

# Social workers with criminal convictions navigating the social work profession

Suzette Jackson and Ian Hyslop, University of Auckland, Aotearoa New Zealand

## ABSTRACT

**INTRODUCTION:** Over time, the social work profession in Aotearoa New Zealand has become increasingly regulated culminating in mandatory registration under the auspices of the Social Workers Registration Board (SWRB), which took effect in February 2021. There has been considerable debate about the benefits and risks to social work from mandatory registration, particularly concerning whether someone is a fit and proper person to practise social work. This article presents voices largely absent from the debate, exploring the experiences of social workers with criminal convictions navigating the social work profession.

**METHODS:** The research presented is drawn from a Master of Social Work study where 11 social workers with one or more criminal convictions were interviewed. As part of the study, participants were asked about mandatory registration and their experiences with registering. Interpretive phenomenological analysis methodology framed the entire study, including data analysis.

**FINDINGS:** Most participants viewed mandatory registration positively, but many expressed frustration about the lack of transparency and clarity from the SWRB regarding the registration process for people with criminal convictions. The SWRB's practices and powers were also questioned, including over-ruling the Criminal Records (Clean Slate) Act 2004 (CSA, 2004).

**CONCLUSIONS:** It is apparent that the decision-making leading to mandatory registration did not include the voices of social workers with criminal convictions or advocacy on their behalf. Participants highlight many challenges such people face in gaining employment within social work. These challenges could be mitigated by SWRB reforming its current approach to the CSA (2004) and providing increased clarity and transparency for those with criminal convictions.

**KEYWORDS:** Registration; criminal convictions; social work; social justice; barriers; professionalisation

## INTRODUCTION

In its aspirational definition and ethical code, the International Federation of Social Workers (IFSW) heralds social work as a profession where human rights and social justice form the bedrock of practice. Social workers are directed to challenge inequality and discrimination and to empower people

(IFSW, 2022). Critically, the profession must also ensure that social workers are safe to practise and do no harm to the people they support. There is a significant tension between these aims, particularly when making decisions about educating, employing, and registering people with prior criminal justice involvement. The terms people with criminal convictions or

AOTEAROA  
NEW ZEALAND SOCIAL  
WORK 34(3), 89–102.

**CORRESPONDENCE TO:**  
Suzette Jackson  
[s.jackson@auckland.ac.nz](mailto:s.jackson@auckland.ac.nz)

criminal justice involvement are used within this article. Non-stigmatising language is important when referencing people with lived criminal justice system experiences (Iran et al., 2018).

On February 27, 2021, social workers in Aotearoa were mandated to register with the Social Workers Registration Board (SWRB), a government regulatory body (SWRB, 2020a). This requirement means social workers with criminal justice involvement are subject to additional layers of scrutiny—over and above current legislation. Of course, this has merit and can be viewed as an extra layer of protection in response to legitimate public concern about the conduct of social workers. However, social work education providers will likely become more wary about educating people with criminal convictions as they risk not gaining registration upon finishing their degree. This process may result in an increasingly conservative stance over who has the right to call themselves a social worker.

### **The journey to mandatory social work registration**

The impetus for registration increased in the late 1990s due to public criticism of child protection services and related distrust of social work due to deaths of children at the hands of caregivers. Calls for registration coalesced with the Labour government's professional regulation impetus, culminating in the passage of the Social Workers Registration Act 2003 (SWR Act, 2003) and the establishment of the SWRB (Beddoe & Duke, 2009; Brown, 2000; Lonne & Duke, 2009; van Heugten, 2011).

While reducing or preventing harm to the public was the central focus of government regulation, social work associations hoped registration would raise the status of the social work profession (van Heugten, 2011). Social work registration also aligned Aotearoa alongside comparable countries with established registration processes such as England, Hong Kong and Canada

(Hunt, 2017). The introduction of mandatory registration has given protection of title to registered social workers. Today, only those registered with the SWRB have the legal right to use the designation *social worker*.

Reservations about statutory registration of social workers have existed since it was first proposed in 1994 and continues to this day (Aotearoa New Zealand Association of Social Workers (ANZASW), 2021; Corrigan, 2000 as cited in Hunt, 2017; Hunt et al., 2019; Randal, 1999; Rennie, 2013). While the ANZASW, the Tangata Whenua caucus and social work education providers generally supported registration, ongoing disputes with the SWRB over boundaries and jurisdiction have occurred (Hunt et al., 2019; van Heugten, 2011). For example, key stakeholders and the SWRB have grappled over the ownership of intellectual social work knowledge and have clashed over the mandate to control specific areas of professional space, such as social work courses and content (Hunt et al., 2019, p. 902).

