Parents' ability to cooperate with each other on parenting matters (PP)	5.90	1.00	41	21	25	5.15	1.22
Each parent's psychiatric history (AP)	5.88	1.00	42	22	37	4.60	1.30
Each parent's history of alcohol or drug use (AP)	5.83	1.02	43	23	29	4.88	1.31
Each parent's compliance with Family Court orders or directions (AP)	5.80	1.03	44				
Each parent's parenting style, including discipline practices and beliefs (AP)	5.76	1.11	45	24	23	5.23	1.28

Table 68 continued

	Current study			Jameson et al., (1997)			
	M	SD	Rank	Rank without new items	rank	M	SD
Permanence of any proposed home (NC)	5.76	.94	46				
Parental pressure on the child to "choose" one parent (PC)	5.71	1.17	47	25	44	4.44	1.76
Previous abandonment or loss of contact by the parent (AP)	5.66	1.06	48				
Each parent's acknowledgement of responsibility for reasons why statutory agency involved (AP)	5.61	1.12	49				
Cultural needs of the child (NC)	5.59	1.26	50				
Parents' willingness to share parenting responsibility after child removed and/or placed elsewhere (PP)	5.58	1.17	51	26			
Willingness to share parenting responsibility after separation (PP)					26	5.08	1.12
Extent of parent-child contact after child removed and/or placed elsewhere (PC)	5.55	1.34	52	27			
Extent of parent-child contact during separation (PC)					50	4.25	1.27
Extent of parent-child contact before child removed and/or placed elsewhere (PC)	5.53	1.20	53	28			
Extent of parent-child contact before separation (PC)					33	4.63	1.14
Each parent's ability to keep and manage the siblings together (AP)	5.49	1.12	54				
Child's perception of their relationships and involvement with other family members (NC)	5.49	1.03	55	29			
Child's perception of their relationships with other family members (NC)					20	5.36	1.02
Each parent's ability to provide the child's cultural needs (AP)	5.41	1.20	56				
Each parent's criminal history (AP)	5.41	1.12	57				
Each parent's ability to provide access to appropriate education (AP)	5.39	1.07	58	30	30	4.72	1.20
Each parent's access to support from family and friends (AP)	5.38	1.27	59	31	48	4.34	1.04
Each parent's ability to maintain and encourage the child's interests and activities (AP)	5.37	.95	60	32	36	4.60	1.01
The child's desire to see grandparents and other extended family (NC)	5.37	.97	61	33	28	4.90	0.97
Each parent's capacity to contribute to child's moral development (AP)	5.34	1.04	62	34	38	4.55	1.01

