

2019

# Courtroom Psychology during Criminal Trials and its Therapeutic Role on Victims and Offenders

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# Walden University

College of Social and Behavioral Sciences

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Tierra Wilson

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Walden University  
2019

Abstract

Courtroom Psychology during Criminal Trials and its  
Therapeutic Role on Victims and Offenders

by

Tierra Wilson

Dissertation Submitted in Partial Fulfillment

of the Requirements for the Degree of

Doctor of Philosophy

Clinical Psychology

Walden University

November 2019

## Abstract

In the legal and mental health fields little is known about the therapeutic impact of courtroom psychology during criminal trials. The purpose of this research study was to investigate the inter-relating factors of law and psychology throughout criminal trials as experienced by lawyers and psychologists. Research questions explored the influence of courtroom psychology on criminal trial proceedings and challenges as experienced by both criminal trial attorneys in presenting mental health evidence, and by psychologists when testifying during criminal trials. Further exploration focused on the significance of courtroom psychology, and how lawyers and psychologists perceived courtroom psychology impacting justice for victims and influencing offender rehabilitation sentencing decisions. Procedural justice was the conceptual framework utilized in this investigation, and therapeutic jurisprudence was the theoretical base that guided this study. A qualitative-phenomenological research design was applied by interviewing 4 criminal law attorneys and 4 clinical forensic psychologists. Four themes emerged from the thematic analysis of the data collected: (a) an increase in the enhancement of psycho-legal services, (b) a need for additional education, (c) a desire to improve professional relationships through collaborative efforts, and (d) a demand for requiring advanced training. These results may serve as a foundation for professionals to provide ethically effective and relevant legal-therapeutic services for progressing courtroom psychology measures. Implications for positive social change from this research include recommendations to government, legal, and mental health system entities to consider generating and readjusting standards of practice that govern criminal trial proceedings.

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## Dedication

I dedicate this dissertation research study to my mother, Jacqueline Wilson, the most patient, loving, devoted mother who contributed to making all my dreams a reality. Thank you for your words of empowerment and encouragement throughout this journey. I love you with all my heart.

I would also like to dedicate this research project to every victim, survivor, and underdog. May you use your past experiences as a stepping stone to realizing your power and unlocking your potential for the greater good.

“You don’t have to see the whole staircase, just take the first step.”

- Dr. Martin Luther King, Jr.

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## Chapter 1: Foundation of the Study

### **Introduction**

Connecting legal cases with psychology considerations has been practiced in various jurisdictions worldwide, and is known today as an area within the forensic psychology discipline. Consequently, merging legal frameworks with psychological measures form the field recognized as “psychology and law.” The procedure of combining mental health applications with legal contexts allows practitioners in the judicial field to consider social science and behavioral analysis components that sometimes go overlooked or are deemed irrelevant by systems and society (Hagan, 2017). Today, the justice system continues to be a field where mental health problems are managed as individuals with psychological problems come in conflict with the law. In essence, while there has been some integration of psychology into the system, discomfort remains in the relationship with psycholegal professionals on both the prosecution and defense side of the legal process (Hagan, 2017; Kocsis, 2010; Redlich & Woojae, 2014) which may have an effect on criminal case outcomes for both plaintiffs and defendants. Moreover, these merged disciplines have also left an imprint on victims and offenders due to both sides of the psycholegal field contributing different methods, perspectives and theories to each case that may influence verdicts and sentencing determinations. The matter that arises is embedded in how courtroom psychology practices can continue to grow, be perfected, and become advantageous for all parties involved. Every week, criminal cases are presented before a court of law, and the events that occur within those

proceedings leave life-changing, lasting impacts on victims, offenders, and communities. Therefore, crime victims who believe a case was not decided in their favor may experience re-traumatization or distrust of the law. Convicted individuals who think they were given a sentence based on minimal evidence or unjust findings may not comply with correctional services; thereby, increasing the probability of reoffending. Taking into account the healing and anti-healing factors of the law and psychology relationship is imperative in assessing what role courtroom psychology plays in recidivism rates and victim healing and satisfaction levels.

### **Background of the Problem**

Researchers have noted the importance of behavioral science applications in judicial proceedings aimed at providing accurate treatment services, verdicts, and just sentences (Hagan, 2017; Wallace, 2011). However, exploring and determining how the practice of such operations has an impact on society from the perception of legal and mental health professionals has not been studied. My initial review of the literature revealed two things. First, the nature of the relationship between legal forensic psychopathology considerations and achieving positive social change is understudied and unclear. Second, examining such matters from the viewpoint of psycholegal professionals as opposed to victims and offenders has not been done. Psycholegal applications are important functions in the courtroom, but not as much are known about how such operations are related to offender rehabilitation, social order and victim



satisfaction. Understanding such matters can prove beneficial to the legal system as courtroom psychology (also known as court psychology) considerations can have a lasting impression and effect on victims, criminals, and communities.

Although the connection between psychology and law is well established, less is known about the obligatory relationship between courtroom psychology, procedural justice, and due process objectives where criminal trials are concerned. Research have identified how psycholegal principles have assisted judicial administration procedures and court-mandated treatment decisions (Kim et al., 2015); but little research has been done on whether that prompts social justice. Uncovering such information is meaningful because social justice is a key segment of social change as consisting of institutions and communities work together toward social development and addressing criminal offense issues.

The Federal Bureau of Investigation reported an estimated 1.25 million violent crimes committed in the United States in 2017, which was a 3.9% increase from the amount of violent crimes committed in 2014 (Federal Bureau of Investigation, 2015). Consequently, the U.S. Sentencing Commission reported 71,184 federal criminal cases in the 2015 fiscal year (Kim et al., 2015; and Schmitt & Jones, 2016). Based on the substantial amount of violent crimes taking place which result in a large number of criminal cases unfolding in various courtrooms, it is important that the parties walk away with some form of remedial benefit for the sake of addressing criminogenic matters, resolving recidivism issues, fixing emergency support services, and enacting reformative mental health results.

## **Statement of the Problem**

Psychologists and lawyers accounts of using courtroom psychology techniques during criminal trials has yet to be explored, including whether such techniques were a benefit or hindrance to their careers or clients. Integrating mental health applications with legal matters is beneficial for considering behavioral science evidence during criminal trial proceedings. However, there is no research on the attitudes, beliefs, and experiences of lawyers and psychologists working in these merged fields (primarily psychology operations during the criminal trial process). There is also no research on how the use of courtroom psychology has negatively or positively influenced these professionals' work cases or impacted their clients (plaintiffs and defendants) from their perspectives (Kim et al., 2015; Spaulding, et al., 2014; Wexler, 2013; Winick, 2013). Wexler and Winick (1996) created a theory based on utilizing psychology approaches when engaged in legal matters. The theory of therapeutic jurisprudence (TJ) aims to evaluate the impact that legal processes have on the emotions, reactions, behaviors, and mental wellbeing of individuals who come in contact with the law. Wexler (2013) and Winick (2013) state that the theory can be beneficial in assessing how legal matters impact achieving criminal justice and rehabilitation objectives. In the literature review in Chapter 2, I examine this theory and other closely related theories, analyze psycholegal professional intentions, discuss how the law and psychology field was developed, and explore the benefits and disadvantages of the integration of these two fields and their specialty practices.

## **Purpose of the Study**

The focus of this study was to probe into the unexplored dimensions of courtroom psychology. In essence, my goal was to explore, investigate, and evaluate the nature and social phenomenon of court psychology applications and the individuals who use them. The purpose of this study was for me to grasp a legal and clinical understanding of the advantages and limitations of exercising psychological functions during criminal trials; such information will assist in closing the gap in the literature on this topic. My objective in this study was discovering how these methods have contributed to positive social change such as securing victim services, acquiring community support, implementing effective sentencing and efficient treatment services, and correcting habitual reoffending.

The aim of this research study was to gain information from psycholegal professionals about their experiences working with victims and offenders in an integrated profession. The effects such operations may have on social progress and social order matters (sentencing outcomes and community well-being) have been well established. Crime victims who receive support services and take an active role during trial proceedings are more likely to leave the process feeling satisfied with their involvement (Ruddy, 2014). Offenders who participate in treatment programs are likely to have a positive experience re-entering society resulting in lower levels of recidivism (Cucolo & Perlin, 2012). The intention of court-mandated treatment is to rehabilitate offenders in an effort to correct criminal and harmful behavior; hence, the criminal justice term *corrections* which means to rectify. Corrective rehabilitation services must be mandated

and delivered efficiently, because without proper assimilation back into society the likelihood of reoffending may increase.

The intention of the study was to retrieve data on the attitudes and beliefs of professionals who engage in courtroom psychology duties, and discover how those experiences may influence therapeutic outcomes and positive social change results related to victim advocacy and decreased recidivism. In this study, I explored how courtroom psychology has impacted victims and offenders (i.e., justice satisfaction, court decisions). Additionally, I investigated how courtroom psychology has influenced criminal trials for prosecutors and defense attorneys (i.e., presentation of evidence) and the role of clinical forensic psychologists in giving testimony (i.e., results on psychological assessments, pre-trial therapy, victim trauma, and so forth.). Based on the experiences of psycholegal experts, I evaluated the exclusionary knowledge of their work, and how merging the law and psychology fields has influenced professional relationships, victim needs, and criminal rehabilitation decisions.

I selected the problems for inquiry in this study based on an anti-positivism research paradigm I gathered data from criminal trial psychologists and attorneys regarding their interpretations of their work and their clients' experiences. Anti-positivism emphasizes that social constructs are best understood when viewed and explained by an individual based on the possession of their ideological position in the matter. This type of paradigm matches the purpose of this study, because anti-positivists regard individual realities and phenomenon as multi-layered and intricate (Killam, 2013).

My intent for this study focused on the various layers and complex nature of courtroom psychology methods and its players, who have different interpretations of their work.

### **Research Questions**

In this study, I used an interpretive phenomenological analysis technique as my method of data collection through semi-structured interviews of licensed clinical forensic psychologists and criminal trial attorneys (defense attorneys and prosecutors). I used the following research questions and subquestions to guide my study.

RQ1: What influence has courtroom psychology had on criminal trial proceedings?

SQ1: What challenges do criminal trial attorneys face when presenting mental health evidence?

SQ2: What challenges do clinical forensic psychologists face when testifying during criminal trials?

RQ2: What kind of significance has courtroom psychology had on legal parties?

SQ1: How has the use of courtroom psychology impacted justice for victims?

SQ2: How has the use of courtroom psychology influenced offender rehabilitation sentencing decisions?

### **Theoretical Framework for the Study**

The theoretical framework for this study is Wexler and Winick's (1996) theory of TJ. The concept of this theory is to classify and investigate the empirical linkage

between legal provisions and therapeutic outcomes (Wexler & Winick, 1996). According to their theory, legal standards play a role in being a restorative and anti-restorative force based on the impact law has on the better good of society and individual well-being (Redlich & Woojae, 2014). Using this theoretical concept, researcher have a comprehensive view on how the law can be utilized as a therapeutic agent. This relates to my approach and research questions because I was focused on the therapeutic role that the legal system can have. Subsequent research and applications of Wexler and Winick's theory provide guidance on ways to categorize this theory as an ideology that considers the tenets of psychological and social science principles in order to improve the livelihood of individuals who come in contact with the legal system (Redlich & Woojae, 2014; Birgden & Ward, 2007; Wexler & Winick, 1996). I cover a more detailed overview and explanation of this theory and its usage to this study is covered in Chapter Two.

### **Conceptual Framework of the Study**

There are seven types of justice: (a) distributive, (b) procedural, (c) restorative/corrective, (d) retributive, (e) community, (f) transitional, and (g) collaborative. The first four types have been long-established in justice systems, but community justice, transitional justice, and collaborative justice (also known as therapeutic justice) are more contemporary forms (Winick, 2013; Quinn, 2009). All forms of the aforementioned types of justice can be considered or utilized during criminal

trials, but the strategies of courtroom psychology during criminal litigation are most useful in to the domain of procedural justice (PJ), which is a model that plays a role in various legal concepts where due process is a factor. Accordingly, the tenets of due process are the cornerstone of the judicial system.

The concept of procedural justice aims to establish that fair play is a priority in the interest of resolving issues or disputes in legal and non-legal arenas (Törnblom & Vermunt, 2016). PJ stems from the idea that fair outcomes are the result of fair procedures that take place amid any given process during legal proceedings. Moreover, PJ seeks to ensure that conflicts are resolved and adequate services and resources are delivered based on procedural fairness in court proceedings (Törnblom & Vermunt, 2016). For instance, when parties disagree, PJ can assist legal players in reaching a mutually acceptable and sometimes binding agreement in the interest of justice. The goal of PJ is to create a fair process regardless of the legal outcome. Mazerolle et al. (2014) argue that if the process is fair, then it is more likely that the outcome(s) will be beneficial for all participating parties.

The U.S. Constitution established in the Fifth Amendment and Fourteenth Amendment that citizens are entitled to due process and fair treatment through the judicial system, thereby; establishing that PJ be applied during the administration of justice (Törnblom & Vermunt, 2016; Mazerolle et al., 2014). This fairness model can be used during criminal legal proceedings by considering various factors (psychological, financial, legal, physical) affecting all legal parties. Various elements of a legal case such as hearing a victim's impact statement (Ruddy, 2014; Cassell & Erez, 2011) or

weighing a defendant's forensic evaluation and assessment as evidence (Wygant & Lareau, 2015) can be considered PJ so that the decision-making process (jury deliberation, judge's sentencing) is based on fairness that considers all aspects of a case (Peterson, 2013). An attorney or psychologist reviewing and testifying about a victim's post-traumatic stress after a violent crime, or a judge bearing in mind mitigating factors such as defendants' mental state at the time of their crimes are ways PJ can be administered in criminal litigation (see Chapter 2 for additional examples).

An additional form of justice that is fairly new is collaborative justice, which seeks to handle criminal justice issues in a coordinated manner by collaborating with various systems (court system, mental health field) and forming partnerships with agencies (community programs, treatment centers, police departments) in order to better address problems that need various resources. An example of collaborative justice are problem-solving courts such as mental health court, drug court, domestic violence court, homelessness court, youth court, opportunity court, and recovery court, that focus on resolutions for specific problems (King, 2010). This type of justice aligns with the foundational reasoning for establishing courtroom psychology, which was to integrate sectors and professionals to better address psycholegal matters.

### **Nature of the Study**

For this study, I selected a qualitative method with a phenomenological approach. Qualitative research is consistent with understanding how TJ can advise psycholegal practices and evidence-informed decision-making in legal and clinical domains, which is



the primary focus here. The phenomenological approach to qualitative research will assist in generating meaning and understanding from the data (Burkholder et al., 2016) in order to descriptively define a lived professional experience of a phenomenon. The philosophical foundations of qualitative research are postmodernism and constructivism, and this foundation focuses on individual meanings and points of view in addition to knowledge shared or constructed from research (Burkholder & Spillett, 2013).

I used this design to provide descriptions of lived professional experiences; and offer subjective information through narrative data. My goal was to better understand the substance of criminal courtroom psychology cases by examining the views of people who have experienced and participated in such proceedings. I needed this type of subjective data, as opposed to objective data, because it aligned with the study's theory (Fusch & Ness, 2015) by offering viewpoints into how current law practices have been therapeutic and anti-therapeutic for victims and offenders. By using a qualitative methodology in this study, I was able to efficiently provide narrative clarification on how lawyers and psychologists perceive utilizing psychology applications during criminal proceedings; and on their perception of this method's impact on victims and offenders.

My core research focus was on the phenomenon of criminal trials and the impact of behavioral science evidence on social order progression. In order to better fathom and research this professional occurrence, I used an interpretive phenomenological analysis (IPA) technique. Using this approach, I was able to offer detailed data on how participants view their professional agendas in the courtroom, while taking into account

their viewpoints on how psycholegal methods have had an impact on their clients (victims and offenders).

By examining in-depth information on psychologists' and lawyers' accounts of criminal cases and their perceptions of how trials have impacted clients, the study's TJ can be better understood while allowing the research queries to be thoroughly answered. Qualitative data were collected from research participants through interviews using a semi-structured approach (Rubin & Rubin, 2012). During the research, I used open-ended inquiries to retrieve in-depth, descriptive responses. Next, I analyzed the data by coding (annotating) the transcripts to establish meaning behind each participant's statements and recollection of previous experiences (Rubin & Rubin, 2012; Marshall & Rossman, 2011; Mason, 2010). By transcribing and annotating the data, I generated codes from claims made during the data collection. My examination of the data prompted me to develop codes for classification. Through cataloguing, recurring patterns (themes) of significance emerge and can be identified (Marshall & Rossman, 2011; Brod et al., 2009). Such themes shed light on the emotions, opinions, and reflections of the participants; thus, it is important that I equalize interpretations with subjective depictions of experiences.

Conducting qualitative research has several advantages compared to conducting quantitative research, many of which are significant to this study. First, qualitative research allows for a more detailed, full comprehension of a complex phenomenon. Second, it allows the researcher to explain, clarify, and offer intent about a particular phenomenon that may be challenging to grasp without specific information. Qualitative

research allows issues to be examined in-depth, rather than through a restricted lens, and the direction can shift as new material surfaces (Brod et al., 2009). Similarly, retrieving and presenting data based on human experience as opposed to quantified data provides the audience with a full-scale, intensive view of an occurrence. Finally, qualitative interviews can be guided and redirected by the researcher instead of solely being limited to specific questions (Marshall & Rossman, 2011; Brod et al, 2009).

Despite benefits in utilizing qualitative research methods there are also limitations. Due to qualitative methods relying on specific researcher skills, the data are open to less impartiality and personal preference. As a result, the precision of the data may heighten the difficulty of evaluating efficient information and demonstrating accurate results (Chenail, 2011; Marshall & Rossman, 2011); hence, limiting transferability. An additional methodological weakness is the researcher's presence during data gathering. Participants may feel obligated to answer questions or provide detailed responses in a certain manner due to the verbal or non-verbal cues displayed by the researcher. Therefore, researchers must be mindful of their behavioral cues and tone during data gathering.

Throughout the study I acknowledged and reflected on preconceptions about the data to terminate biases that could influence research outcomes; and instead my focus was on the participants' experimental realms. Reasonable measures to address limitations consist of identifying and acknowledging such limits to research, reflecting on those limits (Burkholder & Spillett, 2013; Chenail, 2011, Marshall & Rossman, 2011; Brod et al., 2009), and deciding on proper actions and admissions to overcome those

limitations. Thus, prior to engaging in the operation of conducting research, I acknowledged and addressed biases that could impact study outcomes. According to Chenail (2011) and Marshall and Rossman (2011), it is valuable and central to the research that all potential threats to a study be evaluated and eliminated prior to commencing the research investigation.

A researcher can identify and avoid partial research by channeling bias through the process pinpointing and describing their prejudice and preferences about the research topic and sub-topics. This self-awareness technique provides an opportunity for researchers to acknowledge their personal ideas and beliefs to recognize how their viewpoint can impair the results of the study (Burkholder & Spillett, 2013; Chenail, 2011, Marshall & Rossman, 2011). Furthermore, utilizing such approaches to reduce bias is critical to enhancing credibility of a study, ensuring validity of findings, and promoting ethical research adherence.

The data from this research study will offer a descriptive comprehension on psychologists' and attorneys' views about the current state and future role of courtroom psychology's impact on victim support services and criminal rehabilitation. The study will also provide a narrative clarification on how lawyers and psychologists perceive utilizing psychology applications during criminal trials. The study results may be used as an overview of how courtroom psychology can impact justice and social change constructs, and provide a summary on how the specialty of courtroom psychology can be used more effectively and ethically.

## Operational Definitions

*Civil commitment / Involuntary commitment.* Court-mandated inpatient or outpatient treatment (Lawrence, 2018).

*Competency evaluation.* Assessment used for court purposes to evaluate a defendant's state of mind in order to determine if the individual is fit to stand trial (Ruiter & Boyd, 2015).

*Forensic psychopathology.* The practice and analysis of psychopathology (mental disorders) in a legal context (Cima, 2016).

*Procedural Justice.* Fairness throughout the legal and/or criminal justice process. Ensuring due process (Törnblom & Vermunt, 2016).

*Psychocriminology.* The examination of the commonalities between psychological determinants and crime (Hagan, 2017).

*Psycholegal.* Of or relating to the integration of psychology and legal contexts, operations, and applications (Lawrence, 2018).

*Risk Assessment.* In a forensic context, assessing the risk that a patient/client may pose to him/herself or someone else in the future (Ruiter & Boyd, 2015).

*Therapeutic Jurisprudence.* A legal theory; a principle that uses mental health knowledge to determine how the law can promote the wellbeing of individuals who encounter the legal system (Wexler, 2013; and Winick, 2013).

### **Significance of the Study**

An investigation of courtroom psychology's therapeutic significance may give an opportunity for potential study contributions to advance knowledge in the legal system and criminal justice discipline regarding psychological practice and mental health policies are concerned. The perspectives of psychologists and attorneys will contribute to the mental health and legal communities' discourse on the use of psychological techniques in the judicial process. Investigating the attitudes, beliefs, and experiences of criminal trial psychologists and lawyers who practice courtroom psychology methods will open the door for procedural justice and collaborative justice efforts to be assessed to determine their present significance and/or need for future corrections. This may benefit clients in both fields; and wholly inform systems and policy makers about how this specialty's movement needs in order to be more effective and adequately applied. In this study, I explore these professionals' perceptions of the impact courtroom psychology has had on their clients as it pertains to verdicts, justice for victims, and offender rehabilitation determinations.