While academics and educators have also shown support for mandatory registration, concerns still exist that mandatory registration may increase government control, further diminishing independent academic voices and sidelining social work's social justice mandate: potentially undermining a focus on poverty reduction and compromising commitment to Te Tiriti o Waitangi (Harington, 2006; Hunt, 2017; O'Brien, 2005, 2013; Orme & Rennie, 2006; Randal, 2018; Rennie, 2013; Simmons-Hansen, 2010; van Heugten, 2011; Williams, 2019). As Hunt et al. (2019) asserted, if social work regulation threatens to weaken the social justice mandate of social work, this must be challenged by the profession and educators.

### **Educators policing entry to social work**

In reviewing literature from Aotearoa, no relevant research explored the experiences of social workers with criminal convictions

as they navigated their career pathway (Jackson, 2021). The central research focus in Aotearoa is related to the dilemma faced by social work educators when applying the SWRB *Fit and Proper* (2018) criteria to potential social work students (Apaitia-Vague et al., 2011; Hughes et al., 2017).

The SWRB determines fitness to practise when a candidate applies for provisional regulation after completing a social work degree (SWRB, 2018). Apaitia-Vague et al. (2011) highlighted the unfair position that this places educators in when making admission decisions based on the likelihood of the SWRB registering that person after they finish their 4-year degree. Crisp and Gillingham (2008) argued that it is unethical to educate individuals if they have no real chance of working in the field once they graduate. A Council of Social Work Education in Aotearoa New Zealand (CSWEANZ) Working Group Report (Hughes et al., 2017) provided feedback to the SWRB following a review of its *Fit and Proper* criteria. CSWEANZ expressed concern that the SWRB could not offer a definitive answer to students with criminal convictions about their ability to become registered upon completion of their degree. Effectively, decisions about whether an individual is fit and proper are made by educators, rather than the SWRB. This generates uncertainty as it is unclear whether the same criteria are applied across the country or whether admission decisions will always line up with the eventual SWRB determination.

### Increased scrutiny and regulation of social workers

The SWRB has also been criticised for decisions concerning minor criminal convictions. The Public Service Association—Te Pūkenga Here Tikanga Mahi (PSA) is Aotearoa's largest trade union with over 80,000 members (PSA, 2022), including approximately 3,500 social workers (PSA, 2018). In its inquiry into the operation of the SWRA 2003, the PSA raised concerns that

the SWRB might be unduly restrictive in its approach to the registration of social workers with criminal convictions (PSA, 2016). The PSA said it has witnessed trained social workers refused registration due to one-off, or minor, past offences (PSA, 2016, p. 4).

The Criminal Records (Clean Slate) Act 2004 (CSA, 2004) was created to avoid discrimination based on minor convictions. People who did not re-offend within 7 years of their last conviction had their criminal record automatically concealed so that minor infractions did not hinder their progress through life, especially in employment. However, in 2019 the Social Workers Registration Legislation Act (2019) and the CSA (2004) were amended so that “clean slate” provisions no longer apply when the SWRB undertakes police checks of prospective social workers. The SWRB are also granted access to criminal conviction history and court proceedings that did not result in a conviction. Further, the SWRB can access information the New Zealand Police hold on an individual, including reported family violence history and infringement or demerit reports (SWRB, 2018). Accessing this additional information could potentially flag concerns about future practice safety. However, as Apaitia-Vague et al. (2011, p. 58) stated, it could also reveal “a person's ‘story’ as a victim”, exposing personal information that individuals may legitimately not wish to disclose.

Queries have also been voiced about the lack of reference to Te Tiriti o Waitangi in the SWRA 2003. According to Simmons-Hansen (2010, p. ii), concerns about maintaining fair power relationships consistent with the “bicultural commitment tradition within the social work profession” were ignored. Te Momo (2015, p. 505) argued that the proposal for mandatory registration and SWRB regulation could be considered “colonisation by words applied in a subtle manner” (Te Momo, 2015, p. 505). The issue is that a one-size-fits-all regulation process that does not take specific account of the position of

Māori risks further marginalisation and undermines the goal of increasing Māori participation in social services (Beddoe & Duke, 2009; Randal, 2018).