Table 68 continued

	Current study				Jameson et al (1997)		
	M	SD	Rank	Rank without new items	rank	M	SD
Child's need for relationships with brothers and sisters (NC)	5.34	.99	63	35	24	5.22	0.99
Child's views and preferences when child is 9 to 11 years old (NC)	5.32	1.17	64	36	18	5.46	1.16
Educational needs of the child (NC)	5.29	1.10	65	37	34	4.61	0.96
Intellectual needs of the child (NC)	5.24	1.09	66	38	31	4.67	0.93
A parent's childhood history of emotional abuse and/or neglect (AP)	5.22	1.19	67				
Parents' history of sharing parenting responsibilities (PP)	5.20	1.25	68	39	41	4.48	1.18
The child's interests and preferred activities (NC)	5.12	1.00	69	40	40	4.50	0.85
Each parent's ability to maintain the child's daily routine (AP)	5.12	1.12	70	41	32	4.63	1.16
Prior Family Court decisions relating to the child or any child of the parent (AP)	5.10	1.36	71				
Extent to which the parents' current partners may contribute to parenting (PP)	5.05	1.30	72	42	35	4.60	0.99
A parent's childhood history of sexual abuse (AP)	5.05	1.24	73	43	43	4.45	1.67
The child's desire to see his or her friends (NC)	5.02	1.06	74	44	42	4.47	1.04
A parent's childhood history of physical abuse (AP)	5.00	1.22	75	45	54	3.97	1.50
Each parent's medical condition (AP)	4.95	1.26	76				
Each parent's ability to provide a "family" environment (AP)	4.92	1.20	77	46	52	4.17	1.30
The child's daily routine (NC)	4.90	1.16	78	47	46	4.42	1.10
Keeping siblings together (NC)	4.85	.94	79				
Each parent's willingness to provide contact with grandparents & other extended family (AP)	4.85	1.14	80	48	39	4.55	1.05
Each parent's preferences for possible shared parenting plans (PP)	4.80	1.33	81	49	45	4.42	1.05
Each parent's quality of engagement with support agencies (AP)	4.80	1.14	82				
Each parent's understanding of child development (AP)	4.80	1.31	83	50	53	4.06	0.94
Length of time child has been in current living situation (NC)	4.80	1.20	84				
Each parent's ability to provide access to other children of same age (AP)	4.59	1.24	85	51	49	4.32	0.90
Each parent's ability to provide the child with access to stable community involvement (AP)	4.54	1.21	86	52	51	4.23	1.02
Child's views and preferences when child is 6 to 8 years old (NC)	4.54	1.29	87	53	27	5.00	1.17
Keeping a young child and mother together (PC)	4.37	1.15	88	54	55	3.73	1.36
Each parent's financial sufficiency (AP)	4.27	1.05	89	55	56	3.61	0.96

Table 68 continued

	Current study				Jameson et al., (1997)		
	M	SD	Rank	Rank without new items	rank	M	SD
Child's views and preferences when child is 0 to 5 years old (NC)	3.76	1.50	90	56	47	4.40	1.33
The child's gender (NC)	3.71	1.64	91				
Each parent's religious orientation (AP)	3.15	1.26	92	57	60	2.23	0.98
Keeping a parent and child of the same gender together (PC)	3.13	1.08	93	58	59	2.50	0.96
Each parent's sexual orientation (AP)	2.68	1.33	94	59	57	2.88	1.29
Extent to which each parent is responsible for the marriage breaking down (PP)					58	2.61	1.24

Notes: (1) The results included a clinical psychologist, who has not undertaken s178 or s29A reports, but intends to apply to do so and who has written reports for Family Group Conferences.

(2) Scale ranged from 1 (*irrelevant*) to 7 (*essential*).

(3) PC = parent-child relational assessment; PP = parent-parent relational assessment; AP = abilities-of-the-parents assessment; NC = needs-of-the-child assessment.

Appendix X

Mandatory reporting: general comments by participants

Comments by participants were as follows:

- “I am opposed to mandatory reporting because we simply do not have the resources to cope. This is just another example of endeavouring to prescribe human behaviour. Any professional worth their salt must have an ethical, if not statutory, position or policy on the issue. We have to trust/respect that individuals can make appropriate clinical decisions. Unfortunately there are also too many cases where intervention simply makes things worse so we are better off putting our energy into getting right the ones we already know about. In addition, if you have ‘mandatory’ reporting, it rather implies disciplinary and judicial action if you don’t. So that is likely to lead to a lot of over-cautious professionals over reporting to make sure they are not liable to be sued for malpractice”.
- “My impression of some overseas jurisdictions is that mandatory reporting can lead to a lot more over-reporting to avoid allegations of negligence; whereas I think more education (public and professional) is probably the first important step”.
- “If mandatory reporting, many abusers may avoid self reporting and even seeking help”.
- One participant answered yes to retaining the present voluntary reporting of child abuse “because the current system is under-resourced”.
- “My concerns relate to the impact of mandatory reporting on the way the victims may then be treated i.e., may put them at greater risk. What procedures should then be in place to protect them which won’t cause e.g., emotional distress?”