My investigation sought to identify the influence courtroom psychology has on criminal trial proceedings and the legal parties involved in order to provide an understanding of courtroom psychology's role on contributing to the judiciary and criminal justice system. The aforementioned findings will be beneficial to legal fields and psychology professions as future court case judgments and policy decisions can take into account what benefits or hinders a community's growth, offender treatment success,

and a victim's contentment based on courtroom mental health considerations and psycholegal decision-making.

### **History of the Psycholegal Field**

Utilizing psychology principles and applications during legal proceedings has been used in various countries for many years in order for experts to attest to a criminal's mental state during and after the transpiring of an offense, explain a crime victim's trauma or depression, provide explanations on criminological evaluations and theories, and assist lawyers with the selection of jurors. Such clinical experts (psychologists and psychiatrists) also administer psychological assessments to defendants, and relay the report findings of those tests during criminal court trials (King, 2016). For instance, a trial attorney may call upon the clinician to give an expert opinion with respect to the defendant's capacity to comprehend the court process they will take part in, which in legal terms is identified as *competency to stand trial* (King, 2016; and Hollin, 2013). The reasoning for the assessment of competence is based on the belief that accused individuals have the right to comprehend the trial proceedings that will take place in order to comprehend the evidence and testimony (King, 2016) being presented for and against them, in addition to understanding each court professional's title and role. Therefore, psycholegal strategies have been universally utilized by both the defense and prosecution teams in order to enhance and benefit their legal cases (Stickles, 2008).

Although, psycholegal methods have been internationally employed during court cases, there is deficient research evidence on the influence, professional dilemmas, and future goals of courtroom psychology functions. Also, after a detailed examination of published research on criminal trial procedures (Ho, 2014; and Melinder & Magnussen, 2014; and Stickle, 2008) transpired it was clear that there is an acknowledgment of the advantageous need for the integration of psychology in the courtroom to ensue. However, the research provided insufficient findings on the effect such legal-therapeutic methods have on victims and the community, professional relationship of the trial lawyer and psychologist, or the criminal defendant's contentment with the process during and after the trial (prison sentencing, mandated treatment, correctional services, probation/parole terms, and so on.). However, during the research what was discovered was a theory relevant to explaining the need for such legal and psychology efforts to be better understood and effectively applied.

In 1996, law Professors David B. Wexler and Bruce J. Winick introduced the theory of therapeutic jurisprudence (TJ) to assist judicial officers with the means to understand the significance that legal processes have on legal parties and the community's well-being. According to Pietz (2015), Quinn (2009), and Wexler and Winick (1996), TJ is the study of the law's restorative potential, and the theoretical goal is to evaluate law applications and therapeutic and counter-therapeutic results of the law. The intentions of the TJ theory help reduce the barrier between the behavioral science field and legal system by acknowledging that legal processes and trial outcomes can be better addressed with the merger of psychological facets (Wexler, 2013; and Winick,



2013). However, the question still remains concerning how or if this theoretical practice has an impact on victims, the public, and offenders. Although the research about TJ stresses the utilization of its tenets in better helping judicial officers perform and make decisions it is still unclear how victims and offenders view courtroom psychology practices during their cases (Spaulding et al., 2014; and Winick, 2013).

### **Victim and Offender Satisfaction**

Pena and Carayon (2013), Erez et al. (2011) and Erazand and Roberts (2010) all shed light on the principles associated with TJ playing a role in encouraging victim and offender participation during the criminal justice process. However, what is not fully mentioned is the court proceedings satisfaction or non-satisfaction acquired in the midst of that participation. In addition, the authors fall short of addressing courtroom psychology procedures impact on victims and defendants during criminal proceedings as it pertains to the psychology of justice matters. For instance, expert witness testimony from clinicians, behavioral science evidence, and mental health considerations all play critical parts during criminal trials and can influence verdicts. Gaining a better comprehension of how victims are satisfied with hearing testimony on the accused, or understanding the feelings of defendants who listen to evidence and findings brought up in court can contribute to professionals perfecting their services and level of skillsets they administer when interacting with both parties. Interaction with the court system can

leave a lasting mark on the lives of victims and offenders which may or may not result in fulfillment or displeasure with the law.

Gromet et al. (2012), Stickels (2008), and Hotaling and Buzawa (2003) shed light on victim advocacy satisfaction; however, they do so from the viewpoint of taking into consideration gratification from the criminal justice system's procedures from start to finish. Although such information assists with comprehending the victim's experiences throughout the entirety of criminal procedures, such processes can encompass police interviews and lineups, civil hearings, and other actions. Whereas, this research study focuses solely on criminal trials, and acquiring a greater insight about victim satisfaction from that standpoint alone (Miller, 2015; Bednarova, 2011; and Beloof, 2010). For instance, court psychology methods can encompass evidence and testimony being shared on prior victimization and/or mental health of the accused which can influence a judge or jury's decision. Based on those factors, a verdict of innocence or an unfavorable court determination may result in a denunciation from the victim(s) and community members. Thus, from a professional and victimology perspective, gaining a better insight on the victim and public's contentment with the level of justice experienced during criminal trials would be beneficial for professionals involved in legal, social and community service matters.

According to Kim, Becker-Cohen, and Serakos' (2015) research on incarcerated individuals, 60% of jail inmates displayed mental illness symptoms. Some individuals experiencing signs of psychiatric distress while embedded within the justice system, it is influential to discover and understand their concerns and level of satisfaction

with mental health services bestowed to them while in jail awaiting trial and throughout the court proceedings process. Taking into account a convicted offenders' contentment with courtroom psychology applications during their trials may or may not be confusing or offensive for some individuals such as crime victims or community members.

However, taking a deeper look into this topic is warranted based on psychocriminology and forensic neuropsychological matters such as some criminals being previous victims of crimes (Boone, 2013; Wilson, 2011; Drake et al., 2009); and/or some offenders later being exonerated of crimes they were convicted of. In addition, the legal system has established that individuals found guilty of a crime are guaranteed certain rights and services. Based on that information, gaining a comprehension on offender satisfaction with courtroom psychology operations during trials can offer a broad stance on criminal rehabilitation fulfillment and recidivism rates. For instance, some defendants may have a defense team assert that they are incompetent to stand trial, should have a clinician assess them for mental stability, or insist that they rely on an insanity defense (Archer, 2013; Steadman, 2011; Spellman, 2010). However, some offenders may not see themselves as victims, incompetent, or insane; thereby, leaving the question of how such topics being brought up in court affects them and how they respond to treatment in cases where civil commitments take place (Faust, 2012). In fact, Wexler (2013) and Wexler and Winick (1996) touch on the offender's lack of criminal responsibility and acceptance in cases like this which can impede rehabilitation thereby perhaps increasing the likelihood of reoffending.

Lipsey (2009), Vieira (2009), and Wexler and Winick (1996) highlight the role therapeutic features can play in criminal and legal issues by providing examples on criminal trials and problem-solving courts (PSC). For instance, drug court judges provide opportunities for offenders to discuss their trial cases with them, and in doing so offer supportive advice that can have a remedial influence on them (Hegtvedt & Parris, 2014; and Park, 2011; Huddleston and Marlowe, 2011; and Wexler & Winick, 1996). The TJ theory also provides a foundation for better engaging in restorative justice methods. Consequently, the restorative justice approach allows for victims to have a voice, while addressing the aforementioned issue of criminals not taking responsibility where this approach obligates the offender to do so. Furthermore, the Victim Satisfaction Model of the Criminal Justice System will be explained thoroughly in Chapter Two to provide a better understanding of the core value and importance in ensuring that victims are satisfied with the level of justice experienced during criminal trials.

### **Legal Matters: The Lawyer's Role**

Lawyers and judges can improve their roles as legal officers by viewing each case from the perspective of TJ. Nevertheless, it is the responsibility of such professionals to review and determine whether the law can be used in a therapeutic key, and to what extent it can or should be utilized. Wexler (2013) and Wexler and Winick (1996) state that in order for law professionals to enhance the performance of their duties they must first consider if TJ provides them the means to perfect their legal roles, and

second decide when and how TJ can aid in perfecting their criminal trial cases. However, the level of understanding that legal workers have on TJ approaches needs to be explored further because it would be challenging to assess remedial or corrective values without having a core comprehension of healing factors. More so, because many legal issues involve underlying psychological questions it is necessary and constructive for attorneys to have a well-rounded knowledge base on TJ concepts. Lawyers who can decipher intricate social and behavioral science research can be more productive counselors and better interviewers, partake in more effective negotiations and plea bargaining, conduct powerful and useful discovery, and be better equipped to identify and avoid ethical dilemmas (American Psychological Association, 2017). In fact, attorneys who can grasp an understanding of the insights of psychology can advise other legal system professionals in making improved empirically-based judgments (Sternlight & Robbennolt, 2012).

Due to the social and therapeutic exploration of criminal behavior being grounded in the science of psychology it is inevitable for prosecutors and defense attorneys to come across mental health considerations during the majority of their criminal trials. It is important to state, however, that the TJ theory does not insinuate that attorneys should be required to have the same mastery and skillset as psychologists in order to be effective at delivering TJ theory principles. Nonetheless, it would be favorable for legal cases and in the best interest of clients if lawyers grasped a firm understanding of the TJ doctrine based on the theory's creed focusing on how legalities within the law can have therapeutic results when the well-being of each client is

considered. However, it is up to the attorney to ultimately decide if he/she will impede or promote the well-being outcomes of their client and the community by considering or not considering the therapeutic results that can manifest based on the actions to enforce or withhold TJ approaches during their practice.

Petrila (2003) brought up the concern of who determines what is therapeutic, and what depicts a therapeutic result. This inquiry is based on concern regarding psycholegal professionals and researchers ultimately deciding what type of therapeutic value should be placed on legal rules and interventions (Wexler, 2013; and Wexler & Winick, 1996). This type of question is valid, and can be a cause for concern when legal professionals do not consult psychologists about remedial issues, or when the weight of the victim's and offender's satisfaction with court procedures are not considered, researched, or studied. Coincidentally, this research study aims to address those specific concerns with intentions to answer the question related to therapeutic value.

### **Mental Health Services: The Psychologist's Role**

Mental health clinicians, such as psychologists, play a vital role in psycholegal operations where courtroom psychology practices are concerned. Psychologists can act as jury consultants, provide expert witness testimony, conduct psychological assessments and competency evaluations on defendants, and assist prosecution and defense teams with understanding behavioral science research and

forensic evidence (Moriarty, 2013). In fact, as it pertains to the previous question raised about what constitutes therapeutic value, a psychologist can provide his/her expert opinion on the topic allowing legal professionals to measure the information and proceed accordingly. In order to assist with this inquiry, psychology practitioners may choose to weigh the value of the TJ theory by first surveying what the term *therapeutic* means (Hegtvedt & Paris, 2014; and Gromet et al., 2012). *Therapeutic* is a term related to healing and pertains to treatment; whereas, jurisprudence is the theory or philosophy of law within the legal forum. Therefore, a clinician could respond to a portion of Petrila's (2003) argument and Wexler's (2013) and Wexler and Winick's (1996) counter-argument by stating that therapeutic values are based on healing, restoration, or fulfillment experienced by society, victims, or offenders.

Psychology professionals – such as psychologists, psychiatrists, therapists, counselors, and advocates – who choose to specialize in forensics typically work with victims and/or offenders who suffer from addictions, trauma, depression, various psychiatric conditions (personality disorders, mood disorders) and forensic psychopathology issues (American Psychiatric Association, 2013; Hagan, 2017; Cima, 2016; King, 2016; Wygant & Lareau, 2015; Bednarova, 2011; and Drogin, 2011); and deal with criminal justice matters such as probation, parole, and restitution. Such practitioners gain first-hand knowledge from clients and patients on their level of contentment regarding their experiences within the criminal justice system. Also, these specialists can account for how victims have viewed their treatment during a criminal trial process; and whether or not court-mandated treatment is effective for offenders who

struggle with criminal responsibility, acceptance, and/or knowledge of what has taken place in their lives (Ciesla, 2019; Lawrence, 2018; King, 2016; Ruiter & Boyd, 2015; Wygant and Lareau, 2015; and Freckelton, 2015).

In addition to victims and criminals, mental health professionals should play a key role in determining what constitutes therapeutic value based on their knowledge and expertise in the area of mental health where researching, assessing and ameliorating mental illness is concerned. Also, it is vital that clinicians engaging in the legal system grasp a core comprehension of how legal matters have a lasting impact on all parties involved. Psychologists who take part in psycholegal endeavors must understand that it is important to not solely have knowledge of mental health facets, but also have a foundational awareness of legal elements based on the population they are serving being embedded in the legal system.

### **Implications for Social Change**

This study contributes to social change by expanding comprehension of professionals who work in the courtroom as there is movement toward understanding the value of the psychosocial components in the legal and criminal justice system. During the criminal trial process, psychosocial components may play an integral part in executing adequate legal and mental health services to the defendant, and also plays a part in establishing the level of the victim's satisfaction and approval. More so, this research study sheds light on how courtroom psychology considerations influence



inquests, judicial analysis, and judicial decisions which has an impact on victims and offenders, and unavoidably causes an impact on the social order of their communities and various institutions (corrections, academia, local government, and so on) they reside and take part in. Therefore, this research provides an understanding of consequential social order constructs which have an underlying role in social change compositions.

Social change encompasses the transformation of social forces in societies. Justice for victims and re-offending factors have a significant impact on the social progress of communities which thereby influence social disorder and social order by way of considering public safety matters, crime control, crimes against public order, and victim's and community member's level of satisfaction with regard to justice being received. Hence, the vital need for healing agents to be felt among victims and offenders, because anti-remedial outcomes such as ineffective rehabilitative treatment programs or dissatisfaction with justice for victims can result in reoffending and disorder within society which puts communities at risk. Psycholegal professionals and policy-makers can decrease the chance of crime rates and injustices felt by community members by applying TJ ideologies to their practice and decision-making models.

### **Summary of Chapter One**

Forensic psychology is an applied branch of clinical psychology that focuses on mental health considerations and applications relevant to legal issues and criminal justice matters. The integration of these practices is known today as "law and psychology." The

benefits of these merged fields encompass professionals having a better comprehension of the social and behavioral science components of criminals, victims, and society at large. In return, professionals are more equipped to better assess the risks of offenders while aiming to contribute due process for victims, and provide adequate training to psycholegal personnel (law enforcement, court officials, and clinicians). Relying on an interdisciplinary approach to justice initiated the process of psychological evidence being presented in a court of law (Park, 2011), which thereby influenced subsequent researchers to introduce TJ in an attempt to identify healing and anti-remedial factors of the law. Thus, the following chapter will highlight an in-depth analysis of the history, tenets, and value of the theory of TJ; in addition to providing an overview of courtroom psychology literature.

## Chapter 2: Literature Review

### **Introduction: Research Strategy**

I used various sources to adequately conduct this literature review. I located literature for this research utilizing the Academic Search Premier database with broad search terms: “*mental health court*”; “*forensic*”; “*criminal law*”; and “*legal psychology*”. Some of the journal articles I utilized were originally used for a master’s thesis entitled “The Transformation of a Victim Into an Offender” (Wilson, 2011). To expand the research to better meet the needs of the topic and current data, I used other databases such as ProQuest Criminal Justice, LegalTrac, PsycINFO, EBSCO, and PsycARTICLES with limiters: “*psycholegal*”; “*criminology*”; “*victimology*”; “*forensic psychology*”; “*court cases*”; and “*psychopathology*”. Upon completing this task, the findings of a TJ and mental health court study (Redlich & Woojae, 2014) was discovered which led to inquiring into how TJ can be applied to criminal court case proceedings. A shortage of information was found about the linkage of TJ with criminal law cases, and its ties to victim advocacy and offender satisfaction with the justice process. However, the limited amount of research in this area signals the call for additional studies to unfold.

### **Historical Research**

I considered publications covering the preceding 7 years (2011-2018) were considered in this literature review; and materials dating earlier than 2009 were also

utilized for the benefit of historical coverage and historic understanding. A review of historical content will provide a foundational understanding of the beginning stages of the forensic psychology field, and the progress that forensic psychology sub-specialties (legal psychology and courtroom psychology) have made. In order to effectively grasp the topics in this study it will be valuable to provide a full background of accounts leading up to the current stages of courtroom psychology. The agenda of this review is to provide a background on the development of therapeutic jurisprudence (TJ), while also providing foundational information on psychology applications used during criminal litigation in order to understand its purpose.

### **Organization of the Review**

The literature review commences with a historical overview of the clinically-oriented field of forensic psychology, and the purpose behind mental health evidence and legal practices integrating to form what is known as courtroom psychology. Next, historical jurisprudence and the practice of courtroom psychology will be analyzed, in addition to the benefits and challenges associated with utilizing psychology method applications in a court of law. The review will follow with a discussion on the theory of TJ pertaining to the healing and anti-healing forces experienced by victims and offenders who were involved in legal procedures during criminal trials. Lastly, an overview of the TJ theory and related theories will also be discussed in order to provide an understanding of how legal standards can be applied as remedial agents to ensure procedural justice and

influence social change, encourage social justice, and positively impact crime prevention strategies and social policies.

## **Forensic Psychology in the Courtroom**

### **Origins of Courtroom Psychology**

Forensic psychology is a clinically-based profession within the mental health and criminal justice fields with sub-specialties such as legal psychology, courtroom psychology, police psychology, correctional psychology, and criminal psychology. The term *forensic* means “forum” in which trials took place during Roman times (Goldstein and Weiner, 2003), and the term relates to the investigation of a crime and/or the solving of a crime through scientific knowledge or methods in court or through some form of the legal system. The forensic psychology discipline intersects the legal system, mental health field, and criminal justice system in an attempt to consider and research various legal factors, provide efficient public services, deliver more effective rehabilitation amenities, encourage crime control, and offer other adequate services to communities, victims, and offenders. According to King (2016), psychologists work with attorneys and for the judicial system by providing services to the court by working as trial and litigation consultants, clinicians, and expert witnesses through testimony presented on relevant case topics. Miller (2015) and King (2016) further state that mental health professionals who work within the court do so by providing evaluations and reports on

the assessment of offender risk, malingering, the defendant's competency level, and emotional suffering a victim has endured. It is also necessary to state that the testimony a psychologist provides in court may be presented both individually or in conjunction with other mental health professionals according to Hollin (2013).

The first noted case using courtroom psychology took place in 1896, when psychologist Albert von Schrenck-Notzing testified at a murder trial about the ramifications that suggestibility has on witness testimony and based on that action psychological factors were taken up for consideration during subsequent criminal, civil, and family court trials (Miller, 2015; and King, 2016; Wilson, 2014). As a result, psychological considerations during judicial proceedings have better assisted court professionals with determining sentencing outcomes, evaluating a defendant's state of mind (during and after a commission of a crime), and allowing mental health practitioners to act as expert witnesses for topics such as false confessions, witness memory, profiling, and a defendant's or plaintiff's history. In 1908, psychologist Hugo Munsterberg became known in the psycholegal field for recommending that mental health professionals be placed on the witness stand to provide expert testimony on matters relating to forensic psychology (Miller, 2015; Krauss and Lieberman, 2012; King, 2016); and this proposition helped open the door for psychology applications to be used in a legal context (Goldstein, 2007; Goldstein and Weiner, 2003). As a result, in 1923, court case *Frye v. United States*, became the leading cause in the effort to create standards for the practice of expert witness testimony in court. Presently, the American Board of Professional Psychology (ABPP) recognizes forensic psychology as a

specialized field in psychology, and the Board defines the specialty as the application of science to the legal field in regard to questions and concerns that pertain to the mental health and law professions (American Board of Forensic Psychology, 2016; and Goldstein and Weiner, 2003). In a later Supreme Court case, *Daubert v. Merrell Dow Pharmaceuticals, Inc.* (1993), it was declared that expert testimony could be admitted into evidence within federal courts. This was a fundamental ruling as it succeeded the previous expert testimony standard (Frye standard) that resulted from the *Frye v. United States* case, and as a result of that overturning guideline the Daubert standard was then introduced (Giannelli, 2011; Krauss and Lieberman, 2012). Expert testimony relating to psychology was the foundational breakthrough in establishing the courtroom psychology subspecialty; and thereafter, other forms of forensic psychology applications were introduced into the judicial field such as the evaluation of competency in criminal defendants (Lawrence, 2018; King, 2016; Moriarty, 2013).

Competency to stand trial is a legal concept utilized to assess a criminal defendant's level of competency prior to trial proceedings (Moriarty, 2013). In 1960, court case, *Dusky v. United States*, established the standard of determining that a defendant must understand the trial process through the constitutional means of having a competency evaluation administered prior to going to trial (Moriarty, 2013; and Goldstein and Weiner, 2003). In addition, the issue of trial competency was also raised in the 1993, United States Supreme Court Case *Godinez v. Moran*, in which the *Dusky* standard was reviewed while making the decisions throughout the case. Similarly, in 1966, a Supreme Court case (*Pate v Robinson*) recognized that due process under the

fourteenth amendment gives individuals the constitutional right to have a competency hearing (Moriarty, 2013). Additionally, in 1975, another Supreme Court case (*Drope v. Missouri*) established that a court must weigh any and all evidence relating to mental illness factors when deciding to grant the motion to have a defendant's competence evaluated (Krauss and Lieberman, 2012). These previous court cases set the precedent to have mental health clinicians engage in legal matters through the form of psychological methods in order to present a standard of care and procedural fairness to those who come in contact with the law.