- “The vast bulk of abuse occurs in circumstances outside observation or assessment by others, most children who die are below school age and thus not in the public eye, abusive males or females may control and limit outside contacts, even outdoor play, by abused or neglected children. As a consequence, mandatory reporting may not save lives. Further, fear of reporting may further prevent presentation of children for treatment, so deaths could actually increase. If a professional (or even a neighbour) makes a false report, what protections are in place? Studies of psychologists in the USA show (a) inconsistent reporting of abuse when mandatory (b) concerns about capacity of agencies to cope with volume and to provide necessary intervention when reports are made”.
- “Mandatory reporting can only be justified if the statutory agency’s response is guaranteed to bring about a better outcome for the child than if reporting did not occur. For many reasons including human knowledge base, a ‘better outcome’ is not assured and not even more likely than a worse outcome”.
- “Problem would be a lack of funding & personnel available to deal with the responses”.
- Problem is “lack of resources to check all reports/ deal with all referrals”.
- “Mandatory reporting could only be effective if properly resourced. I have practiced as an investigative social worker and am of the view that if mandatory reporting was introduced, it is unlikely to be appropriately resourced. I believe this would mitigate any potential effectiveness”.
- “Child Youth & Family Services need to be much better resourced to be able to investigate alleged abuse and to assess placement options for children when needed in a timely fashion”.

- “I could only support mandatory reporting if the system could safely manage the cases reported”. Also, “is system able to provide safe & appropriate services/care/ follow up”.
- “I have little confidence that creating a bureaucracy around child protection will do more good than harm in the long run”.

Appendix Y

System of mandatory reporting: comments by participants

The following were comments by participants:

- “when clear evidence of abuse is established or abuse is strongly suspected on the basis of evidence, persons designated by statute to report”;
- With reference to option (4), “this potentially sets-up the therapist to not report as it may seem like failure of treatment to report. Therapy perhaps should be seen as a management plan inclusive of other parties”;
- “Could be any of the above in some respects”;
- “Requirements for statutory & voluntary agencies to report within their agency & to have guidelines on how to address problems, which include not keeping it secret (e.g., church org, GPs, schools). Depends on degree of risk – current & future to child or other children. I am not in agreement with mandatory reporting”;
- “Needs further discussion/research amongst professionals as requires unified approach between court and agencies especially the area of assessing abuse. Resources need to be available”;
- “It is great if abusers will self report but my experiences with them indicate high levels of denial & generally a range of behaviours which make it difficult to cope. Children need help regardless of abusers ‘insight’ into their condition”;
- “I am fully in favour of mandatory reporting, but CYFS needs to be resourced to cope. They don’t now and that is a worry. CYFS needs to be resourced to cope – their track record is appalling thus far”.

Appendix Z

Who should be mandated to report: comments by participants

Responses and comments by participants were:

- “any citizen with access to reasonable evidence”;
- “limiting responsibility to professionals is not sufficient. Neglecting to report should be an offence”;
- “the mandating of reporting to limited classes of persons is not sensible, since persons not so mandated may feel/believe they are prevented from doing so. Rural communities are not well populated with professionals”;
- referring to the people who should be mandated to report, one participant stated, “but this would clog the system, something more in between required, through education”;
- “needs more discussion & education before confident of each of these professional groups”.

One participant suggested one other people grouping to the list offered in this current questionnaire, which was Resource Teachers: Learning and Behaviour. This group may be considered to be teachers or included in any person over the age of 18 interacting with children at school.

Appendix AA

Degree of abuse for mandatory reporting: comments by participants

Comments by participants were:

- “define abuse. See the problem. Need for further education, particularly re emotional abuse”;
- “no definition of either ‘child abuse’ or of ‘mandatory reporting’ criteria, in the sense of what triggers the required response of ‘reporting’ is it ‘suspicion’ of abuse or ‘evidence’ of abuse – and if the latter, what constitutes ‘evidence’?”;
- “who decides (severe or serious), how do you define serious”;
- “suspicion of abuse, with reasonable grounds for doing so is a minimum standard for community, non professional reporting”;
- “who is to judge” (with reference to serious or severe categories);
- “universal mandatory reporting should apply to abuse known or suspected to have occurred in the past six months”;
- “the trouble with only reporting when abuse is severe is that a lot goes unaccounted for. Also 50% of sexually abused chn show no symptoms whatsoever”.