### **The Purpose and Practice of Courtroom Psychology**

Courtroom psychology is a subfield of forensic psychology, and encompasses the integrating of mental health evidence and practices with court proceedings. The intent behind this practice was due to professionals within the criminal justice and social science fields discovering the parallel between criminality and victimization. The realization behind the correlation of victims and offenders encouraged these systems to merge and identify such issues as *psycholegal* matters (Wilson, 2011). Overall, this discovery was prompted due to professionals accepting the importance of acknowledging that untreated mental health issues can sometimes influence maladaptive coping skills and abnormal behavior (Wilson, 2011) and; thus, must be extensively researched and recognized in therapy and during criminal procedures.



Psycholegal practices include, but are not limited to, providing expert witness testimony from a clinician on behalf of a criminal defendant or plaintiff, having a psychologist conduct a clinical forensic assessment on a defendant to determine and testify to his/her state of mind, and having a defense attorney present a criminal profile on behalf of his/her client. On behalf of the accused, psychologists utilize the concepts of criminal psychology and forensic neuropsychology in the courtroom to better explain the defendant's behavior and mindset (intentions, psychological disturbance, intellectual functioning) in order to provide the jury or judge with an overall reasoning for the defendant's alleged criminality. For instance, the acting court psychologist can provide testimony on the psychological aspects of crime causation by first evaluating a defendant to determine if a psychiatric disorder is present, and if so, for how long it has been present. The purpose of this evaluation is to determine the root causes of the crime(s) that the defendant is being accused of. This type of discovery would assist legal professionals with their cases based on knowing whether or not the defendant had a mental disorder before or during the commission of the alleged crime that was committed, while providing information on the characteristics of the alleged offender.

There are various factors that the court Judge or lawyers may ask a clinician to consider and evaluate during the course of a criminal trial. One factor is whether the client understands or accepts responsibility for the crime that occurred. In addition, the clinician could also apply criminal and court psychology techniques by psychologically assessing if the criminal defendant is a danger to him/herself or a danger to society (Ruiter and Boyd, 2015; Brown & Singh, 2014), which is why it is also important for

clinicians to assess for re-offending risks. Other ways courtroom psychology can take place is through voir dire, in which psychologists can serve as consultants for attorneys during jury selection proceedings. Subsequently, courtroom psychology takes place during different stages of the trial process, such as the direct examination stage and during cross examination testimony. These two stages of the trial occur when the prosecuting attorney(s) or defense attorney(s) question an individual called to the witness stand to provide testimony. For example, psychologists can be asked by attorneys to provide expert testimony in an effort to educate juries and the judiciaries on certain topics, and through the means of presenting different forms of clinical evidence (psychological profiles of crime scene photographs, mental health reports, victim impact statements, psychometric tests, case records and so on).

The intentions behind courtroom psychology is to provide criminal due process and establish procedural justice through the means of connecting two fields – psychology and law – for the perfecting of verdicts, sentencing considerations, rehabilitation efforts, community safety, and victim advocacy. This interaction of psychology and law gives way for professionals to engage in TJ which in turn provides defendants, offenders, and victims with an opportunity to experience the healing agents that the law can provide (King, 2016; Goldstein, 2007; Goldstein and Weiner, 2003). Goldstein (2007) shed light on how TJ's role in courtroom psychology encourages psychological well-being for those who come in contact with the law.

The clinical role of psychologists has become more effective and needed in the determination of legal decisions, and as a result the judicial system has recognized the

essential benefits in allowing social and behavioral science evidence to enter the courtroom (Krauss and Lieberman, 2012; Klein and Mitchell, 2010). Due to the complexity of litigation issues and psychological evidence that must be considered, trial attorneys are relying more heavily on the psycholegal partnership in order to win cases while judges are depending on psychological expertise to better adjudicate criminal cases and make judicial decisions (Lawrence, 2018; and Klein and Mitchell, 2010).

### **Benefits and Challenges of Courtroom Psychology**

Taking into consideration only one component of an offender's personality, needs, or etiology of the crime(s) he/she has committed limits the amount of evidence that should be weighed in court resulting in unfair and incorrect verdicts and sentences (Wilson, 2011; Wilson, 2014; Jeffries and Bond, 2013); and also, increases the likelihood for inadequate treatment and assessment services being delivered. Exclusively considering one facet of a crime victim's experience, trauma, and future dilemmas caused by an offender's actions also results in inefficient court evidence being presented and analyzed, in addition to the injustice the victim may experience as a result (Wilson, 2011; Cassell & Erez, 2011; Valickas, 2012; Peterson, 2013). Providentially, the practice of courtroom psychology offers the intersection of crime, psychology, and law to all transpire simultaneously in an effort to decrease and/or eliminate the likelihood of various factors being ignored or overlooked.

Courtroom psychology leads to behavioral science evidence being weighed during court proceedings allowing for the victim and offender's mental state to be analyzed and reviewed prior to judicial decision-making (Klein and Mitchell, 2010). However, if only physical evidence was presented and examined in a court of law followed by a verdict and sentencing then procedural justice has not been exercised. This can result in inadequate offender treatment services being delivered, and victims and the community not feeling as though justice has been served (Lipsey, 2009). This type of misstep can result in high recidivism rates and secondary revictimization for the victim. For this reason, many years ago, during trials mental health applications were introduced as evidence in an effort to appease procedural justice and TJ. Similarly, it is also for this reason that psychologists are asked by the court to assess if rehabilitation treatment is needed in order to decrease the chance of criminal defendant reoffending.

Researchers have argued that integrating psychology into the courtroom encourages a client's right to due process (Wexler, 2014; Wexler, 2013; Wallace and Roberson, 2011) resulting in fair treatment and services being administered for the betterment of justice, rehabilitation, and social change outcomes. Additional benefits of courtroom psychology deals with victims of crime. Some violent crime victims have stated that they felt empowered after the jury or judge was able to hear psychologically-based testimony or see evidence about the crime(s) committed against them, because it asserted the fact that a wrongdoing was done against them (Ruddy, 2014; and Valickas, Voropaj, & Justickis, 2012; Wallace and Roberson 2011). However, the drawback to this is that social science researchers believe that such evidence re-victimizes and re-

traumatizes the victim (Valickas, Voropaj, & Justickis, 2012; Wallace and Roberson 2011; Joffe, 2009). On the contrary, Wexler (2013) and Goldstein and Weiner (2003) emphasize the notion that through the practice of TJ the harmful effects of re-hearing the details of a crime can be minimized if the acting attorney on the case and/or the victim advocate prepares the victim for what is going to take place during trial. Goldstein and Weiner (2003) follow-up with this idea by stating that this type of trial process preparation can be completed through trial advocacy exercises such as role-playing techniques or mock trials. Moreover, court-appointed advocates and clinicians can also participate in victim support services by monitoring the victim's emotional state throughout the trial and after.

With the many benefits courtroom psychology applications present there are also some disadvantages as it pertains to the uncertainty such procedures have had on the satisfaction of due process in the opinions of community members and victims. Justice gratification among offenders in reference to how their psychiatric history is depicted in court and the accuracy of forensic mental health services they receive is also insufficiently undetermined (Pietz & Mattson, 2015; Hollin, 2013), especially considering the lack of qualitative research in this area. Such deficient information makes it complicated to provide efficient victim and offender services, and employ valuable psycholegal evidence and methods (Stolzenberg & Lyon, 2014) during trial proceedings and in other contexts. For instance, there is a gap in the literature concerning the role behavioral science evidence has played on offenders with comorbid disorders and previous victimization (Wygant & Lareau, 2015; Hollin, 2013), due to the fact that there

is limited empirical evidence on the benefits of utilizing courtroom psychology methods during criminal trials (Redlich, 2012). Moreover, additional data lacking in the literature pertains to the actors engaged in criminal litigation regarding point of views on their duties and experiences, and opinions of the future role courtroom psychology will play in trial processes (specifically criminal cases). In fact, Krauss and Lieberman (2012) state that there is an increasing concern over “junk science” being presented in courtrooms resulting in a negative impact being left on judge/jury member decisions which can impact the role that psychology methods and considerations have in future legal proceedings.

Krauss and Lieberman (2012) acknowledge that deliberations can be negatively impacted by junk science; however, Brodsky (2013) and Skeem, Douglas, and Lilienfeld (2009) have determined that the issue of junk science can be eliminated by ensuring that testimony presented by clinicians are scientifically-proven. As a consequence, evidence-based testimony can assist in causing no harm to the court proceedings or the parties involved with those proceedings. Nevertheless, Krauss and Lieberman (2012) still raise the issue that a lack of scientific and psychiatric knowledge being admissible and presented in the courtroom has damaging effects for the defendant(s) and plaintiff(s). However, it is suggested by Skeem, Douglas, and Lilienfeld (2009) and Groscup and Penrod (2003) that if both legal and psychology professionals ensure that expert testimony is founded on methods and philosophies that is conventional and recognized in the psycholegal or mental health fields then that testimony is more likely to produce valid results. Criticism involving lack of evidence-based opinions within expert testimony is

valid (Brodsky 2013). Therefore, requiring an expert witness to testify in regard to what is deemed scientifically and legally admissible in order to exclude pseudoscience testimony is warranted (Lawrence, 2018; King, 2016; Krauss and Lieberman, 2012; Skeem et al., 2009; Groscup and Penrod, 2003).

Courtroom psychology can be better applied therapeutically by understanding the importance of remedial outcomes. Gaining a comprehension of how clinicians and attorneys perceive their clients' contentment is beneficial to the well-being of victims and the rights of offenders. Understanding these professional's gratification with one another regarding the utilization of courtroom psychology tools is also vital as the dynamics of a psycholegal relationship plays a critical role in every trial. The legal system and psychology field's partnership leaves a lasting imprint on the victims and offenders (Gromet et al., 2012) who encounter and engage in the psycholegal field, and because of that interaction it is important to better envision elements pertaining to victim and defendant roles, services and justice factors.

### **Victim Advocacy and Offender Rehabilitation**

In order to discern the importance of courtroom psychology's role on victims and offenders one must first understand the goals of the legal system. The core goal of the field is to deliver due process/fairness (May, 2011) with a means to deliver justice to victims, offenders, and society. Justice is defined as "just behavior or treatment" (Brown & Singh, 2014; Wenzel, 2009), and in order for justice to be better served and effective

for victims, offenders, and communities the fields of law and psychology must intertwine in order to present and consider mental health factors as opposed to only considering legal factors or physical evidence. In doing so, the concept of procedural justice can be applied opening the door for effective therapeutic jurisprudence to ensue.

As previously mentioned, mental health practitioners can serve as psychological examiners or expert witnesses in criminal cases in order to enhance an individual's right to due process. This task can be accomplished through testifying about behavioral science concepts relating to a defendant's or victim's mindset, injuries, level of risk or trauma, and other biological, social, cognitive, medical, or developmental psychological topics and concerns (Hagan, 2017; Ruiter & Boyd, 2015; Cutler & Kovera, 2011). For example, a psychologist can perform a forensic assessment on a criminal defendant in order to assess his/her personality traits, evaluate cognitive abilities, determine the client's level of criminal responsibility, and/or determine if a psychiatric disorder is present. Through these findings, the clinician can develop a psychological profile of the accused. Then, based on the test results, the clinician can present the psychological test's findings to the court by testifying about the mental state of the suspected criminal; and providing the court with the notion of whether there is criminal liability dependent on mens rea (guilty mind) and actus reus (guilty act) which could render the accused guilty or not guilty (Hagan, 2017; Wygant & Lareau, 2015; Pietz & Mattson, 2015; Ruiter & Boyd, 2015; Jackson & Roesch, 2015; Moriarty, 2013; Drogin et al., 2011). The reasoning for these types of courtroom psychology methods is dependent upon the need for positive, accurate outcomes (verdicts, sentencing, and treatment services) to be a



consequence so that the likelihood of reoffending is improbable. For that reason, justice and rehabilitation matters should be one of the core focuses of courtroom psychology procedures in order to better meet the healing tenets introduced in the theory of therapeutic jurisprudence.

Rehabilitation services are taken into consideration during trials due to instances where criminal defendants may be found legally insane, and because of that mental defect they cannot be found guilty of a crime as outlined in the M’Naghten Rules which came to pass after the 1843 acquittal of Daniel M’Naghten who was initially charged with murder (Penney, 2012). The M’Naghten Rule falls under the umbrella of the TJ theory because its focus is therapeutic in nature as it pertains to classifying and emphasizing the remedial and anti-healing impact it would have on charging an individual not of sound mind (Penney, 2012).

The M’Naghten Rule seeks to identify if a criminally-charged individual is aware of the crime they alleged committed, and whether they knew the alleged offense was right or wrong (Penney, 2012). However, this Rule comes with criticism as some legalists and members of society believe that defendants are escaping punishment for the crime(s) they have committed (Pietz & Mattson, 2015; Penney, 2012). Other critics insist that some forms of mental illness are temporary as opposed to permanent; therefore, there should be only minor distinctions made and/or services given when dealing with criminal defendants who are found to be legally insane and those who are not legally insane (Penney, 2012). This issue sheds light on the concept of procedural justice and the

importance of including mental health clinicians in legal decisions due to the need for procedural outcomes to be constitutionally fair and therapeutic. Overall, despite some objections from critics it is vital to take into consideration the mental health needs of defendant's due to the vast number of individuals with psychiatric symptoms who find themselves within the justice and correctional systems. In fact, Husman (2013) stated that the Federal Bureau of Investigation reported that 13.7 million arrests were made in the United States of America during 2009; and that 13% of those individuals experienced serious mental illness symptoms upon being admitted to jail which justifies the importance of psycholegal and services being readily available for defendants throughout trial proceedings.

An additional core focus of courtroom psychology should be placed on victim advocacy needs such as trial preparation methods which allow the victim to become acquainted with the trial process prior to the court case commencing; thereby, decreasing the likelihood of the victim being overwhelmed or feeling re-victimized during the trial (Joffe, 2009; Stickels, 2008). Other forms of victim support include the assessment of the victim's desire to want to engage or not engage in the trial process. For instance, some victims feel empowered to write a victim impact statement, speak to the criminal defendant(s), and/or receive counseling services from a social services professional during the trial proceedings (Brown & Singh, 2014, Gromet et al., 2012; Stickels & Mobley, 2008). These services play a vital role in influencing the healing outcomes for victims which is the foundation of the TJ theory. In fact, Gromet et al. (2012) sheds light on how victims who engage in the trial process typically have personal and specific

justice beliefs, and the manner in which the trial proceeds and ends influences their overall satisfaction with the criminal court system.

It is imperative that legal strategies, such as courtroom psychology endeavors, be handled and delivered in a manner that does not jeopardize or harm victim advocacy needs (Gromet et al., 2012). Regardless of the judicial outcomes of a criminal trial, the procedures and attempt at reparation impacts the victim's views – positive or negative – on the legal system (Gromet et al., 2012; Stickels & Mobley, 2008) which can thereby have lasting therapeutic or anti-healing effects for the parties involved as restated in the TJ theory. Accordingly, it is essential that further inquiry into courtroom psychology's role on justice for victims commence, and additional exploration into victim models and theories take place for deeper, comprehensive understanding.

### **Victim Satisfaction Model**

The Victim Satisfaction Model of the Criminal Justice System (VSM) is a trauma-informed, evidence-supported theoretical model created for the purpose of explaining the need for the victim's interests to be a priority throughout the prosecution process. Similarly, Stickels and Mobley (2008) report that the VSM stresses the importance of ensuring that victim satisfaction occur based on that being a central value of the justice system. Stickles and Mobley (2008) also state that amidst criminal prosecutions the idea of victim satisfaction can ensue through victim participation, intervention and restorative services, and advocacy services as previously highlighted.

The aforementioned statements on courtroom psychology's impact on victims and offenders, also lends itself to the area of how juries and judiciaries take into consideration psychology applications during proceedings. To that end, there are various factors that can contribute to a jury or judge's verdict decision. For instance, considering the victim's emotional and physical injuries after a crime, and taking into consideration the offender's mental health state prior, during, and after an offense has assisted in procedural justice applications such as conducting criminal responsibility assessments, judicial sentencing decisions, and risk assessment recommendations (Ruiter & Boyd, 2015; Brown & Singh, 2014). Thus; it is critical to discern and describe the perceptions of psycholegal professionals in the area of courtroom psychology practices. In many ways, the VSM and TJ theory coordinate as it pertains to both theories taking into consideration the justice system's role in providing therapeutic causes to victims. As well, both theories highlight how the legal system's core values are embedded in ensuring that the level of satisfaction and forms of healing are felt by victims in the name of justice (Wexler, 2013; Brown & Singh, 2014).

## **Theoretical Foundation**

### **Theory of Therapeutic Jurisprudence**

Therapeutic Jurisprudence is a healing-informed, humanistic theory that relies on social science to understand the healing or anti-healing factors that one might experience

as they go through the administration of justice (Ruddy, 2014; Goldstein, 2007; Wexler, 1999). This theory proposes that the law can function as a therapeutic or non-remedial agent for victims, criminals, and societies contingent on how psycholegal procedures are presented, utilized, valued, and received. Through the lens of the TJ theory the legal system and mental health field can reinvent justice for victims and community members while concurrently improving psychocriminology and re-offending issues. For that reason, if the law can act as a healing agent then it is essential to determine and understand whether crime victims and offenders have found their courtroom experiences to be healing or not at all restorative. The study behind this discovery could highlight what needs to be altered in victim support services and criminal rehabilitation modalities. Since clinicians and justice system professionals work with these two sets of clients by playing key roles in delivering such noted services, then they can provide a precise perspective on the reactions and results of their client's experiences.

The intentions behind linking psychological concepts and evidence with courtroom trials while taking into consideration these strategies effect on victims and offenders identify with Wexler and Winick's (1996) theory of therapeutic jurisprudence (TJ). TJ was developed in 1987 by American law Professor David Wexler and American law Professor Bruce Winick (Wexler & Winick, 1996). According to Wexler and Winick (1996) this theory is the examination of the law's function as a therapeutic cause; and the tenets embedded in the theory is intended for use as a resource for judges, lawyers, and other participants engaged in legal improvements and operations.

The TJ term was initially created in an attempt to offer a more current concept on how the law produces lasting healing and anti-healing effects. Today the theory is used when considering issues pertaining to criminal law, mental disability law, family law, evidence law, human rights law, juvenile law, public interest law, and other law specialties amongst various psychology matters. These psycholegal matters can encompass mental health law elements such as the insanity defense, competency evaluations, sentencing concerns, diminished capacity assessments, and involuntary commitments of offenders and addicts (Moriarty, 2013; Christy, 2009). As a consequence, the theory has been applied to problem-solving courts such as: mental health courts, juvenile courts, drug treatment courts (DTC), community courts, and domestic violence courts (Winick, 2013; Redlich et al., 2012). Since its inception the theory has been expanded by practitioners in order to cover a vast array of matters such as the rights of crime victims, tort law, offender services, corrections law, sexual assault and domestic violence matters, personal injury claims, gang reduction interventions, and other circumstances and standards impacting the mental health and legal profession.

The TJ theory's underlying meaning focuses on the weight of therapeutic values in terms of the law's influence on psychological welfare and emotional existence (Wexler, 2009; and Wexler & Winick, 1996). TJ offers the belief that standards of law, legal methods, and professionals engaged in legal proceedings take part in a social force that can create therapeutic and anti-therapeutic results (Wexler, 1999; Wexler & Winick, 1996). Thereby, the theory recognizes that individuals are affected by the rules of law and legal outcomes; therefore, warranting the expectation that legal methods and

proceedings must be handled with care in order provide therapeutic relief as opposed to anti-therapeutic conclusions.

Handling a criminal trial case with care can encompass professionals taking into consideration behavioral science evidence such as mental health issues which at one time in history was not considered important, valid, or relevant information (Winick, 2013; Winick et al., 2010). For instance, one way such a task can be accomplished is by a lawyer or trial judge having a psychologist act as an expert witness to attest for a victim's traumatization as a result of a crime; or to testify about a defendant's previous victimization to better comprehend his/her mindset and background. As a result, the theory of TJ wants law professionals and closely-related professionals to review how justice and due process can be respectfully achieved by considering how statutes can be developed to achieve therapeutic remedies, and how legal frameworks can be applied as a remedy (Winick, 2013).

In summary, as it pertains to the use of courtroom psychology during criminal trials, I have determined that the TJ theory offers the following:

- Helps decrease the barrier between the behavioral science field and legal system.
- Assists in establishing that psychology applications facilitate mental health and legal actors in carrying out their duties during court procedures.
- Acknowledges that law professionals must consider mental health factors that impact criminals and victims for the benefit of justice results.

- Provides psychology and law professionals with the means to understand the significance that legal outcomes have on clients and society's well-being.
- Increases judicial officer's ability to comprehend how court case outcomes can negatively or positively influence the goal of fulfilling justice system intentions and maintaining the legal system's mission.
- Enhances victim support needs and offender corrective outcomes.

### **Challenges and Advantages of Therapeutic Jurisprudence**

Although the TJ theory has made constructive reforms in justice policies and practices (Quinn, 2009; Winick & Perez, 2010; Winick et al, 2010) there are propositions to the values and philosophies of the theory. According to Wexler (2013) and Wexler and Winick (1996), mental health law degree graduate and legal Professor John Pettila has criticized the theory for encouraging professionals to steer away from conventional legal patterns and transitioning to therapeutic ideals when handling cases (Pettila & de Ruiter, 2011; Wexler & Winick, 1996). On the contrary, Wexler and Winick's (1996) theory on TJ does not suggest that traditional procedures within the legal system be abandoned or modified in order to adopt a redesigned system. TJ also does not suggest that practitioners view the theory's concepts as a jurisprudence model versus therapeutic model, and instead implies that specialists consider how the law can have curative or damaging outcomes.



Petrila and de Ruiter (2011) further stated the concept of TJ is considered more so by educators as opposed to courts which in his opinion are not active in the theory's usage. However, Wexler and Winick (1996) brought up the example of a United States (U.S.) Supreme Court case *Parham v. J.R.*, 442 U.S. 584 (1979) that took into consideration the need for children to receive involuntary commitment without first having a judicial hearing, because such a process would halt the need for immediate treatment. Incidentally, that Supreme Court of the U.S. case took place prior to the introduction of the TJ theory, and Wexler and Winick (1996) shed light on how the theory's principles have indeed been utilized as a new thought approach to handling cases. Thereby, Petrila's assertion that courts have not yet engaged in new thinking practices where legal therapeutic agents are concerned is an unfounded declaration. There have been court cases that have knowingly or unknowingly utilized the foundation of TJ during trial proceedings. For instance, *Troxel v. Granville*, 530 U.S. 57 (2000) was a U.S. Supreme Court case that ruled in favor of the interest of parents where child visitation, care and custody are concerned; and placed an emphasis on parental rights situations focusing on the best interest of the child (Kierstead, 2011). During the case proceedings, the court promoted the analysis of child well-being, considered child welfare as being a collaborative effort among professionals and parents, and applied behavioral science research to the case. Such courtroom psychology practices during litigation in itself falls under the TJ theory based on the performers in the case considering the law's impact on emotional life and psychological well-being through the utilization of psycholegal methods (Shelley, 2011). Inasmuch, regardless of courts

intentionally or unintentionally using TJ as a platform for ensuring each case is reviewed employing therapeutic instruments is not the argument. Instead, the basis is that Petrila's claim that courts have yet to utilize the doctrine of TJ, prior to or after the theory's commencement, is untrue.

Although Wexler and Winick's (1996) theory of TJ describes how legal players can be professionally impacted by the principal, the theory should also be applied to mental health functions providing clinicians with an expansive view of psycholegal matters and encouraging their enhancement as professionals (Cattaneo & Goodman, 2009). Based on the literature it is evident that the justice system has attempted to use the concepts embedded in TJ (Browning et al., 2011; Winick & Perez, 2010; Cattaneo & Goodman, 2009); however, the approach should also be undertaken by psychology professionals. Granted clinicians do play a key role during criminal trials; however, it would be more beneficial if the review of TJ took place in order to positively add to social change desires for communities, victims, and offenders. Refocusing the theory to include both psychology and law professionals equally would better assist in utilizing a mental health approach to the law which is the foundation of the TJ.

The TJ theory has had researchers and professionals offer information on the benefits and drawbacks of considering the ideology's tenets. Based on the explanation of the usage and delineation of the assumptions appropriate to the application of TJ, it can be established that the theory is a relevant choice for researching the practice of courtroom psychology during criminal trials as it pertains to victim and offender therapeutic results. TJ relates to this study due to its position that therapeutic components

should be instilled into judicial proceedings in order to produce remedial effects on all parties involved.

This study's research questions inquire into how courtroom psychology impacts justice for victims, influences offender rehabilitation, and queries into how therapeutic legal foundations effect criminal litigation from the perspective of psycholegal professionals. The research questions relate to the TJ theory based on investigation into how criminal courtroom psychology cases encompass therapeutic elements. As well, the research queries challenge the theory of TJ by researching why therapeutic elements should or should not be considered or installed in aspects of criminal trials. As a result, the research questions assist in building upon the TJ theory by formally examining the role that criminal trial psychology applications have on victims and offenders from the context of social change and therapeutic values.

### **Social Change and Social Policies**

Intersecting mental health applications with criminal law proceedings allows for TJ and the concept of procedural justice to take place more effectively. During criminal trials, if courtroom psychology methods are not adequately utilized then anti-healing agents would be experienced by victims and offenders as a result (Mitchell et al., 2012; Wilson, 2011; Vieira et al., 2009). Psychologists and attorneys can combat this potential error throughout court trials by cohesively identifying psychological evidence challenges, and understanding what the best legal-therapeutic practices and judgments are for

offender rehabilitation services and victim advocacy needs. Hence, that translates to suggest that discovering the best restorative methods for clients will allow professionals to properly utilize the application of courtroom psychology which in turn enhances penology and procedural justice efforts.

The interdependent relationship between clinical practice and legal affairs address growing concerns in communities (Reeler, 2007) and amongst victims as it pertains to crime control and just punishments. Such concerns are the reasoning behind the growth of the mental health law forums (Petrila & Ruitter, 2011; Weinstein, 2010) as policy-makers are attempting to discover ways to bring crime rates down (Mitchell et al., 2012; Drake et al., 2009), and perfect mental health policies in the legislature in order to better meet the justice needs of victims, offenders, and community members.

## **Summary of Chapter Two**

The extensive role that courtroom psychology applications have on legal parties is uncertain as it pertains to fully comprehending the level of therapeutic and justice satisfaction experienced by victims, defendants, convicted felons, and professionals. Taking into consideration the accounts of lawyers and psychologists who partake in criminal trials would provide an unparalleled, uncommon view into how this specialty has met its objectives, and how it can advance in terms of the vocation's mission. Procedural fairness can be viewed as a form of justice satisfaction among victims and offenders as it is vital for the improvement in criminal rehabilitation services, victim

support, and effective working relationships with psycholegal professionals with regard to the practice of courtroom psychology during criminal trials. Consequently, the intent of this qualitative, phenomenological study is to describe the reality of the subjective, lived experiences of lawyers and psychologists who have engaged in providing behavioral science evidence or psychology applications during criminal trials.

The historical development and evolution of forensic psychology has opened doors for sub-specialties of the discipline to emerge, and courtroom psychology is one of the subfields that have been the pillar for many judicial decisions over the course of its birth. Researchers and psycholegal professionals have identified and experienced the benefits and drawbacks of courtroom psychology during criminal trials; and one of those drawbacks is the lack of qualitative research evidence and lack of data from the experiences of psycholegal players during such proceedings. Such findings are crucial as they can help identify effective victim services and criminal treatment options which in turn positively influence justice outcomes outlined in the TJ theory and victim satisfaction model. As a result, this study investigates the professional experiences and perspectives of lawyers and psychologists' in regard to courtroom psychology's role on victim justice/advocacy and court-mandated offender rehabilitation decisions. In turn, the study will shed light on the pitfalls of psycholegal procedures, and present actionable steps needed for improvement in courtroom psychology strategies and goals in order to better meet victim needs and provide complete due process to offenders. Consequently, the study will highlight how lawyers and psychologists can be better equipped in their responsibilities to the public they serve, based on these professionals learning how to

better use court psychology strategies by utilizing TJ ideas to ensure the law produces healing benefits for victims and corrective benefits for offenders.

## Chapter 3: Research Methods

### **Introduction**

The practice of court psychology was created with the aim of ensuring that all evidence be considered during criminal trials, and today that goal is utilized to assist in the attempt to augment decision-making, sentencing outcomes, correctional treatment services, reduce recidivism, and perfect clinical outcomes for victims and mentally ill offenders. Although there are numerous studies on how psycholegal applications assist with criminal procedures, there is less data on how such applications facilitate in promoting therapeutic values for legal parties and how involved professionals perceive these values. Additionally, there is non-existent evidence demonstrating how psychology applications during trials (solely criminal trials) has an impact on professionals and their clients as it pertains to working alliances, working conditions, client satisfaction levels, and social change. The present study has reviewed courtroom psychology literature by assessing the roots of the specialty, and how the legal system can be utilized to promote therapeutic, rehabilitative outcomes. Using an interpretive phenomenological analysis to this qualitative research study, I investigated and analyzed the practice's effectiveness in assisting court decisions, aiding trial tasks, and enhancing therapeutic outcomes for participants.

In this study, I propose that courtroom psychology methods can have therapeutic or anti-therapeutic results for victims and criminal defendants. Previous research into the court psychology discipline based on existing literature on criminal trial proceedings is

insufficient. Hence, the need for inquiry into this specific topic, and the need for data collection to transpire in order to discover the existence and nature of this specialty's therapeutic value.

A phenomenological approach has been selected to investigate this study's subject matter; and a quest into what, if any, form of therapeutic value transpires from court psychology methods was explored. There is an overabundant amount of quantitative studies focused on forensic psychology research, especially in terms of victims and offenders. The lack of qualitative research in this area confirms the mission of this study to assist in closing that gap. Additionally, this qualitative study was designed to probe into untapped areas of courtroom psychology research exploration. Therefore, this chapter will introduce the methodologies of this research study by first discussing the design, procedures, and tools that will be utilized for examination of the proposed topic. Also, the research questions guiding this study will be addressed, in addition to providing an explanation on the role of the researcher, ethical considerations, and selection of participants. Lastly, the data collection, data analysis, and authenticity of the study will be reviewed.

As highlighted in Chapter 1, the research questions and sub-questions guiding this study are as follows:

RQ1: What influence has courtroom psychology had on criminal trial proceedings?

SQ1: What challenges do criminal trial attorneys face when presenting mental health evidence?



SQ2: What challenges do clinical forensic psychologists face when testifying during criminal trials?

RQ2: What kind of significance has courtroom psychology had on legal parties?

SQ1: How has the use of courtroom psychology impacted justice for victims?

SQ2: How has the use of courtroom psychology influenced offender rehabilitation sentencing decisions?

### **Research Design**

For this study on courtroom psychology, I selected a qualitative methodology to provide information in descriptive form rather than in numerical form. I chose this process based on the direction of the study being founded in exploratory research resulting in the data collected not being quantifiable (Flick, 2014; Merriam & Tisdell, 2016). Therefore, quantitative or mixed methods as opposed to qualitative methods would not properly suit or aid this study as previously discussed. In addition, the focus of this research study is to interpret the individual accounts of professional, lived experiences in the courtroom; and that type of interpretation requires qualitative procedures.

In order to better understand the thoughts, attitudes, and experiences of psychologists and attorneys, I need to use an inductive scientific approach to generate meaning and understanding from the data collected. Burkholder and Spillett (2013)

affirm that this inductive process will help generate new theories that emerge from the data based on the information given from participants regarding their lived experiences and unique perspectives. The goal of inductive studies is for the researcher to analyze the described phenomena from the participant's point of view (Silverman, 2016; Burkholder et al., 2016). Investigating participants who have experienced the phenomena and examining those occurrences by way of concepts and themes that emerge in the data will allow the researcher to provide a postmodernism/constructivism philosophical foundation for the study (Burkholder & Spillett, 2013; Holmes, 2016; Merriam and Tisdell; 2016; Silverman, 2016).

A postmodernism/constructivism foundation allows for knowledge to be shared or constructed based on individual meanings and ideas (Burkholder & Spillett, 2013). Therefore, utilizing qualitative research methods will allow for deeper exploration into the perceptions of criminal trial professionals as they encounter the phenomenon. The means to explore this research phenomenon requires the nature of the study to be descriptive in order to describe the characteristics of the phenomenon being studied. More so, the value in utilizing a qualitative inquiry design is based on the naturalistic, interpretive approach that can be used when garnering an in-depth comprehension of participant's experiences and beliefs (Burkholder & Spillet, 2013; Flick, 2014; Holmes, 2013). On the contrary, a quantitative methods design would not permit such an explanatory approach (Holmes, 2013), and would not result in themes or concepts being developed from the data due to variables previously being fixed (Merriam and Tisdell, 2016).

## **Phenomenology**

I have selected phenomenology as the research approach to this study.

Phenomenology is one of the qualitative approaches to research inquiry that assists the researcher in discovering how to properly answer the research question(s). There are various qualitative approaches to collecting data, and the most universally used approaches in social science research are as follows: grounded theory, case study, ethnography, narrative, participatory action research, and phenomenology. Although each approach is different in terms of data collection and method analysis, they all share a common trend regarding assisting the researcher in classifying themes in order to draw conclusions on the data collected (Silverman, 2016; Flick, 2014; Creswell, 2013).

I chose phenomenology as this study's approach to inquiry based on its foundation allowing the researcher to understand the meaning that a phenomenon has on participants based on their lived experiences (Burkholder & Spillet, 2013). Phenomenological inquiry focuses on what someone experiences in regard to a repeated event or situation, and how they interpret that phenomenon experience. As a consequence, phenomenological studies aim to understand individual's beliefs and attitudes about a specific occurrence. Phenomenological research studies provide insight on an occurrence, or phenomenon, within groups of people. The goal of this type of research is to survey, identify, and understand the substance and significance of those experiences through individual perspectives (Flick, 2014; Creswell, 2013). In fact, the benefit of utilizing this approach is that, similar to grounded theory, phenomenology has

the most precise method techniques for analyzing data (Merriam and Tisdell, 2016; Flick, 2014). For the purpose of this study, a qualitative-phenomenology approach will be utilized in order to explain the professional, subjective experiences of lawyers and psychologists who have used courtroom psychology techniques during criminal trials. The methods of presenting courtroom scientific evidence, investigation gathering, introducing testimony, and considering sentencing determination factors are criminal trial aspects that will inevitably continue to be altered and progress dependent upon future established laws, research, and technology advancements. As the specialty of courtroom psychology continues to grow based on these facets, it is paramount that this phenomenon be further investigated. It is important to state, however, that this research study's intentions are not to generate adjustments but to pinpoint areas needing modifications or further attention from professionals. As this phenomenon evolves it would be favorable for follow-up studies to focus on creating alterations to this practice.

### **Additional Qualitative Approaches**

There are other commonly utilized qualitative approaches to research that can assist the investigator in properly collecting data and analyzing methods relevant to the study's topic and research questions. For that reason, it is necessary for the researcher to ponder the pros and cons of each approach, and select an approach suitable to their particular inquiry and study. For the advantage of this study each approach was weighed and considered with only one of them being chosen. As an example, the grounded theory

approach assists the researcher in developing a theory in an area where theory is lacking or the existing theory is inappropriate (Burkholder & Spillett, 2013). In addition, this approach requires that information be grounded in data that is derived from a chosen population's mode of operation. However, this grounded theory approach would not benefit this research study, because this study's topic area already has a developed theory that is applicable to the study.

Case study research is an empirical inquiry that seeks to examine a specific event, occurrence, or phenomenon in its natural context in order to understand the elements that impact the members of the case (Burkholder & Spillett, 2013). Although I considered this approach, I ultimately rejected it based on the approach's philosophy and methods relying on investigation within a real-life context. The purpose of this study does not necessitate a need to look into the in-action behavior within the chosen participant population (Creswell, 2013); yet instead, requires an investigation into the perceptions about the professional experiences of a phenomenon that has occurred and is occurring. As a result, I also rejected this approach to inquiry.

The ethnography research approach was also considered for this study. Burkholder and Spillett (2013) state that this specific approach to inquiry provides an in-depth analysis of a selected culture, and Creswell (2013) and Silverman (2016) assert that this approach is partially similar to a case study in the context that it requires live participant observation. However, immersing myself in the culture of the study's participants for the purpose of observing their reality from their perspective negates this study's intent to

garner data focused on the perceptions of previous experienced events in the courtroom. As a result, this approach to inquiry was also denied.

Narrative research is another qualitative strategy which seeks to analyze stories of life experiences and the meaning people make of those experiences (Burkholder & Spillett, 2013). Narrative inquiry utilizes one or two participants, and is biographical and autobiographical in nature based on life experience information being featured in chronological order for the goal of analyzing and understanding the lives of the participants (Merriam & Tisdell, 2016; Creswell, 2013). For the sake of this research a narrative study would not be adequate or constructive based on the minimal amount of participants that can be utilized, and due to information on the whole life of each participant not being mandatory to answer this study's research questions.

Participatory action research is another common qualitative research approach that allows participants being researched to act as co-researchers and work together to solve socially relevant problems (Burkholder & Spillett; 2013; Creswell, 2013). The outlook of this study could one day benefit from criminal trial lawyers and psychologists acting as co-partners in the research behind identifying problems with court psychology methods and creating solutions to those dilemmas. However, as previously stated, the rationale behind this study is not to develop alterations in criminal court psychology applications, but rather to highlight areas of the practice that could benefit from improvements based on the perception of the participants. With that being said, in the future, utilizing a participatory action research plan in order to further the progression of this study is an area of research that I will explore. Nonetheless, at this current stage a phenomenological

strategy is needed for the existing state of this research topic as opposed to a participatory action research method which would not assist the study's research inquiry or the discipline's present condition.

### **Role of the Researcher**

Researchers play the part of observers, participants, or observer-participants dependent upon the nature of the study. During this study, my role encompassed being an observer-participant. As an observer, I was responsible for evaluating, monitoring, and recognizing verbal and non-verbal cues throughout the interview process. Meanwhile, as a participant, I was in charge of conducting the interviews in a safe and ethical manner by ensuring that my line of questioning and conversation caused no harm and solely focused on the variables relevant to the study.

During a study, the role of the researcher is to be objective regardless of the chosen methods that are utilized. Hence, it is vital that one engage in identifying, acknowledging, and preventing bias prior to and during the research study (Merriam & Tisdell, 2016; Creswell, 2013). By allowing one's personal preference to interfere with the study can significantly taint the investigation; thereby, resulting in contaminated results. With that in mind, I did a personal assessment on existing or potential biases that I might have regarding the research questions and content of this study.

Prior to and during the course of this study I had a fundamental competency in the areas of justice administration and mental health based on my previous research,

education, and work experience within the social services, criminal justice, and community services fields. Therefore, based on my previous experiences, my personal bias regarding this research topic stems from the belief that criminal legal proceedings must encompass courtroom psychology methods in order for the process to result in a higher level of healing among community members and the legal parties involved. However, upon in-depth reflection I realized that based on the lack of descriptive research surrounding the area of courtroom psychology that I could not possibly ascertain an accurate or concrete opinion on the impact court psychology methods grant.

Upon completing the personal assessment on potential biases, I may have regarding this research topic, I concluded that the aforementioned belief was my only bias and I felt qualified to proceed with the study without preferences. As a result, during this study's investigation I made a conscious effort to keep in mind my former bias in order to not let it lead my study or line of interview questioning. According to Creswell (2013) and Holmes (2013) in order to manage researcher biases it is important to maintain a sense of self-awareness throughout the process of conducting a study which will result in the investigator's functions being impartial.

### **Ethical Considerations and Protection**

Prior to this study I had no personal or professional relationships with the participants. The lack of prior interaction with the selected participants diminished the likelihood of an ethical dilemma ensuing due to multiple roles or a conflict of interest not



taking place (Creswell, 2013). In part, the recruitment of participants that I had never met before was intentional for the betterment of this research study's standard of care. Finally, any aspect of the study that was conducted did not occur within my previous or current workplace environment in order to further avoid a conflict of interest.

### **Research Procedures**

There are various research tools that one must consider and utilize when conducting an investigation and this section will cover the procedures utilized in this study, such as: the selection and sampling of participants, the interview process, measures, instrumentation, and nature of the data. Specific research procedures that were utilized will be discussed, in addition to qualitative counterparts that were not used.

### **Participants of the Study**

**Criminal Law Attorneys** – Two defense attorneys from the Public Defender's office (different counties), and two prosecutors: an attorney who assists the District Attorney's office, and an Assistant United States Attorney (AUSA) with the Department of Justice (DOJ) who also serves as legal counsel to the U.S. Attorney.

**Clinical and Forensic Psychologists** – Four psychologists who provide expert testimony on victimology, neuropsychology, and/or criminality; and who also provide court

services in the form of defendant risk and psychological assessments, competency evaluations, and/or testimony on the results of those services.

Due to each research question and its sub-questions needing to be answered by two different sets of professionals (i.e., psychologists and attorneys), the participants of this study will be separated into two groups.

Group 1: Psychologists

Group 2: Attorneys

### **Sampling Strategy**

The following section will discuss the selection of participants for this study, sampling strategies, and sample size; and the deliberations and rationalizations behind the choices made in that regard.

The sampling strategy that will be used in this study is purposeful sampling; and the type of purposeful sampling technique that will be utilized is maximum variation sampling which is also known as heterogenous sampling. This strategy was selected because purposeful sampling focuses on participants who are chosen for a study based on pre-selected criteria that is founded on the research questions. Thereby, this type of sampling strategy correlates with the foundation of this study. Moreover, the purposeful sampling technique that was chosen is maximum variation sampling. This specific type of sampling method seeks to acquire a deeper understanding into a phenomenon by

looking at it from all different angles which assists the researcher in better labeling common themes that are palpable across the sample (Creswell, 2013).