Appendix AB

Types of abuse for mandatory reporting: comments by participants

Other comments are offered by participants:

- with reference to emotional abuse and emotional neglect, one participant commented these are “notoriously difficult for non-experts to assess, even experts may not be good eg child may be autistic/aspergers syndrome or neurologically impaired but not abused”;
- “emotional abuse is also very important but so much more difficult to define”;
- emotional abuse and emotional neglect are “difficult to assess, clearer guidelines required”;
- “emotional abuse accompanies physical and sexual abuse automatically”;
- “definitions and evidence of some far more harder to establish than others”.

Appendix AC

Best Interests of the Child Questionnaire: suggested changes to the wording of some factors

Suggested changes to the wording of certain factors as they currently appear in the Best Interests of the Child Questionnaire. References made to ‘the child’ are appropriate as they are specific to the child before the Court, however, the researcher considers that it is appropriate that the wording in abuse or neglect factors should change from ‘the child’ to ‘a child’ (e.g., history of sexual abuse of a child by a parent) as such behaviour by a parent is considered relevant even if another child was involved. The researcher also considers changes to the wording of the following assessment factors⁶³:

- (a) ‘any fears the child has about current family situation (NC)’ to ‘any fears about the proposed family placement (NC)’, which takes into account the fears a child may have about all placement options;
- (b) ‘child’s need for relationships with brothers and sisters (NC)’ to ‘child’s need for relationships with siblings (NC)’, which acknowledges the significance of step brothers and sisters;
- (c) ‘the child’s desire to see his or her friends (NC)’ is inconsistent with ‘each parent’s ability to provide access to other children of the same age (AP)’. Lowery (1985) refers to ‘peers’ which the researcher recommends;
- (d) ‘each parent’s feelings of responsibility for the child (PC)’ to ‘each parent’s sense of responsibility for the child (PC)’ (Lowery, 1985), which seems to encapsulate a greater depth to this factor;
- (e) ‘extent of parent-child contact before child removed and/or placed elsewhere (PC)’ to ‘extent and quality of parent-child contact before child removed and/or placed elsewhere (PC)’;
- (f) extent of parent-child contact after child removed and/or placed elsewhere (PC)’ to ‘extent and quality of parent-child contact after child removed and/or placed elsewhere (PC)’;

⁶³ PC = parent-child relational assessment; PP = parent-parent relational assessment; AP = abilities-of-the-parents assessment; NC = needs-of-the-child assessment.

- (g) 'each parent's willingness to allow child contact with the other parent (PC)' to 'each parent's willingness to promote child contact with the other parent (PC)'. Schutz et al. (1989) refers to each parent encouraging the child's relationship with the other parent. The change in wording allows the focus towards attitude and behaviour;
- (h) 'each parent's ability to provide a safe physical environment for the child (AP)' to 'each parent's ability to provide a safe emotional, physical, and sexual environment for the child (AP)', which incorporates 'safe' in the wider sense;
- (i) 'each parent's ability to accommodate child's health needs (AP)' to 'each parent's ability to accommodate child's physical and health needs (AP)' would be more consistent with the factor 'physical handicaps or special needs of the child (NC)';
- (j) 'each parent's access to support from family and friends (AP)' to 'each parent's access to positive support from family and friends (AP)', which focuses on the quality of that support and recognises the value and ability of the parent to establish and hold valuable relationships. From an ecological view, when the demands of a child exceed the parents ability to cope, the wider social context will determine the parents ability to provide adequate care (Belsky & Vondra, 1989);
- (k) 'each parent's psychological adjustment (AP)' and 'each parent's psychiatric history (AP)' should be consistent, thus each might read 'each parent's psychological and psychiatric adjustment (AP)' and 'each parent's psychological and psychiatric history (AP)' respectively.