### **Selection of Participants**

The participants selected for this study consisted of psycholegal professionals (attorneys and psychologists) who have engaged in criminal trial work. The participants were selected based on their educational background, work history, number of years of experience, licensure status, specializations, and interest to participate in this study. Factors pertaining to the participant's ethnicity, nationality, race, religion, age, and gender were not considered for eligibility. Recruitment of the participants took place with the assistance of a county-based, non-profit community treatment center that provided me with a contact list comprised of psychologists who specialize in clinical-forensic work. In addition, I contacted my local District Attorney's office, Public Defender's office, and U.S. Attorney's Office that provided me assistance with connecting to their agency's criminal law attorneys. Upon providing potential participants with information on the study and eligibility requirements, a follow-up email was sent with specific criteria data and information on scheduling appointment times for individual interviewing.

### **Number of Participants**

The number of participants used for this study was eight: four psychologists and four attorneys. The sample size of this study was chosen based on scope, limitations, and qualitative nature of the study.

### **Selection Criteria**

The eligibility criteria that the participants met for this study are as follows:

#### **Psychologists**

1. Hold a Doctor of Philosophy (PhD) degree or Doctor of Psychology (PsyD) degree with a major in psychology or psychology specialty (e.g. criminal psychology).
2. Be a licensed psychologist in good standing with the state Board of Psychology.
3. Must specialize in clinical psychology, forensic psychology, and/or neuropsychology with respect to having experience in legal or court psychology.
4. Have three or more years of experience with providing court psychology services in regard to criminal trials.
5. Answer in-depth interview questions wholly and honestly as part of the process.
6. Sign an informed consent form authorizing the use of interview answers in this research study.

#### **Attorneys**

1. Hold a Juris Doctor (J.D.) degree.
2. Be a licensed attorney in good standing with the American Bar Association.

3. Must specialize in criminal law as a prosecutor or defender.
4. Have three or more years of experience with trying criminal trial cases.
5. Answer in-depth interview questions wholly and honestly as part of the process.
6. Be willing to sign an informed consent document authorizing the use of interview answers in this research study.

Procedures that will be taken to ensure that the participants meet the eligibility criteria of this study encompass each individual showing proof of current licensure, employment status/history, and a signed informed consent form.

### **Sample Size and Saturation**

Data saturation is a prevailing standard in qualitative studies due to the tool being used as a means to ensure that quality, thorough data collection ensues throughout the research process. In fact, according to Malterud et al. (2016) the dominant approach for sample sizing is saturation. For instance, Malterud et al. (2016) proposes that the more information possessed by the participants in the sample size, then there is a lower number of participants that are needed for the study. Hence, the reasoning for choosing eight participants for this research study on courtroom psychology and its role on legal parties and professionals.

Malterud et al. (2016) introduced the term *information power* as a way to explain the justification and reasoning behind how and why qualitative researchers should

consider the type of power behind the amount of information they can retrieve from participants. Based on that information, if the amount of information that the participants hold is expansive, then choosing a limited number of participants is needed to achieve saturation. Thus, my purpose for choosing a sample size of eight participants which was based on the amount of first-hand knowledge they possess in the area of this research topic which was dependent upon the participant eligibility criteria I set forth in this study.

## **Data Collection**

### **Interview Protocols**

Structured interviewing, unstructured interviewing and semi-structured interviewing were three types of interview procedures considered for this study, and are considered the fundamental types of interviewing strategies utilized in qualitative research (Merriam & Tisdell, 2016; Creswell, 2013; Flick, 2014). Structured interviews are standardized and require that the interviewer presents the exact same questions (typically closed-ended) in the exact same order. Thus, this type of interview procedure was rejected due to the participants in this study needing to be asked slightly different questions dependent on which group they are in (i.e., Group 1: Psychologists, and Group 2: Attorneys). On the contrary, unstructured interviews consist of open-ended questions that are not pre-arranged. This type of non-directive interview strategy was also rejected based on this study's need to have predefined questions during the interview process. Lastly, semi-structured interviews combine the method of utilizing flexibility yet

organized interview questions and style. This type of interview procedure works best for this study due to the need for data collection to be comprised of pre-determined, open-ended questions that allow me to engage in further conversation with my participants if need be. Based on participant answers, engaging in additional conversation with them will allow me as the interviewer to explore additional themes and grasp complimentary, essential responses.

### **Instrumentation**

The particular instruments and sources that were used in the data collection process of this research study are as follows:

- 1). Researcher – I took on the role of the interviewer, facilitator, and data collector.
- 2). Interview questionnaire – Pre-developed, semi-structured questions produced by myself.
- 3). Third-party reviewer – a second individual with experience in qualitative research will be utilized to review the data collection.

These data collection instruments are sufficient in answering the research questions based on the purpose of the study. For instance, instead of a survey, observation sheet, or archived data, I found it beneficial to conduct an interview with the participants through the use of open-ended questions which prompt broad answers that can assist in better understanding the phenomenon of this study. In addition, for the benefit of this study I will utilize a third party to review my data. By having a second

person with research experience analyze my data set, I can ensure that the quality of my data analysis is pristine. Certainly, utilizing myself as a primary form of instrumentation also serves to benefit this study based on my role of generating the research questions and adequately conducting a personal assessment with regard to this research process.

Regarding instrumentation, the important factor that was considered was content validity because the measure of this study needed to meet each aspect of the research constructs.

As such, content validity was established by considering the research questions (Creswell, 2013; Brod et al., 2009) developed for this study. With that being said, the justification for developing each research question is as follows:

#### **What influence has courtroom psychology had on criminal trial proceedings?**

The motive behind forming this question was based on attempting to understand the challenges, if any, that lawyers discover when presenting mental health evidence during criminal trials. Also, the rationale in choosing this question was due to the need to understand dilemmas that psychologists encounter when stepping into a different environment, such as the legal arena, that is still adjusting to the use of psychology methods in the courtroom.

#### **What kind of significance has courtroom psychology had on legal parties?**

Due to the specialty of courtroom psychology being a constant and evolving practice, being able to understand how its application has impacted justice for victims and offenders is essential to the field's continued growth. Moreover, grasping a comprehension on how court psychology methods have influenced offender rehabilitation



sentencing decisions is also significant based on the specialty's mission, purpose, and vision.

### **Procedures for Recruitment, Participation, and Collection**

Data for this study was collected within the offices and/or board/debriefing rooms of the participant's workspace. As the primary form of instrumentation, I collected the data, and the duration of the data collection events took place over the course of one quarter (three months). Moreover, data was recorded through the means of transcribing the answers participants presented.

The exit process of this data collection process encompassed a debriefing at the end of the interview to assess what state the participants were in so that an effort of ensuring a standard of care was established. Moreover, each participant was informed of the opportunity to have a follow-up interview in the event that further research in this area is warranted.

### **Data Analysis Plan**

Coding is an analysis method that helps the researcher interpret the data that has been selected in order for classification procedures. In order to properly analyze qualitative data, it is required that one codify the collected data in order to construct themes, and then follow-up with labeling that coded information. According to Burkholder and Spillett (2013) and Creswell (2013), there are various forms of analysis techniques which include open coding, axial coding, selective coding, constant

comparative analysis, thematic analysis, and narrative analysis. Axial coding and selective coding are embedded within the grounded theory approach to research, while open coding is a fundamental analysis technique utilized within both phenomenological and grounded-theory studies that encompass classifying concepts, and describing and creating groups based on their extent and scope (Creswell, 2013; Merriam & Tisdell, 2016).

As previously mentioned, interpretive phenomenological analysis (IPA) is a data technique that was used to drive this research study. Thematic analysis was an advantageous option for the interpretive analysis of this study based on its techniques being focused on pinpointing and observing patterns, and then registering those themes across data sets (Merriam & Tisdell, 2016; Creswell, 2013; Holmes, 2013). Therefore, open coding and thematic analysis are the analysis methods that were utilized in conducting research for this qualitative-phenomenological investigation.

### **Analysis Software**

Computer Aided Qualitative Data Analysis Systems (CAQDAS) consists of software tools that are used to help manage the data in qualitative studies. NVivo and AtlasTI Ethnograph are examples of software programs that can assist researchers in organizing and coding their data. For this research study, NVivo was utilized due to the program's ability to cover significant volumes of information from extensive levels of qualitative data analysis.

## **Verification of Authenticity**

There are many factors that can assist researchers in verifying authenticity in their research. Such factors that researchers should consider are trustworthiness as it pertains to credibility, dependability, confirmability, and transferability (Burkholder and Spillett, 2013; and Creswell, 2013). In order to ensure that one's research study meets these needs there are reliability and validity strategies that one can put into practice.

### **Reliability and Validity**

In order to evaluate the reliability of the study it is best for the researcher to prolong their engagement with the data (Burkholder & Spillett, 2013) in order to get a better sense of the information that was collected while ensuring its accuracy. In addition, being persistent with the observation of the phenomenon under study (Burkholder et al., 2016; Leung, 2015) is critical in order to incorporate any new or up-to-date information into the study. Lastly, Burkholder and Spillett (2013) attest that researchers can also re-check the results of their data collection with individuals who provided the original data.

Validity takes into consideration the appropriateness of the data and instrumentation tools used to retrieve that data throughout the research process. In other words, validity attests to whether or not the developed research questions, chosen

methodology, or sampling procedures, are appropriate to the context of the study (Leung, 2015; Creswell, 2013). To confirm and establish validity, the method of triangulation was used by evaluating this study's research questions from various perspectives so that dependability among data sources was met which assists in contributing to the credibility of this research. The previous sections in this chapter cover the validity of the chosen research design, questions, and sampling strategies.

### **Ethical Procedures**

Document agreements to gain access to participants are included in this section. The documents are from the Institutional Review Board (IRB) of Walden University.

### **Ethical Protection of Participants**

For confidentiality reasons, participant names will be withheld from this study and will only be shared with the IRB and dissertation committee. Participants will be informed of their privacy from the public, and told of the need to share their information with the IRB and dissertation committee. In addition, all participants will be given an informed consent form and document explaining the research study. If at any point the participants wish to withdrawal from the study they will be granted immediate permission.

## Summary

This chapter covered this study's chosen research design and procedures, and my role as the researcher in choosing a sample size, collecting data, and analyzing that data. This section also touched on the vital need for researchers to conduct personal assessments to detect and fix biases. Moreover, this chapter touched on the importance in remaining ethical when conducting research studies in an effort to cause no harm to the participants or topic of the study.

During this chapter, it was announced that this research study utilized an open coding technique and thematic analysis in order to analyze the data that was collected for the study; and the NVivo computer software system was used in order to sort and organize that data. Lastly, in terms of trustworthiness and ethical procedures, the importance in covering reliability, validity, credibility, dependability, and confirmability were discussed in the last section of the chapter. Lastly, with respect to social change endeavors, this study has potential for transferability based on the results of this qualitative research being transferred to other contexts and settings such as civil trials, correctional facilities, and public policy administrations. Forthwith, the next chapter will cover the results of the data collected for this study.

## Chapter 4: Results

### **Introduction**

The purpose of this qualitative-phenomenological research study was to assess and understand the role that courtroom psychology practices have on victims and offenders during criminal trials, with respect to evaluating such practices through the opinions and experiences of psychologists and attorneys who work in criminal trial cases. The following research questions and sub-questions guided the study:

RQ1: What influence has courtroom psychology had on criminal trial proceedings?

SQ1: What challenges do criminal trial attorneys face when presenting mental health evidence?

SQ2: What challenges do clinical forensic psychologists face when testifying during criminal trials?

RQ2: What kind of significance has courtroom psychology had on legal parties?

SQ1: How has the use of courtroom psychology impacted justice for victims?

SQ2: How has the use of courtroom psychology influenced offender rehabilitation sentencing decisions?

In this chapter, I will discuss information relevant to the data collection setting, participant demographics, data collection procedures, analysis of the data, evidence of

trustworthiness, and results of the study. Lastly, I will conclude this chapter with a summary of the findings before transitioning to Chapter 5, in which I discuss the overall impact of this research study.

### **Setting**

All of the semi-structured interviews were privately held and took place in a one-on-one approach. During the data collection process there appeared to be no personal or organizational conditions (changes in personnel, trauma, or other related factors) that harmed or influenced participants or their experience at the time of the study that might have predisposed or jeopardized the interpretation of the study results.

### **Demographics**

Participant demographics and characteristics are relevant to a study based on saturation factors and ensuring that well-established criteria factors are met before commencing the data collection process. In addition, the data analysis that I conducted helped me determine whether saturation was reached, and I was able to conclude that it was. Thus, this determination confirmed that further data collection would not be warranted; and thereby, established that the data collected by the eight research participants was sufficient.

For this study, eight participants were randomly recruited through the assistance of a mental health treatment center. The agency signed a community research partner agreement document and data set agreement which allowed for the utilization of their professional contact lists in order to begin the recruitment of potential participants. All of the participants live in the state of California. The average (mean) years of professional experience among the participants was 23 (see Table 1). Four participants were male and four participants were female. Four of the participants were currently practicing licensed psychologists, and the other four participants were currently practicing licensed attorneys. The psychologist participants specialized in clinical psychology, neuropsychology, and/or forensic psychology (including general forensic psychology, criminal psychology, correctional psychology, legal psychology, court psychology, and/or victimology), and marriage and family therapy. Two of the attorney participants specialized in criminal defense, and the other two attorney participants specialized in criminal prosecution and/or victim assistance services.

All of the psychology participants had experience providing expert witness testimony during criminal trials, and court-mandated pre-trial psychological evaluations. All of the legal participants had experience presenting criminal law cases during jury trials and/or bench trials. All of the participants had more than three years of professional experience providing legal or psychological services to Superior Courts during criminal trials. In addition, all of the participants currently provided and/or had experience providing services at the county-level and/or state/federal-level. The participants were all given a consent form and were made aware of their rights as participants for this study



prior to the data collection process. The consent form covered information pertaining to the procedures of the study, nature of the study, risks and benefits of being in the study, privacy information, and additional data such as contact information that can be utilized in the event that participants have concerns or questions before or after participating in the study.

Table 1  
*Participant Demographics Chart*

Participant	Sex	Education	Title	Specialization	Exp.
P1	M	PhD	Licensed psychologist	Clinical & Forensic psychology	41
P2	M	PhD, MFT	Licensed psychologist / LMFT	Clinical & forensic neuropsychology	32
P3	F	PsyD, QME, ABPP	Licensed psychologist / medical evaluator	Neuropsychology	13
P4	F	PhD, CADC-I	Licensed psychologist / senior counselor	Victimology and addictions	18
A1	M	JD	Licensed attorney / Legal director	Criminal law and Family law	15
A2	M	JD	Public defender	Criminal defense	21
A3	F	JD	Public defender	Criminal defense	18
A4	F	JD	Federal Prosecutor (AUSA), <i>Deputy District Attorney</i>	Criminal Prosecution	24

*Note:* Education – PhD: Doctor of Philosophy degree, PsyD: Doctor of Psychology degree, JD: Juris Doctor degree, MFT: Marriage and Family Therapist, ABPP: American Board of Professional Psychology, QME: Qualified Medical Evaluator, CADC: Certified Alcohol Drug Counselor,  
Title – AUSA: Assistant United States Attorney  
Exp. – Years of Experience/Practice  
Italicized words – previous job title

## Data Collection

Walden University's Institutional Review Board (IRB) approved my data collection research procedures and confirmed this authorization by granting me IRB approval number: 11-15-17-0320885. To ensure I conducted this research study ethically and with well-rounded knowledge, I obtained a certificate in "Protecting Human Research Participants" from the National Institutes of Health (see Appendix A) which provided me vital information on the importance of ethical treatment of participants. Subsequently, prior to the commencement of data collection, the randomly recruited participants went through a 15-minute screening process to determine whether they met the qualifications of this study. The screening provided an opportunity for me to present details about the study, and establish an initial rapport with the intended participants. Upon determining that the professionals met research criteria and were eligible to participate in this study, I scheduled a date and time for the interview to take place.

Data was collected encompassed through semi-structured interviews consisting of open-ended questions with eight participants who provided legal and/or psychological services during criminal trials. This chosen data collection method provided the participants an opportunity to express their views in their own terms, which allowed for me to obtain sufficient detail to be generated for analysis. Furthermore, the use of an open-ended, semi-structured interview encouraged the participants to give in-depth details about their lived, professional experiences which provided detailed insight into their interpretations of the role court psychology has had on victims and offenders.

Participants were interviewed in their business offices which provided them with convenience and an opportunity to be comfortable during the interview process. The participants were interviewed one time, and the average interview was one hour in length with the shortest interview lasting forty-five minutes. The data was recorded by transcription, and there were not variations in data collection from the plan that was presented in Chapter 3.

In an effort to build rapport and create a relaxed environment, I began each interview by expressing my appreciation to the participants for taking the time to participate in the study. I then provided an explanation about myself as a student, researcher, and professional, and explained the purpose and intentions of the study. I then proceeded to give details about their role as participants by informing them about consent, confidentiality, and their voluntary participation. Each participant was given as much time as they needed to review the consent form before signing, and after retrieving the consent documents I followed with the commencement of the interview process.

**Interviews.** Each participant was asked fourteen open-ended interview questions (see Appendix B and Appendix C), and when some responses needed further explanation there were additional questions that were asked for clarification. All of the interview responses were transcribed by me in the midst of the data collection process, and during each interview I repeated the answers to participants for validity purposes. During the research interviews I wrote field notes in each interview guide, and overall observations and perceptions were extracted from those notes and written in a Microsoft Word document (on a password protected drive) for later data analysis. Also, during the

interviewing process, I would repeat responses given to me to ensure the validity of the participant's statements. If my repeated response was accurate, I proceeded to the next question; and if a participant felt that a repeated response required additional clarification then the participant was free to provide additional and/or corrected information to ensure accuracy of the questionnaire answers. Throughout the course of data collecting I maintained ethical considerations by reminding the participants that their participation is voluntary as they were not obligated to engage in or remain in the study. None of the participants appeared to have difficulty answering the research interview questions; however, some participants were understandably selective and cautious about what they disclosed based on legal professional privilege and ethical standards surrounding their current and past client cases.

### **Data Analysis**

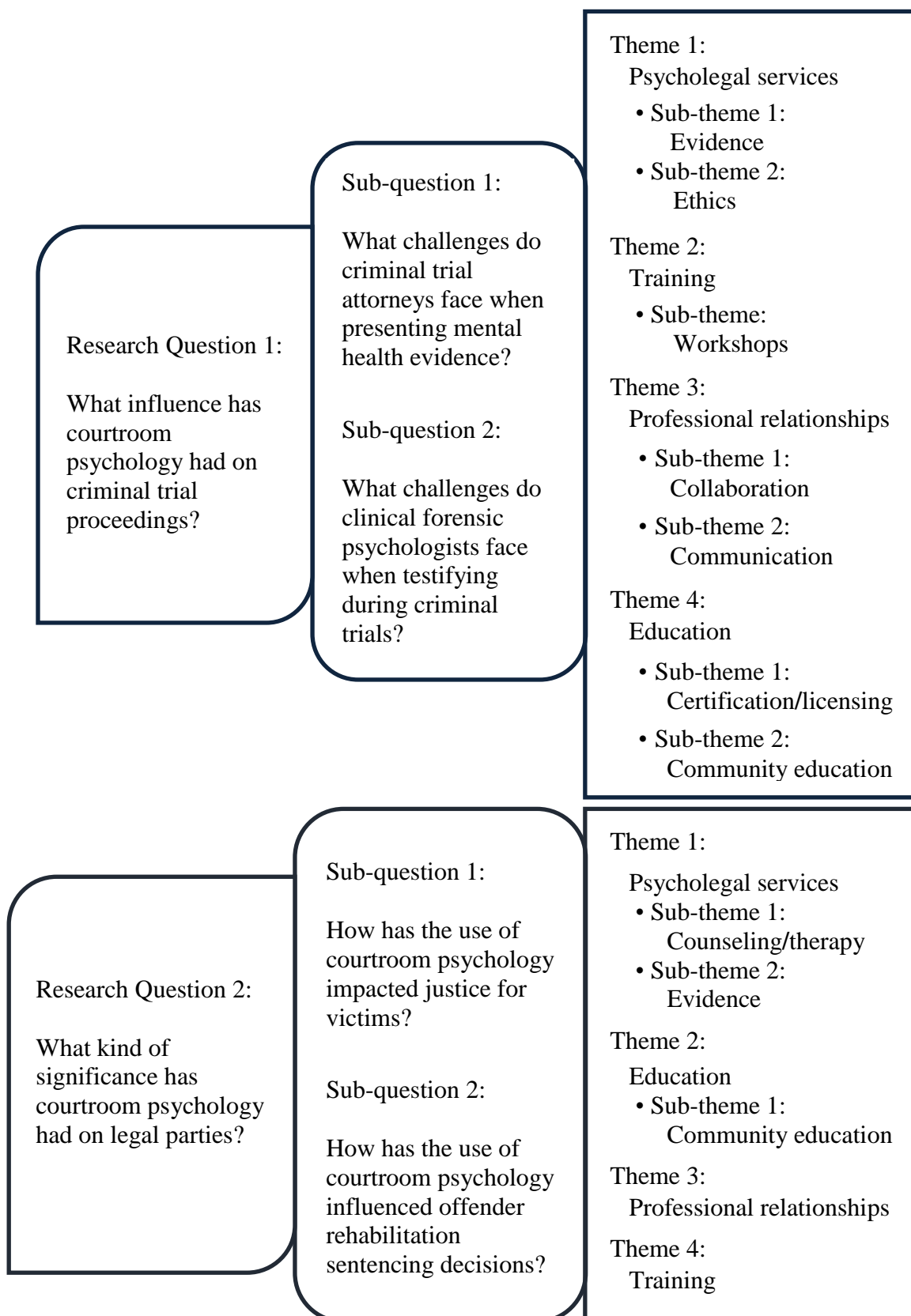
This research study used a qualitative methodological approach guided by an interpretive phenomenological analysis (IPA) technique which consisted of me transcribing each interview and systematically reviewing each interviewee's response in order to analyze each participant's professional experience. This method encompassed me examining responses of *what* took place during the participants lived professional experiences, and *how* they felt during their specified lived professional experiences. The subjective aspects of the responses allowed for inquiry into the beliefs, feelings, and desires that had shaped the professional experiences of the participants. Thereafter,

thematic analysis was utilized in order to efficiently code, further analyze, and interpret the interview data that was collected (Burkholder & Spillett, 2013; Chenail, 2011, Marshall & Rossman, 2011; Merriam & Tisdell, 2016).

**Coding.** After data collection procedures were completed, I read and analyzed the interview transcripts and formed a list of open codes. This step was able to be completed by examining the interview responses and then pinpointing text that was applicable to the formation of the open codes. Following that process, I used Nvivo 12 software to enter the collected data utilizing those pre-coded categories (nodes) that were constructed on the basis of the interview guide. This inductive approach of open coding and continuous comparison enabled the generation of core themes to emerge (Burkholder & Spillett, 2013; Chenail, 2011, Marshall & Rossman, 2011; Merriam & Tisdell, 2016), and as a result I was able to then assign those themes to categories for classification purposes.

During this coding process, extensive and recurrent sifting through the information commenced in order to discover circumstances, interrelationships, and significances of the data, and identify one or more theories. The manner of re-analyzing the data was vital when the phenomena being explored has yet to be investigated. In addition, when transcribing the data and developing the nodes I made certain to use the literal words, or close to the literal words, that were conveyed during the interviews in an attempt to not put in my interpretations of the responses.

Figure 1

*Research Questions, Sub-questions, Themes, and Sub-themes*

**Research Question 1:**

My first research question addressed what influence courtroom psychology methods have had on criminal trial proceedings, and my data analysis uncovered various themes and subthemes that address this matter.

**Psycholegal Service Issues During Criminal Trials**

**Evidence.** Some of the first topics that emerged in my data analysis were issues that attorney participants have when presenting psychological evidence, and the concerns that psychologist participants have when presenting expert witness testimony.

**Ethics.** The issue of ethical guidelines and legal standards was another topic that emerged during the analysis of the data based on the majority of the participants stating their concerns about how to remain ethical while simultaneously providing services for two merged fields that have different professional needs and policies (i.e., the psycholegal field).

**Training**

**Workshops and networking.** The participants all shed light on the need for specific, criminal trial workshops to take place in order to perfect their services through gaining hands-on training. The participants also described how their desires to network with one another more would be fulfilled through these workshop opportunities.

**Professional Relationships**

**Collaboration.** Another topic that emerged in the data analysis included two components and was mentioned by each participant: 1) a need to collaborate more,

and 2) issues that transpire when both fields of professionals (psychologists and attorneys) collaborate on criminal trial matters.

**Communication.** The issue of communication was a subtheme that emerged, with all of the participants mentioning the lack of communication between professionals within the fields of psychology and law, and the difficulty in properly communicating when discussions do take place between the two types of professionals.

### **Education**

**Certification and licensing.** This subtheme emerged during the data analysis with more than half of the participants (both psychologists and attorneys) expressing their concerns about psychologists needing to establish their expertise through certifications and/or licenses (whether it be registrations, professional board designations, state licenses, and/or the equivalent) prior to taking the stand in court and inaugurating themselves as experts in a specific topic and/or field.

**Community Education.** The topic of citizens needing to be equipped with mental health resources and education so that mental health stigmas could be eliminated was a concern expressed by both types of participants based on community members being chosen as potential jurors on criminal, mental health cases.

### **Research Question 2:**

My second research question for this study addressed what kind of significance courtroom psychology has had on legal parties. My continued analysis of the data revealed the same themes as the first research question with a new subtheme emerging; in addition to similar, repeated sub-themes from the first research question.



## **Psycholegal Services**

**Counseling and therapy issues.** The sub-topic of counseling/therapy services emerged in the data based on participants (both attorneys and psychologists) mentioning a need for their clients to receive therapeutic treatment services before and during criminal trials.

**Evidence.** The subtopic of evidence again emerged during analysis of the data founded on both types of participants expressing their frustration and unease regarding their needs not being met where technical and visual representations of evidence is concerned.

## **Education**

**Community Education.** The subtopic of community education emerged for a second time during the data analysis; however, this emergence of the theme appeared based on the second research question which focuses on the impact court psychology has on victims and offenders. Similar to the first occurrence of this subtheme, participants described their concern with society's negative perception of mental health.

## **Professional Relationships**

The professional relationships theme appeared during data analysis due to participants stating either their need for continued, developed alliances between themselves and other psycholegal professionals, and/or their need for acquiring clarity on how to enhance relationships with professionals that provide services or have a knowledge base outside of their scope of practice (i.e., psychologists wanting to align

with attorneys to provide services, and attorneys desiring to collaborate with psychologists to better understand how they can present psychological findings).

**Training:**

Participants indicated need for psychologists and attorneys to receive specialized, in-depth training experience on legal psychology and courtroom psychology operations prior to engaging in work relevant to criminal mental health cases.

**Evidence of Trustworthiness**

In research, it is vital that the researcher establish that the research findings are credible, transferable, dependable, and confirmable. These four criteria allow one to measure methodological appropriateness and the validity of the research results.

**Credibility**

Triangulation strategies can be utilized to ensure that the research findings are credible. The process of triangulation entails using various data sources in an analysis to produce an understanding of the phenomenon (Merriam & Tisdell, 2016). Triangulation was used in this study by corroborating themes described by interviewees in order to authenticate the validity of the collected data; and then reviewing data from different respondents by using identical methods of analysis.

**Transferability**

Transferability takes into account whether a study's findings are applicable to comparable populations, related phenomena, similar circumstances, or other parallel

contexts (Merriam & Tisdell, 2016). Thus, in order to obtain the perspectives of the phenomenon being investigated I only selected participants that could provide their lived perceptions of the occurrence under study in order to ensure transferability.

### **Dependability**

In order to verify that this research project's findings could be repeated, I established that the results were consistent with the data collected. For instance, I re-analyzed the data to determine that I would reach equivalent findings, interpretations, and conclusions in each analysis (Merriam and Tisdell, 2016); and this also assisted in confirming that data collected was not overlooked.

### **Confirmability**

In order to safeguard this research from being misguided, I employed strategies before, during, and after the data collection process in order to ensure that the information being analyzed was free from researcher bias. I accomplished this task by doing self-evaluations and utilizing bracketing techniques to mitigate predeterminations that could flaw the study's process. It is imperative that research findings be founded on the participant's responses and not the preconceptions of the researcher (Merriam & Tisdell, 2016). For that reason, I employed the tools aforementioned in order to not skew the participant's statements and interpretation of those statements.

## **Results**

The purpose of this research study was to determine the role that courtroom psychology practices have on victims and offenders. As a result, the primary goal of this

research was to assist criminal trial professionals (attorneys and psychologists) in constructing solutions for improving legal and mental health services for the advancement of the intersected psycholegal field, and that field's court psychology practice specialty. The results of this study highlighted professional's desire for improvement in services, training, education, and collaborative relationships. Moreover, since this is the first study to analyze the impact that court psychology methods have on criminal trial cases from the perspective of attorneys and psychologists, the results present a more comprehensive, systematic understanding of the courtroom psychology process while also producing new inquiries and a need to revisit this topic in the future. Lastly, I construed the findings of this study using its two research questions and four sub-questions as a framework.

The results of the data analysis were categorized into 4 themes: psycholegal services, training, professional relationships, and education. From those major themes emerged 8 sub-themes: evidence, ethics, workshop training, communication, collaboration, community education, certification/licensing, and counseling/therapy (see Figure 1). Supplementary, although not related to the research questions, the research findings revealed two pertinent lived professional experiences: overcrowded court calendars that result in rushed cases and networking desires to improve resource knowledge and collaboration needs. The social implications of this study encompass improved employment of criminal trial psycholegal services associated with evidence delivery, professional collaborations, an increase in education and training, and the need

for positive social change to revolutionize community awareness measures relating to mental health knowledge.

Table 2

*Court Psychology Issues from the Perspective of Psychologists*

Themes	No. of Occurrences (N=4)	Percentage (%) of Occurrences
Psycholegal Services	3	75%
Education	2	50%
Professional Relationships	4	100%
Training	2	50%

Table 3

*Court Psychology Issues from the Perspective of Attorneys*

Themes	No. of Occurrences (N=4)	Percentage (%) of Occurrences
Psycholegal services	4	100%
Education	3	75%
Professional relationships	4	100%
Training	2	50%

**Research Question 1**

What influence has courtroom psychology had on criminal trial proceedings?

**Research Sub-question 1:** What challenges do criminal trial attorneys face when presenting mental health evidence?

**Research Sub-question 2:** What challenges do clinical forensic psychologists face when testifying during criminal trials?

**Theme 1: Psycholegal Services.** All eight of the research participants in this study shared their concerns and frustrations regarding the delivery of courtroom psychology services and applications. Four out of eight of the participants shed light on the need for a psychologist to be involved in every criminal trial; and two legal participants and two mental health participants expressed frustration over their claim of “the majority of criminal cases adjudicated in the United States not including a psychologist.” One of the participants that contributed in conveying that information further stated that psychologists taking part in criminal trial proceedings “should be a judicial requirement in order to provide accurate findings and justice sentences;” and one of the legal participants who shared this sentiment also stated that both the legal and mental health fields need to “discover better ways to efficiently use psychologists in the judicial system.”

Two of the psychologists communicated their concerns about judges and the legal system becoming “too lenient in delivering sentences to defendants who have been found guilty of crimes.” One participant indicated that “it is good that courts are now weighing mental health evidence and factoring that information into their decision making; however, it appears as though dangerous criminals not deemed severely mentally ill are given lenient sentences... and it seems as though the risk factors of offenders are not

taken into heavy consideration like they use to which can have a negative ripple effect impact on society.”

Although a few of the participants shed light on psycholegal service factors (pertaining to the need for criminal trial psychologists, packed court calendars, and court leniency), the factors of evidence and ethics were the only two factors (sub-themes) that all eight participants shared mutual concern and frustration over.

**Sub-theme 1: Evidence.** 7 out of 8 of the research participants (see Table 2 and Table 3) shared that their main cause of stress and concern was presenting mental health evidence in the form of psychological assessments, expert witness testimony, and other related psychological findings and topics. For instance, Participant P2 stated the following:

It can be challenging attempting to make things understandable for the jury so that they better understand the weight and significance of what I am saying, so I try verbalizing my statements in laymen terms as opposed to using jargon which can be difficult because sometimes I am now aware of when I am using jargon or I am not fully aware at the time what constitutes jargon.

Other psychologist participants shared P2’s sentiments, while the attorney participants expressed their concern with finding difficulty in trying to understand and present a subject area that they do not have expertise or formal education in. For example, Participant A3 stated:

The hard part is trying to get myself educated enough so that I can properly cross-examine and present evidence, because I have to learn a whole new subject area. For

instance, learning about various psychological concepts and issues such as juvenile brain development, psychological aspects of crime, and so on... it is just constant learning throughout the trial I am working on... not to mention the constant learning before and after the trial... the learning is nonstop.

Participant P4 also shared Participant A3's thoughts by claiming the following:

It can be challenging when providing social and behavioral science material to attorneys and other legal professionals because I do not want to confuse them. It can be overwhelming for attorneys to present psychological evidence and information to juries and Judges when they have never practiced or studied psychology, especially since the psychology discipline is a forever changing, complex major to learn. One way to fix this issue is to do role-playing exercises so that professionals can be more versed in presenting testimony and evidence.

**Sub-theme 2: Ethics.** 88% of the research participants (see Table 4) mentioned the issue of ethical dilemmas they encounter while putting courtroom psychology applications to practice, and they centered these issues on the fact that the merging of two fields (psychology and law) can be problematic based on both fields having their separate, different standards, policies, and needs. Participant P3 stated: Remaining ethical in regard to confidentiality is a struggle. For some psychologists it can be challenging to adhere to the ethical guidelines while dealing with pressure from attorneys to give or say certain information. It is also difficult to remember ethical guidelines while on the stand providing testimony because you struggle with saying what



you mean as opposed to saying something in the moment... so I try to remember that I need to be thoughtful about my statements in court.

**Theme 2: Training.** Half of the participants – 2 psychologists and 2 attorneys – (see Table 4) expressed their desire to receive more education so that they can be competent and experienced in providing services relevant to two disciplines: psychology and law. The participants that described their feelings on this matter emphasized the lack of confidence they sometimes have when they provide services and present evidence on topics outside of their scope of practice. One of the attorney participants, Participant A4, provided the following information:

I think having more training about mental health is needed for attorneys. My office currently provides trainings to its employees about how to present physical evidence, but we do not talk about presenting psychological evidence through an expert witness psychologist. So, we can benefit through more training in the area of legal-mental health evidence and other related topics.

Participant P3 shed light on the importance for psychologists to get trained in legal matters by stating:

If psychologists want to provide their services in a legal forum then they need to get additional training in legal studies topics such as learning about the legalities in the law when doing psychological evaluations. Due to legal matters not being part of a psychologist's formal training it can be tricky because there is not a lot of forensic training out there... yet there's a lot of psychologists attempting to provide forensic psychological services... so I think that psychologists looking to specialize in this

specific area need to get training in medicolegal, forensic, and law matters. I say this because judges will ask psychologists to explain legal matters, and because being in a courtroom is a completely different forum for psychologists it is important that they have an understanding of the intricacies of the law in order to do forensic work. A lot of psychologists are not well versed or trained in this area, so they have to know their competencies before deciding to provide their services in the legal field. In fact, I think there are a handful of psychologists that are providing evaluations and assessments, yet, are not that familiar with the law area. Well, one of the things I do is remember to stay trained in legal matters. I go to med-legal seminars once a year to seek training on how to write reports and do depositions so that I can learn how to be more successful in depositions.

Research Participant A1 also provided his thoughts on the theme of training by stating:

I would like to see more focus on judges and attorneys getting better trained on domestic violence issues because the training they do get is not sufficient enough to understand victims or the mental health cycle of domestic violence issues.

Participant P1 also provided thoughts on the matter of training by stating:

Psychologists need to ensure that they are well-prepared before taking the stand in court, and they can do so by first reading and studying up on how to provide testimony.

**Sub-theme: Workshops and Networking.** Half of the psychologist participants and half of the attorney participants indicated that they desire more

opportunities to network with professionals from the other field (i.e., attorneys want chances to network with psychologists and vice versa) in order to more efficiently collaborate with one another in the future regarding forensic matters. Half of these participants described how networking opportunities can transpire during seminar workshops based on training needs for both sets of professionals needing to be met; and Participant P3 reported the following information on this topic by stating:

There should be more forums where both psychologists and attorneys can network and get training together as opposed to separately. Right now, on my own, I talk with attorneys and I learn from them about the law and in return I teach them about psychology. However, there needs to be a formal, scheduled forum where we can all do this frequently and together.

Regarding the matter of workshop networking, Participant A1 suggested the following:

I think attorneys and psychologists should meet with and learn from each other. There should be working groups to discuss challenges they face, and these networking events can assist professionals in providing tools to each other because at the end of the day we all should be helping one another. In fact, I have heard attorneys say that ‘clients come into my office and treat me like their therapist.’ Therefore, attorneys need to learn how to ethically respond to these clients and vice versa.

**Theme 3: Professional Relationships.** From collaboration efforts to communication issues, all of the participants gave accounts on how professional

relationships between psychologists and attorneys need to be improved for the greater benefit of the courtroom psychology specialty. Attorney participants shared their desire to obtain more professional contact with psychologists in order to form consistent, collaborative teams. Psychologist participants expressed their concerns with communication issues that they feel impede the psychologist and attorney relationship.

**Sub-theme 1: Collaboration.** Both psychologist and attorney participants shared their beliefs in the importance of forming bonds with one another in order to help the courtroom psychology practice flourish and benefit their clients. For instance, Participant P2 stated:

There have been some uncomfortable moments that psychologists have when being cross-examined by a district attorney or public defender; and there have been uncomfortable moments for attorneys when it comes to acquiring prep work and utilizing psychological information during cases so I think forming a stronger collaborative union is needed in order to combat these issues and resolve any separation in the dynamic of these two fields.

Participant P3 shared examples and described her views on working with attorneys by stating:

I try to look at it as a collaborative approach. My job is as a consultant, so my duty is to inform them about my role, but I try to approach it as a collaborative effort so in order to do that I treat the attorney like a partner... that way they feel like we are working together as opposed to me working solo. I always try to keep the attorney involved with my findings and work. Also, I think the attorney and psychologist bond can

be improved by working collaboratively as opposed to separately which will benefit our clients in the long run. It is important that we build relationships with one another because that way when a psychologist's gives an attorney information that he or she might consider bad news – such as assessment report findings on their client – they will take the information as opposed to getting upset and finding another clinician.

From the point of view from one of the attorney participants, Participant A1 stated the following:

I'm a big believer in collaboration between legal and mental health services. I'm a proponent of attorneys being more informed about emotional and mental health services, and I'm a proponent of psychologist's needing to be more legally-informed because there are ways that they can better assist their clients by being giving legal support without actually giving legal advice.

**Sub-theme 2: Communication.** All of the research participants expressed their concerns regarding communication issues that become apparent during the course of mental health, criminal cases. For illustration, Participant P1 said: Communication is important for both professionals because it helps use understand exactly what our roles are and communicate what we need from each other in order to better do our jobs correctly.

Participant P4 made the following statements regarding teamwork issues regarding the psychologist and attorney relationship:

It can sometimes be challenging to work with attorneys because the one I worked with in the past gave off the impression that they were superior to me and my clientele.

They indirectly presented the idea that their agenda was all that mattered, and they were not open to considering my workload. For instance, when they want to talk to psychologists about their client, they expect for the clinician to drop everything and just focus on their legal matters as opposed to considering that as a mental health professional I have a lot of pressing issues that require my attention. So, it is frustrating when legal professionals treat me that way, and it is also difficult to work with them when they approach me at the last moment for information demanding that I assist them immediately. However, I feel those issues can be fixed if both types of professionals realize that we are on the same team, and we're both working towards helping our clients realize what is best for them. So, in order to make the professional relationship work for our clients both lawyers and psychologist need to establish boundaries during the first initial contact. We need to have a conversation about what we need and expect from one another in terms of what are goals for the client

Research participant A4 shared the same sentiments as the aforementioned participant by declaring the following:

I think having good communication about what exactly each person's role is and how we can assist one another is crucial because each attorney has different experiences with psychologists. So, it is better for a psychologist to get as much information as possible about a client and when an attorney does not give all the details then the psychologist cannot do his or her job effectively. What I mean is... don't just send an indictment... instead, give case material about the client and that client's behavior so the psychologist can see if they have demonstrated behavioral problems or if they've

demonstrated the opposite before the trial. There needs to be a better exchange of information because a client can pretend to not be competent when they really are so the psychologist needs all the information that can be given which is why communication is the key.

**Theme 4: Education.** 2 out of 4 of the psychologist participants and 3 out of 4 of the attorney participants reported that professionals working mental health criminal cases need to obtain additional, advanced education in forensic psychology and medical-legal studies. For instance, many of the participants expressed that judges presiding over cases encompassing court psychology applications need to get in-depth, formal education in psychology or a related field in order to adequately preside over criminal trials. Consequently, participants stated that professionals applying courtroom psychology methods during criminal cases need to receive both comprehensive education in psycholegal matters and certifications or licenses establishing themselves as experts in that regard. Moreover, 63% of the research participants (see figure 2) stated that jurors should have basic knowledge of mental health issues prior to being potential jurors, and they stated the best way to go about achieving this task is by establishing and engaging in community awareness approaches.

**Sub-theme 1: Certification/Licensing.** 5 out of 8 of the participants expressed their concern regarding professionals engaging in mental health and legal work without proving their competence in the area they are prescribing; and these specific participants inferred that the only way to combat this issue is by forums, employment bodies, and boards requiring and enforcing that professionals engaged in

mental health-legal work establish themselves proficient in this specific specialty by not only acquiring additional, advanced education and training in the area, but also by sitting for certification/registration/licensure at the regional and/or national-level, receiving board certification from qualifying associations and institutions, and/or establishing the equivalent depending on the jurisdiction and/or specific psycholegal subject matter. For instance, Participant P3 providing the following information on this issue by stating:

I think the biggest challenge is having qualified people doing the psychological evaluations. Some psychologists do evaluations, but they do not have qualifications to do so. Requiring that professionals get certified in this service area will help separate them from those who are not qualified, while also establishing that these specific professionals are qualified in a specific specialty.

Also, I think it is important that lawyers get more education in the area of behavioral science because when I work with them, I feel there is a lot of pressure on me to provide them education; whereas, it would be nice if they were already aware of certain concepts pertaining to psychology. For instance, if an attorney does not like my neuropsychological assessment findings or finds the report difficult to understand... then that attorney relies on me to provide them mental health education and that can be frustrating... especially when they try to put pressure on me to insinuate certain things about my findings.

Participant P4 offered the following suggestion regarding the matter by stating:



Requiring individuals to get certified and licensed will assist in establishing that professionals are qualified to provide certain services at a level that others cannot which assists clients in knowing that they are receiving just services and a fair trial.

**Sub-theme 2: Community Education.** The majority of the research participants expressed their concerns about jurists having pre-conceived, negative theories on mental health which thereby influences jury decisions and impacts justice for victims and verdicts for defendants. Many of the participants affirmed that this issue could be better handled if citizens were provided opportunities to receive mental health resources and education through community awareness endeavors.

Participant A4 described her previous experience with this issue by stating:

One thing I have found troubling is that after trials, jurors have told me that when I call a psychologist for testimony it is just my way of trying to make excuses for the defendant's behavior. Jurors have also told me that having a psychologist provide testimony was not persuasive for my side, and yet, it was detrimental to my case. So that troubled me, because I interpreted that to mean that they didn't view psychology as scientifically valid. For example, if I had a medical doctor testify or an arson expert testify... then the jury would have found that testimony more valid... but because of stigmas surrounding mental health they did not find the testimony from a psychologist to be valid.

The community education subtheme was also a topic area brought up by Participant A2 in which that participant stated the following:

I think having professionals get information out into society about mental health is important. Getting information out to the public can help citizens understand that everyone is different, and sometimes people do not have control over mental illness or how their brain works. It's important for potential jurors to understand that mental illness can determine how an individual acts... people somewhat understand this but there's a long way to go regarding this comprehension so getting information out to the public needs to happen more so that juries can be more receptive of this information. People need to realize that mental illness is not an excuse, yet an explanation regarding behaviors and thoughts that individuals have. People have an idea that everyone is responsible for what they do, but not everyone's brain works the same because some people have mental illness due to various factors such as genetics. When I present a mental health defense people are more receptive than what they were 20 years ago but trust me we have a long way to go to getting people to be more receptive.

Table 4

*Major Theme Percentages*

	Services	Education	Collaboration	Training
Psychologists	75%	50%	100%	50%
Attorneys	100%	75%	100%	50%
Total	88%	63%	100%	50%

**Research Question 2**

What kind of significance has courtroom psychology had on legal parties?

**Research Sub-question 1:** How has the use of courtroom psychology impacted justice for victims?

**Research Sub-question 2:** How has the use of courtroom psychology influenced offender rehabilitation sentencing decisions?

**Theme 1: Psycholegal Services.** All of the research participants expressed their hope for future inclusion of psychology services in courthouses, and for victims and offenders to be able to receive extensive psychological services before, during, and after criminal trials. In addition, the evidence subtheme emerged again, but in regard to the second research question this topic was brought up pertaining to the need for visual and technology displays to be used as psychological evidence. In regard to psycholegal services Participant P1 stated the following:

I think there should be more psychological services provided in courthouses. Court psychology should definitely be involved in every case, and unfortunately, it's typically not involved. Currently, psychologists are only involved in criminal trials when the court or an attorney requests our services. The majority of cases adjudicated in the United States is not heard from a psychologist which is a pity, because the mental health services we provide enrich the legal system and makes the field more profoundly humane.

**Sub-theme 1: Counseling and Therapy Service Issues.** All of the attorney and psychologist participants expressed concern regarding the legal system not being equipped and proactive with having psychologists on-site, stationed in courthouses for crime victims. In addition, many of the participants declared their

frustration regarding many defendants not being provided therapy during and after criminal trial proceedings. Participant A1 suggested the following to rectify the issue of counseling and therapy services:

There needs to be an in-house psychologist at every courthouse. That is not too much to ask considering what victims have to endure during criminal trials. For instance, I recently had a case involving domestic violence, and the first day we went to the courthouse... just before we were about to enter the courtroom my client had a very bad anxiety attack. I did everything I could do to try and assist her; however, what my client needed was a clinically-trained professional there to assist her during her time of need. There are many other clients just like mine who unfortunately experience anxiety and panic attacks tied in with depression and other mental health concerns... and it is not surprising considering what so many of them have had to endure. Therefore, I think having on-site clinicians can help victims when matters like this arise.

**Sub-theme 2: Evidence.** Presenting mental health evidence can be very detailed, complex, confusing, and time-consuming. Therefore, both attorney and psychologist participants described their disappointment and frustrations regarding sometimes not being able to utilize technology and visual illustrations to explain the complex issues encompassing their client's mental health evidence. In addition, the participants indicated that technological, visual illustrations assist with getting jurors to better understand the intricate details of psychological science, and how hindrance regarding the use of such illustrations end up being injustices for both victims and offenders. Participant A3 mentioned the following:

I think the hard part is that jurors come from all different walks of life and some do not come with a scientific background. So, providing them complex information in a way they understand is important. Therefore, providing more visuals and trying to get the court to give me more time so that experts can expand on information is vital, but courts try to limit all of that. Also, a prosecutor or defense lawyer can raise an objection to the number of visuals that are provided, in addition to objecting to the content of the visual evidence that experts try to testify about. In fact, Participant P2 provided insight on how modern technology and visual illustrations help jurors better understand the psychological evidence being presented, and when these visual presentations cannot be utilized that is when justice for victims and offenders is jeopardized.

**Theme 2: Education.** As previously reported, 63% of the participants (see Figure 2) mentioned a need for psycholegal professionals to receive more education in the areas of both psychology and law and/or their related fields in order to better understand their client's circumstances. Moreover, where research question 2 is concerned, many of the participants placed heavy emphasis on the need for the criminal justice system and mental health field to find avenues to provide community members with more access to unrestricted mental health resources and education. Regarding this theme, Participant P4 mentioned the following:

My suggestion is that there needs to be more mental health education catered to lawyers, judges, and police officers. It is important that they have more knowledge of mental illnesses such as psychological disorders and addiction.

**Sub-theme Community Education:** Providing community education resources to citizens can assist in decreasing stigmas regarding mental illness. Better understanding mental illness foundations, occurrences, and related information can assist community members in having introductory knowledge about the topic prior to sitting as jury members on criminal trials cases. This acquired knowledge can better assist jurors in making well-informed decisions which inevitably will have a lasting impact on victims and offenders. Not having a foundational knowledge base on mental health factors can result in miscarriages of justice in terms of unfair rulings and sentences. Participant P4 ascertained the following:

For many individual's mental illness is a scary thing, and I think it is scary to them because they do not understand. Therefore, it is the moral and ethical responsibility of governmental and legal systems to establish the means to provide citizens with mental health education; and in doing so potential jurors can better weigh psychological evidence which increases the chance of a fair verdict being given to a defendant and proper justice being given to victims.

Participant A3 stated the following about community education: Getting information out to the public about mental health facts is important because it can potentially help jurors understand that mental health problems exist for many people. I have realized that when it comes to the topic of mental illness and psychological evidence... jurors either accept it or they don't based on their personal and cultural views, because some individuals are able to embrace mental health information versus others... depending on the age or culture of the individual... from my experience it is

usually due to their comfort zones... as it pertains to how they feel about certain things such as mental illness factors.

**Theme 3: Professional Relationships.** As shown in Table 4, all of the research participants agreed that their professional relationships have contributed to the way they provide courtroom psychology services thereby either positively or negatively impacting victims and offenders. Participant P1 mentioned the following:

Psychologists struggle with making sure their work is not misrepresented, and unfortunately their assessment and research findings cannot be properly represented if there is poor communication or a break down with the attorney and psychologist relationship. For those reasons it is important to establish roles and boundaries during the start of the psycholegal relationship.

Regarding collaborative efforts, Participant A3 suggested the following:

I usually talk to my psychology experts after trial because they want feedback, so I think both attorneys and psychologists need to take more time to explain things to one another in order to help each other reach our goals for each case.

**Theme 4: Training.** Half of the participants expressed the need for professionals to get more training in the delivery of psycholegal methods. Two attorney participants and two psychology participants expressed that insufficient and inadequate training in courtroom psychology applications can prove to be a significant issue for professionals engaged in criminal trials due to their clients being negatively affected by receiving

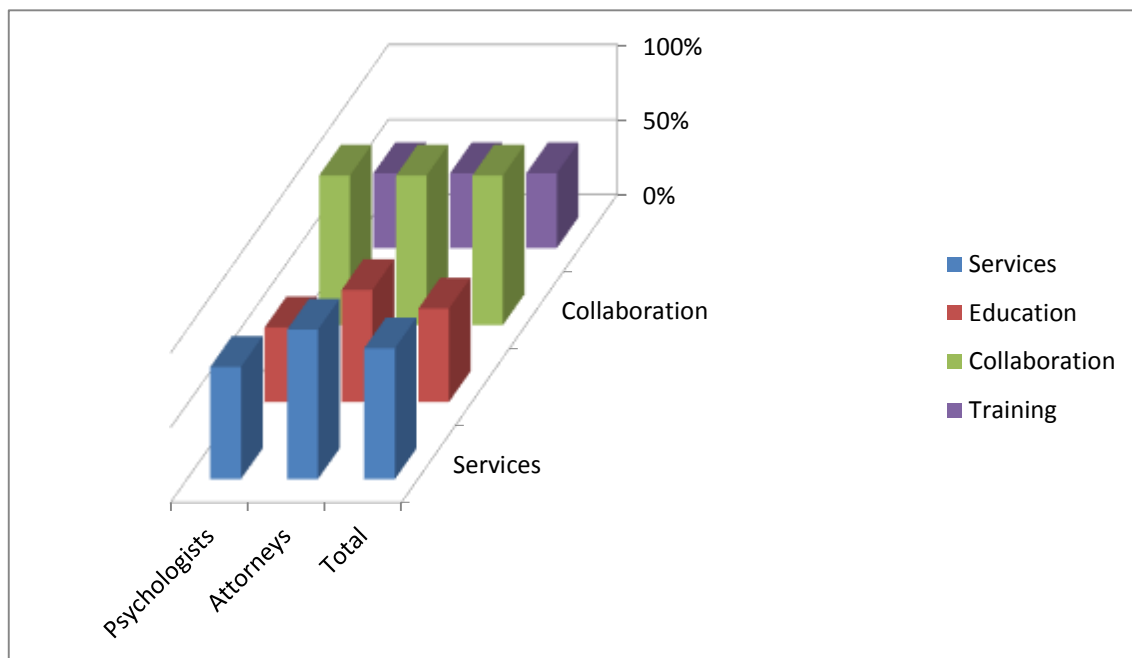
services from individuals not proficient in both behavioral science and law. Participant A2 provided the following declaration on the matter by stating:

The biggest challenge is when psychologists are put up as expert witnesses when they are not experts in a certain topic being called into question. This makes it difficult to examine the expert witness when there is little evidence behind their theories. The other issue is that some professionals do not have the credentials to establish themselves as qualified experts, yet instead they perpetuate their own existence by claiming that they have trained themselves in a certain specialty, or they base their expertise on the fact that they have been given awards. So, although they sound official to juries... me and other attorneys have to debunk that individual as an expert. That is why I think it is important that psychologists get trained in forensics so that they can qualify as experts in legal forums. I also think it is important for attorneys to get training in psychology matters so that they are well equipped to refute testimony from those deeming themselves to be expert witnesses.

Through the utilization of Nvivo software, analysis of the collected participant data was able to be reviewed. The research participants information on their lived, professional experiences was examined in order to uncover the aforesaid theme and sub-theme results. The identified four major themes that emerged from the data analysis addressed the research questions and sub-questions of this study.



Figure 2

*Data Analysis Percentages***Summary**

This chapter covered topics pertaining to selection of participants, research participant demographics, procedures utilized to collect data, and the data analysis process for this research project. In order to ensure the trustworthiness of the study, this chapter detailed information pertaining to credibility, transferability, dependability, and conformability. This section also reported the results of the data analysis, and covered the four major themes that emerged from the data: services, training, professional relationships, and education. Moreover, the sub-themes of those four themes were also

discussed during this chapter, and the discussion regarding those findings will be detailed in the subsequent chapter.

In chapter 5, associations between my findings, relevant literature, and the current state of courtroom psychology will be discussed. I will then follow-up with discussing limitations to the study and provide future recommendations for attorneys and psychologists. Finally, I will discuss the implications of the results of this research study and conclude with social change information pertaining to this project's topic.

## Chapter 5: Discussion, Conclusions, and Recommendations

### **Introduction**

To investigate the therapeutic and anti-therapeutic agents of courtroom psychology practices, I utilized qualitative, phenomenological analysis techniques comprised of gathering research data by means of interviewing licensed legal and mental health professionals. Hence, I recruited currently employed clinical forensic psychologists and criminal law attorneys to examine how they perceived their courtroom psychology experiences during criminal trials. This inquiry was initiated to reinforce the evolving recognition of the integration between mental health and legal services for victims and offenders in order to interpretatively examine restorative advantages and limitations of progressing courtroom psychology procedures.

This this study's research process, I uncovered that the intended practice of courtroom psychology operations is not being utilized to its full advantage, in addition to certain modifications needing to ensue for the advancement of this specialty which will later be discussed in this chapter. Therefore, I will begin by first interpreting the findings using the themes and sub-themes presented in Chapter 4. The central findings that surfaced in this research study and a comparison of the literature review in Chapter 2 will also be reviewed. Next, I will proceed to examining the limitations of this study, and follow with suggestions for impending research and recommendations for future steps. This chapter will then conclude with a report on implications for positive social change.

## Interpretation of the Findings

Through a comprehensive analysis of the interview data, I uncovered several key findings surrounding the dilemmas of courtroom psychology strategies and objectives. The research questions for this study addressed two different matters concerning courtroom psychology: *what influence has courtroom psychology had on criminal trial proceedings* and *what kind of significance has courtroom psychology had on legal parties*. As described in Chapter 4, both research questions had four identical major themes emerge from the analysis of the data. Clearly, these four areas are issues and concerns for criminal litigators and psychologists who provide their services during criminal trials. If not addressed and resolved these four issues and their sub-themes can weaken the administration of courtroom psychology methods; thereby, impeding the growth of this specialty in the future. This circumstance would result in negatively impacting ongoing and future services and justice for victims, and also jeopardize treatment services and legal rights for defendants. Therefore, the next portion of this study will address how to possibly rectify this dilemma through social change efforts, and the examples provided will be statements and illustrations from the participants of this study. However, this section will focus on discussing the outcomes of the data analysis.

Investigating and identifying issues regarding courtroom psychology practices during criminal trials was one of the central themes of this research study. Attempting to explore and understand the components that are hindering the advancement of courtroom psychology endeavors was imperative based on addressing the aforementioned gap in the

literature previously stated in Chapters 1 and 2. Discovering ethical, legal, and political mechanisms that cause dilemmas amongst criminal trial professionals and researching areas that deem themselves problematic for the progression of courtroom psychology objectives was essential in determining how victims and offenders are impacted by psycholegal practice intentions. This determination assisted this research study in developing a conclusion on the current therapeutic and anti-therapeutic agents experienced by victims and offenders during criminal courtroom proceedings; and as a consequence, addressed concerns pertaining to this study's conceptual framework (procedural justice) and theoretical framework (theory of therapeutic jurisprudence).

Through the analysis of the collected interview data, I identified four main themes were identified and described in the previous chapter. The themes identified represented answers to this study's research questions. This, in turn, from the viewpoint of psychologists and attorneys, provided an understanding of how criminal trial courtroom psychology methods therapeutically impact victims and offenders. The following sections highlight each emerged theme, and provide interpretations of these findings.

**RQ 1:**

What influence has courtroom psychology had on criminal trial proceedings?

**Theme 1: Psycholegal Services**

When I asked the participants of this study their opinions about issues they have experienced when engaged in courtroom psychology practices, the majority of the participants expressed frustration regarding courtroom evidence procedures and legalities, and conveyed concern pertaining to dilemmas they experience when attempting to adhere to professional, ethical guidelines in the midst of delivering psycholegal services or engaging in courtroom psychology practices. Of the eight participants who were interviewed, seven of them expressed their concern and/or lack of awareness for how to adhere to their profession's ethical standards while applying their expertise to another industry and/or while combining their methods of service with an additional, varying method of practice (i.e., intertwining psychological services and/or psychological evidence in the legal forum).

Focusing on the first point mentioned, I can interpret that the majority of these criminal trial professionals are unsatisfied with legalities surrounding the procedures of presenting evidence. For both psychology and legal participants, the dissatisfaction was rooted in not being able to utilize technology and visual presentations to assist in explaining their findings so that jury members could better understand the complexities of psychological definitions and conclusions. The legal participants made sure to mention that there are times that technology and visual presentations cannot be used in court based on the opposite side objecting to technological, visual representations; but nevertheless, these specific participants expressed a need for policies to be amended based on psychological evidence being intricate to the point of needing such representations to assist jurors and judges in better understanding the evidence. With that

said, the participant's contention with this point is based on their belief that it is challenging to effectively do their job if they are not able to utilize certain resources to convey findings. Some of the legal and psychology participants mentioned their experiences with witnessing how not being able to efficiently convey psychological findings through visuals and technology has contributed to their clients (defendants and plaintiffs/victims) being impacted by this result. For instance, a psychologist is hired to administer a psychological assessment to a defendant, and later attempts to deliver testimony on the results of the assessment's findings to the court through the use of technology. Yet, that attempt is successfully objected by the opposing side, leaving the attorney and psychologist to utilize other means to deliver testimony and provide evidence to the court. However, the participants expressed an issue with this based on psychological evidence (such as neuroimaging and psychological evaluations) being difficult to explain without the assistance of others means such as technology and visuals.

Based on the information provided by the participants it can be interpreted that this specific psycholegal procedure poses an issue for both victims and offenders who perhaps have psychological assessment results, brain scan results, or other information that needs to be presented to the court but requires the use of certain methods to adequately present those results; yet, cannot be due to certain legalities that are in place. Thus, the information the participants provided on their professional experiences with presenting psychological evidence has shed new light on how permitted or not allowed presentation methods not only influence criminal trial proceedings; yet, undeniably impact victims and offenders in the process based on those outcomes which counteracts the intentions of TJ.

A second point brought up by the participants is based on ethical dilemmas that they have experienced by engaging in two different fields simultaneously. The psychology field and legal field have different objectives and intentions, and both disciplines utilize separate, diverse means to meet their specific goals. Therefore, based on the findings acquired from this study's participants, it can be interpreted that attempting to adhere to the ethical guidelines of one's profession and meet the needs of their job duties, all while integrating a different discipline into their profession that houses different means can sometimes pose a conflict. Hence, such conflicts being present thereby impact victims and offenders who inevitably are affected by ethical dilemmas experienced by psycholegal professionals.

According to some of the participants, the presentation of psychological evidence, and the administration of therapeutic and/or assessment services are some of the ways that victims and offenders can be impacted. Moreover, the professional relationship between attorneys and psychologists and their lack of awareness or heightened level of concern pertaining to ethical standards has resulted in the participants of this study expressing a need for psycholegal professionals to be required to engage in additional training on ethics that specifically concern forensic topics.

## **Theme 2: Training**

The study's participants expressed a dire need for additional, advanced training (specifically hands-on training) in how they can more effectively and ethically perform



their job functions. For instance, psychology participants expressed a need for in-depth training on how to properly provide expert witness testimony so that they can learn how to better address opposing questions, provide answers that do not violate ethical standards, and so forth. Whereas, the legal participants stated a need for training in learning how to understand psychology concepts and psychological assessments in order to more effectively cross-examine expert witnesses and provide legal arguments. Both types of participants emphasized that this aforesaid type of training should be required for professionals engaged in the intertwining of psycholegal procedures; hence, it can be understood that such additional training would positively influence their job functions during the criminal trial process. Thus more, the participants also implied that attending required continuing education/advanced training classes would also satisfy their desired need to network with professionals that also engage in similar work as them. Therefore, the interpretation lends itself to ascertain that educational opportunities would encourage continuous professional relationships that would perhaps resolve previously stated issues with professional misunderstandings and ethical dilemmas.

### **Theme 3: Professional Relationships**

All the research professionals expressed concern with regard to a hindrance in professional relationship development as it pertains to working with other professionals from a different field. Based on these results, I can interpret that psychologists find it difficult to communicate with legal professionals based on the following: (a). feeling that

they are not being listened to as it pertains to their professional needs being met, (b). feeling that they are being forced to meet the needs of lawyers as opposed to the needs of their job duties, and (c). feeling that they are being talked down upon for not understanding certain legal measures. The research outcomes for attorneys attributed the following interpretations about their views on the matter: (a). occasionally feeling a sense of difficulty in coming to an agreement on how to get everyone's professional needs met since each one's duties have distinct objectives that may differ from the other's, and (b). feeling overwhelmed with new information presented to them in respect to learning new concepts from a discipline different from their own.

Through the study outcomes, I identified issues of great implication for positive social change measures relating to the enhancement in how criminal trial professionals engage with their colleagues. For example, I asked all of the participants to provide an explanation in what ways professional relationships can be improved and in various ways the participants all provided similar answers as it pertains to learning the other's profession more in regard to professional legal standards, philosophies, and intentions. When asked how this task could be completed many of the participants once again stated a need for more networking opportunities such as attending professional workshops. Based on the data analysis results it can be interpreted to accept that an improvement in professional relationships would undoubtedly assist in the administration of courtroom psychology functions which would perhaps in turn provide lawyers and psychologists with an increased level of satisfaction during criminal trial proceedings, while also

positively impacting their clients and eventually society at large since the outcomes of court proceedings are felt and experienced by communities as a whole.

#### **Theme 4: Education**

More than half of the participants (both legal and psychology participants) expressed concern regarding psychologists needing to be certified specifically in assessment areas in order to provide testimony on the subject and/or administer psychological assessments to legal clients. These participants were precise in explaining that advanced, specialized certification and/or licensing should be mandated, and a few participants provided accounts of their experiences with expert witnesses who have been called to testify before a criminal court but did not have the credentials and/or the experience suited to be deemed an expert. From these results I can interpret that resolving contention regarding education requirements may assist psycholegal professionals in also solving professional relationship issues that was previously mentioned, all while improving the courtroom psychology specialty. Based on both sets of professionals sharing similar sentiments in a need for psychologists to receive specialized certification or licensing in assessment areas, then this could perhaps advance the court's psycholegal services unquestionably, while therapeutically assisting victims and offenders in the process.

More than half of the participants expressed their sentiments on community education needing to be more of a priority in society in order for stigmas on mental health

to be erased and legal misunderstandings to be corrected. Therefore, it can be understood that for the furtherance of courtroom psychology endeavors, both lawyers and psychologists believe that educating the public on mental health and legal issues should be a priority based on qualified citizens one day being tasked as criminal trial jurors. Continuing to consider the results, it is also interpreted that legal and psychology professionals believe that providing citizens with education prior to them being potential jurors could make a difference in how they view a case. Community education could potentially make a difference in the life of a victim, offender, and society at large.

**Research Question 2:**

What kind of significance has courtroom psychology had on legal parties?

**Theme 1: Psycholegal Services**

Examining and pinpointing the therapeutic and/or anti-therapeutic agents of psycholegal services was another central theme of this research study. In the context of the theoretical framework of this study, it is proposed that legal functions should provide remedial properties to individuals who experience legal system operations. The previous chapter highlighted how the majority of the participants expressed concern regarding psychologists not being utilized in all criminal trials. This was a cause of frustration for some of the participants based on their belief that criminal trials cannot adequately function without the psychological perspective and services from psychologists. This

belief was given by half of the participants who provided explanations surrounding the need for psychologists to provide expert witness testimony (evidence), administer psychological assessments to defendants, and provide therapeutic treatment services to both victims and offenders before, during, and after trials for the enhancement of competency, decrease in trauma, and offer other forms of remedial healing. Thus, the following sections will interpret the participant's views on the significance that courtroom psychology functions have on legal parties.

Seven out of eight of the participants expressed a need for defendants and victims to receive therapeutic intervention services before and during criminal trials. As it pertains to defendants, both legal and psychology professionals expressed frustration that defendants who have mental health issues are do not receive court-mandated therapy before the start of criminal trials (after they have been arrested and arraigned) or during criminal trials. For instance, one legal participant (participant A4) stated that she has represented defendants who had mental health issues, and while in jail awaiting trial did not receive therapeutic treatment. In addition, she expressed that this same client experienced distress during the criminal trial process due to the toll that the trial had on their mental state; yet, was never given therapeutic services during the trial. Thus more, another legal participant (participant A1) stated that he once had a client who was a victim of domestic violence, and prior to walking in the courtroom to request a restraining order his client suffered an anxiety attack. The participant then went into detail about how some level of therapeutic intervention could have assisted his client, and that it would be a benefit to victims like her if the court housed such therapeutic services.

Therefore, based on many of the participants recalling such issues and causes of concern for their clients, I can interpret that having the option and ability to provide mental health services (such as brief counseling, peer counseling, emergency response interventions, support) would increase the opportunity for courtroom psychology services to have a therapeutic impact on victims and offenders, as well as their families.

### **Theme 2: Education**

In a second instance, the subtheme of community education topic emerged again as it pertains to providing the public with opportunities to receive material on mental health and legal information. While evaluating and addressing this topic with participants and then analyzing the results of this inquiry, it was determined that community-gear education is profoundly needed for the advancement of the court psychology missions. However, because this theme has been previously addressed please see the first research question heading under this chapter for further information.

### **Theme 3: Professional Relationships**

All of the participants emphasized a need for more collaboration opportunities in order to increase the likelihood of working more efficiently together on criminal psycholegal matters. The research results implied that such efforts could form and enhance professional bonds at networking events; and perhaps increase the likelihood to

collaborate with other professionals on journal articles, provide information on professional issues, or offer advice on improving their job functions. Although some participants shared that they were satisfied with their professional relationships, still both sets of participants emphasized a need for improvement in their level of communication with the other. Thus, it can be interpreted that refining the lines of communication between both parties inevitably will assist in inspiring better satisfied results with each professional's job duties; and in turn, will have an increased chance of positively impacting victims and offenders which is the goal of the TJ theory.

#### **Theme 4: Training**

Half of the participants brought up a need for advanced training to be a requirement in order to effectively enhance courtroom psychology operations and improve the likelihood of professional, ethical standards being adhered to. Half of the legal participants acknowledged that advanced training in presenting mental health evidence would assist them with their oral arguments and improve their understanding of psychological evidence information that they have to present in court. Consequently, half of the psychology participants stated that training in courtroom psychology methods in the form of mock trials would provide them with more confidence in presenting testimony and improve their understanding of various legalities relevant to the psycholegal profession. Based on these results it can be interpreted that criminal trial psychologists and attorneys are yearning for training opportunities focused on their

counterpart's level of expertise. In fact, this interpretation lends itself to the fact that improving one's professional skills aligns with the tenets set forth in the TJ theory based on such development of specialized techniques improving the services rendered to legal parties.

### **Limitations of the Study**

This study's key objective was to analyze common themes that emerged from each of the research participant's answers. However, one of the potential limitations of this study encompass the research design due to its methods relying heavily on the skills of the researcher which could result in probable bias. Due to phenomenology approaches requiring researcher interpretation it is important to make phenomenological reduction a pertinent element of the study in order to reduce pre-conceived ideas about the phenomenon being studied. Therefore, the importance of combatting such partiality was mentioned in Chapter 1, as it pertains to me needing to engage in self-awareness techniques in order to be mindful of not skewing the data. For instance, due to my experience working in the mental health and criminal justice fields it was important that I do not allow preconceived notions of previous involvement in the fields to shift the data. Hence, the need for me to be mindful of potential researcher bias, while also engaging in self-awareness checkpoints during data analyzing in order to decrease and eliminate potential assumptions that in turn enhances the thoroughness of the study.



A second limitation to the study is based on the degree of generalizability which considers the extent that findings can be generalized from the sample size to the whole population (Leung, 2015). According to Leung (2015), it has been argued that describing extensive interpretations from individual occurrences limits the likelihood of these broad conclusions being ascribed to an entire population. However, Merriam and Tisdell (2016) assert that this is not necessarily the case in all qualitative studies based on researchers being able to gain generality through the process of assessing if their research will be able to be transferable by first measuring how well their results from a sample can be extended to an entire population. Additionally, this can be achieved by first considering the sample size and demographics of the sample that are chosen to represent the studied phenomenon, which is a strategy I undertook early on in this research study to ensure transferability. For instance, this strategic approach benefited my study because I required that the participants all be licensed psychologists or attorneys in the state of California with three or more years of specialized experience in criminal law as it pertains to providing mental health or legal services during criminal trials. As a result, I was able to gather data and analyze results that could later be transferred to other contexts and settings such as future research gathering, problem-solving courts, judicial considerations, and overall criminal law collaborative efforts.

Lastly, another limitation that was considered was the willingness of the participants to be candid with information about their lived, professional experiences. Obtaining participants who have experience with the study's researched phenomenon was pertinent; however, it was also imperative to have individuals participate that were

willing to truthfully share their thoughts and experience for the transparency and accuracy of this study. Thus, prior to collecting data, I provided each of the participants with an informed consent form, and notified them on the importance of being honest and straightforward with each answer they provide. More so, I informed each participant that if there is a question they are unsure of, or feel uncomfortable answering then they are permitted to either not answer the question and/or stop the interview process at any time. Although I did not come across these issues during the data collection process, it was still vital that I inform the participants of this information in order to ensure complete unambiguousness of this study. However, it is important to state that some of the participants were discreet in the information they provided me due to professional ethical and legal obligations. For instance, a few participants were adamant in not providing information relevant to current, open cases they were working on due to confidentiality reasons. Accordingly, some of the participants informed me that they could not provide personal information about previous or current clients. Nevertheless, this was not an issue during my research gathering because the phenomenon being investigated did not require information pertaining to open cases; and personal, identifying information about past or current clients was also not needed in order to answer the study's research questions. Instead, information about recent or previous closed cases was all that was required in order to address the interview questions; and information about recent or past clients was provided without information that could identify them and without breaking confidentiality.

## **Recommendations**

Psychologists and attorneys not fully utilizing courtroom psychology applications to their full benefit while being uncertain on how to properly adhere to both psychology and legal ethical considerations is a drawback and of great concern to the evolution of the courtroom psychology specialty and the legal parties they serve. Therefore, this section of the study will provide recommendations to governing bodies regarding criminal courtroom psychology applications moving forward on the quest to establish corrective, restorative legal methods. The recommendations from my study may also assist psycholegal professionals with improving their delivery of courtroom psychology service models. Moreover, my study has revealed that not improving the use of courtroom psychology applications (such as evidence presentation), not incorporating more mental health services into the specialty, and not requiring more advanced training and education for attorneys and psychologists is doing a disservice to legal parties resulting in the intentions of TJ not being met. In addition, the aforementioned issues are also causing the specialty of courtroom psychology to remain stagnant; thereby, jeopardizing new levels of service or concepts to be embedded within this specialized field.

The findings of my study determined that so far, we are only scratching the surface with courtroom psychology as it is not being used to its full potential in terms of criminal trials. The purpose of courtroom psychology is to apply psychological services and research to the courtroom setting for the benefit of getting a psychological viewpoint relevant to legal issues. Thus, as it pertains to court psychology being used during

criminal trials, based on the results of this study it is apparent that mental health services are not being fully provided to victims or offenders before or during trials. In addition, psycholegal professionals are needing advanced training and education, and many of them are unclear about their scope of practice. Consequently, such uncertainty jeopardizes adherence to professional standards which may potentially result in ethical violations. Therefore, the actions I recommend to improve the practice of courtroom psychology include the following:

- Establish policies requiring that criminal trial attorneys be mandated to obtain advanced, specialized educational training in psychological concepts and duties (or its equivalent); and establish policies mandating psychologists who provide services during criminal trials to acquire advanced, specialized educational training in subject matters relating to legal studies.
- Establish professional standards requiring psychologists who provide criminal trial services such as psychological assessments and evaluations to be certified and/or licensed in the area of qualified examinations (or its equivalent).
- Provide internal courthouse mental health services from licensed clinicians who can assist victims and defendant's before, during, and after criminal trial proceedings by providing psychological services in the form of brief counseling, emergency intervention, and advocacy services.
- Improve methods for criminal trial attorneys and psychologists to network in order to enhance collaborative working relationship efforts for the benefit of the legal and courtroom psychology specialties.

- Conduct further research on this topic by incorporating enquiry into the impact that both criminal court and collaborative courts have on repeat offenders.

The above-mentioned recommendations were suggested based on this research study's results, and the ensuing data provides clarifications on each recommendations intent. For instance, in order to resolve the issue of attorneys and psychologists feeling that they are not fully practicing within their scope of expertise, I recommend that policies be put in place requiring two things: 1). psychologists not be permitted to administer court-mandated psychological assessments and/or testify about the results of court-mandated psychological assessments without first becoming certified examiners and/or licensed in their jurisdiction of practice; and 2). attorneys wishing to engage in criminal law, which unavoidably encompasses aspects of mental health law, must be required to take advanced training and education classes in psychology or an equivalent discipline in order to understand the intricacies of mental health and be able to present psychological evidence more efficiently. As stated, I am basing these recommendations off of the research conducted in the study, and the interview answers retrieved from the legal and psychology participants of this study. The advanced education/training recommendation would perhaps assist in resolving potential ethical dilemmas and evidence presentation issues by learning new concepts and skills; while also improving the level of services provided to victims and offenders which promotes procedural justice and TJ factors that are vital components to the courtroom psychology specialty as previously highlighted in the literature review. In addition, I also recommend that legal

and criminal justice systems find avenues to incorporate in-house licensed psychologists into courthouses in order for victims and offenders to be able to utilize mental health services before and during criminal trials. This recommendation also comes from information received from this study's research regarding more than 70,000 federal criminal cases taking place in the 2015 fiscal year (Schmitt & Jones, 2016); thereby, supporting the aforesaid reference for more accessible mental health services that could benefit legal clients. Legal and criminal justice reform in this regard will also assist in possibly rectifying recidivism rates and first-time offense rates.

It is also recommended that professional associations and entities create avenues for criminal trial professionals to network in order to improve professional relationships in order to resolve communication and collaboration issues mentioned by the research participants of this study. Furthermore, the final recommendation I would like to provide is for further research to be done on this research topic, but with a focus on the therapeutic benefits of courtroom psychology in collaborative courts with regard to recidivists. Further research should include how these repeat offenders have engaged in both collaborative court efforts and criminal court. As a whole, all of these determinations offer policy makers and criminal trial professionals with a platform to make informed decisions on how to readjust rules of practice and procedures that govern criminal court proceedings. This conclusion prepares a foundation for professionals to provide ethically effective and relevant legal-therapeutic services for progressing courtroom psychology measures.

### **Implications for Social Change**

The unification of psychology and law methods during trials were reviewed during this study to determine the impact psycholegal factors have on justice for victims, offender treatment decisions, and social policies. Understanding the weight of psychological deliberations during criminal proceedings is essential for the continued usage of psycholegal functions; and the experiences and opinions of professionals who engage in the delivery of courtroom psychology applications was yet to be investigated until this research study commenced as stated in Chapter 1 and reviewed in Chapter 2. As a consequence, there was previously no research on this topic where procedural justice came into consideration or where legal-therapeutic significance for plaintiffs and defendants were a concern. However, the results of this study can be utilized to reveal and understand the status of courtroom psychology endeavors, its significance on all parties involved, through what means this practice can progress, and how this phenomenon has social change implications for public administration entities and legal, criminal justice and mental health system. Lastly, the implication for positive social change from this study can be utilized in criminal courtrooms to possibly rectify the recidivism dilemmas through reform efforts. Additionally, the previous recommendation for advanced psycholegal professional training requirements could result in tangible, favorable outcomes for victims and offenders in need of improved, accessible services from attorneys and psychologists.

The benefit of conducting this study in a qualitative, phenomenological manner was that I was able to uncover the universal nature of the participant's experiences with psychology applications during criminal trials, and in the process retrieve a deeper understanding of courtroom psychology's impact on victim and offenders. The themes that emerged from the participant's lived experiences allowed me to notice trends in the practice of courtroom psychology, which thereby helped me understand their professional experiences and bring meaning to it. As a consequence, these methods foster a means for future entities and individuals to take action by contributing to the creation of new principles and changes in policies.

### **Conclusion**

If the intentions of court psychology operations are going to be utilized then it should be applied to its full potential. One of the main issues that this research study's participants shared is that this specialty is sometimes not being employed ethically or to its full power; and the conclusion derived from their statements lent to the idea that courtroom psychology methods can be therapeutic for victims and offenders if performed justly and more productively. Recommendations on strategies and services that can be better employed and/or initiated are ideas presented by this study's participants and extensive research and include the following: establishing required criteria for mental health expert witnesses, changing and/or reviewing rules and strategies regarding the presentation of psychological evidence, incorporating in-house psychologists in



courthouses, creating avenues for better working alliances among psycholegal professionals, ensuring that legal professionals are better versed in psychology research and concepts, and conducting additional research studies relevant to these topics in the future.

The information provided by the legal and mental health professional participants shed light on the court psychology discipline not being used to its adequate ability, and the participant's perception of this circumstance uncovered their belief that victims and offenders would experience more legal-therapeutic benefits if this specialty was applied thoroughly. Consequently, victims and offenders being able to experience remedial advantages of the law is the intentions of the criminal justice and legal system as proposed in the TJ theory and procedural justice framework. It can be concluded that perhaps if courtroom psychology practices were more efficiently and ethically applied before, during, and after criminal trials then violent crime victims would receive more therapeutic support, and treatment services for offenders would be administered more adequately resulting in a decrease in the likelihood for re-offending. Hence, the key benefit that this doctoral research study provides is the recommendations for the preferment of criminal court psychology practices that promote effectually using the law to therapeutically assist legal parties; thereby, resulting in consequential social justice development and social order improvement.

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## Appendix A

Certificate in Protecting Human Research Participants

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## Appendix B

### **Psychologists**

#### **INTERVIEW QUESTIONNAIRE**

Thank you for your participation in this study. The purpose of this research study is to understand how courtroom psychology methods play a role on legal parties, and I hope to better understand this experience from your point of view.

Before we proceed, I want to ensure that you understand that participation in this research project is voluntary and you can stop the interview at any time. The interview should take no more than one hour, and the information that will be asked and reviewed encompasses your experience working on criminal trials, working with other professionals, and your views on jury members, verdicts, and sentences.

All of your responses will be kept confidential which means that your interview responses will only be shared with research team members, and the data that is included in my report will not identify you.

At the completion of the interview, as a token of gratitude for your time and willingness to participate in the study, I will offer you a \$5 gift card that you may accept or decline.

Are there any questions before we proceed?

Are you willing to participate in this interview?

### **PROFESSIONAL ROLE**

1. During criminal cases, what have you liked about your role as a psychologist?
2. What have you dislike about your role as a psychologist during criminal cases?
3. In your career, what has been your greatest accomplishment thus far, and why?
4. In your career, what has been your greatest disappointment thus far, and why?

### **TEAMWORK**

5. How have you viewed working with attorneys during criminal trials? Why?

6. In your opinion, how can the attorney-psychologist relationship be improved to better meet your goals or your client's goals?

### **COURTROOM PSYCHOLOGY**

7. What challenges do psychologists face when testifying during criminal trials?
8. What challenges do psychologists face when providing assessments & evaluations during criminal trials?
9. In your opinion, how has the use of courtroom psychology applications impacted justice for victims?
10. In your opinion, how has the use of courtroom psychology influenced offender rehabilitation sentencing decisions?

### **CLIENTS**

#### **How has the presentation of psychological evidence impacted clients?**

11. How do victims usually respond when psychological evidence about a defendant and/or evidence about themselves are presented in court?

12. How do defendants usually respond when psychological evidence about a victim is presented in court or evidence about themselves is presented in court?

### **IMPROVEMENT**

13. In what ways can the use of courtroom psychology applications be improved?

*(Meaning: What new ideas or suggestions do you have for improving how the law can be used therapeutically to aid victims and defendants/offenders?)*

14. How can you and other psychologists contribute to improving your presentation of testimony or psychological services during criminal trials?

*(Meaning: how do you think you and future professionals can contribute to improving the field of courtroom psychology?).*

## Appendix C

### **Attorneys**

#### **INTERVIEW QUESTIONNAIRE**

Thank you for your participation in this study. The purpose of this research study is to understand how courtroom psychology methods play a role on legal parties, and I hope to better understand this experience from your point of view.

Before we proceed, I want to ensure that you understand that participation in this research project is voluntary and you can stop the interview at any time. The interview should take no more than one hour, and the information that will be asked and reviewed encompasses your experience working on criminal trials, working with other professionals, and your views on jury members, verdicts, and sentences.



All of your responses will be kept confidential which means that your interview responses will only be shared with research team members, and the data that is included in my report will not identify you.

At the completion of the interview, as a token of gratitude for your time and willingness to participate in the study, I will offer you a \$5 gift card that you may accept or decline.

Are there any questions before we proceed?

Are you willing to participate in this interview?

### **PROFESSIONAL ROLE**

1. What do you like about your role as an attorney?
2. What do you dislike about your role as an attorney?
3. In your career, what has been your greatest accomplishment thus far, and why?
4. In your career, what has been your greatest disappointment thus far, and why?

### **TEAMWORK**

5. How do you view working with psychologists during criminal trials?

6. How can the attorney-psychologist relationship be improved to better meet your goals you're your client's goals?

### **COURTROOM PSYCHOLOGY**

7. What do you consider to be the most important contribution psychological evidence has made to your professional tasks during trials?
8. What challenges do criminal law attorneys face when cross-examining witnesses and expert witnesses during trials?
9. How has the use of courtroom psychology applications impacted justice for victims?
10. How has the use of courtroom psychology influenced offender rehabilitation sentencing decisions?

### **CLIENTS**

**How has the presentation of psychological evidence impacted clients?**

11. How do victims usually respond when psychological evidence about a defendant is presented in court and/or evidence about them is presented?

12. How do defendants usually respond when psychological evidence about a victim is presented in court and/or evidence about them is presented?

### **IMPROVEMENT**

13. In what ways can the use of courtroom psychology applications be improved?

*(Meaning: What new ideas or suggestions do you have for improving how the law can be used therapeutically to aid victims and defendants/offenders?)*

14. How can you contribute to improving your presentation of mental health evidence during criminal trials?

*(Meaning: how do you think you and future attorneys can contribute to improving the field of courtroom psychology?).*