### Social justice and activism

The profession has successfully co-opted the term *social justice*, using it to claim a unique space within the helping professions. It is maintained that “principles of social justice, human rights, collective responsibility and respect for diversities” are central to the profession (IFSW, 2018, para. 5). However, Williams (2019) questioned whether the profession upholds these principles when considering the place of non-violent social justice activism (NVSJA) within social work. Ostrander et al. (2017) pointed out that engaging in political activism (whether that be protesting or joining political or civic organisations) can be a way for social workers to uphold their social justice and human rights obligations as set out by the IFSW (2018). This raises the question of what happens when a prospective or current social worker gets arrested challenging social injustices through NVSJA? It is not uncommon to get arrested at such events, with Māori more likely to be arrested and convicted (Duarte, 2017; Eketone, 2015; Keane, 2012; Schrader, 2010, as cited in Williams, 2019). While social workers are advised to “engage in action to change the structures of society”, they are also meant to uphold the principle of being “law-abiding citizens of Aotearoa New Zealand” (ANZASW, 2019, p. 12). Effectively, the role of NVSJA, which inevitably involves the risk of arrest, is discounted.

Scrutiny of IFSW documentation reveals scant reference to how the social work profession should approach the issue of criminal justice involvement. The only mention found is within the Education Global Standards (IFSW, 2012), which states: “Relevant criminal convictions, involving abuse of others or human rights violations, must be taken into account given the primary

responsibility of protecting and empowering service users” (Standard 6.2). However, there is also a significant benefit in having social workers that reflect the population grouping with which they engage (Vliek, 2018). The IFSW (2012) standards highlight the importance of “student recruitment, admission and retention policies that reflect the demographic profile of the locality that the institution is based in...” and state: “Due recognition should be given to minority groups that are under-represented and/or under-served” (Standard 6.2). In considering the appropriate balance, it is crucial to hear the voices of social workers with criminal justice involvement and how they have experienced professional registration. Hopefully, presenting their views will lead to more discussion amongst social work bodies, regulators, educators, and employers about just processes to manage their entry.

### Methodology

The research which informs this article was conducted as part of a Master of Social Work study that sought to understand how social workers with criminal convictions in Aotearoa navigated their social work career pathways. Data from participants concerning social work registration and experiences of the registration process have informed this article.

Interpretative phenomenological analysis (IPA) was the methodological approach taken. IPA is an integrative hermeneutic phenomenology (Finlay, 2011) that favours interpretation over description. Since its inception, IPA has become known as a methodology that provides a rich and nuanced understanding of the experiences of research participants (Smith, 1996). Semi-structured interviews were carried out with 11 individuals with one or more criminal convictions and working (or who had worked) in the social work profession. Individuals included in the research did not have to be registered, as mandatory

registration had not come into effect at the time of recruitment.

## Recruitment

Purposive sampling was employed. IPA researchers generally attempt to locate participants who can provide insights into a particular experience (Smith et al., 2009). The recruitment of practising social workers was achieved by advertising through the SWRB website and via a generic email sent by ANZASW and the Drug and Alcohol Practitioners Association Aotearoa New Zealand (DAPAANZ) to their members. Snowball sampling was also used in the recruitment of potential participants.

## Data analysis

Smith and colleagues (2009) outline six steps to promote rigorous analysis. However, I added an additional, seventh, step from Colaizzi's (1978) descriptive phenomenological method. This extra step involved validating the "description of the phenomenon under study" by returning

the core meanings the researcher has drawn from the transcripts to the participants (Morrow et al., 2015, p. 643). Here is an overview of the seven steps taken within my analysis process.

Step 1 entailed "immersing oneself in some of the original data" (Smith et al., 2009, p. 82) by reading and re-reading each transcript. At this stage, I used a journal to write down thoughts that came to mind and *bracket out* how my personal experiences linked to participant accounts. Bracketing is a methodological tool that demands the researcher deliberately cast aside their beliefs and experiences of the phenomenon throughout the research process (Carpenter, 2007). Step 2 comprised a line-by-line analysis of the data with comments made against significant bodies of text. Step 3 involved looking at the notes I had created to find emergent themes. These emergent themes were closely linked to participant accounts but also included my interpretation. Step 4 encompassed grouping together emergent themes while discarding those irrelevant to the research question. Step 5

Table 1. Participant Demographics

Pseudonym	Gender	Age Range	Ethnicity	Level & date of education	Years as a social worker	SWRB registration
Tania	Female	60-69	Pākehā	1999 BSW	19	Yes
Phillipa	Female	40-49	Pākehā	1997 BSW	20+	Yes
Darren	Male	40-49	Pākehā	2010 BSW	10	Yes
Sarah	Female	30-39	Pākehā	2014 BSW	5	Yes
Chad	Male	20-29	Pākehā	2017 BSW	6	In progress
Luke	Male	20-29	Japanese Pākehā	2017 BSW honours	18 months	No
Iosefa	Male	40-49	Samoan	2004 DipSW Currently doing masters	16	
Mike	Male	40-49	Māori	1990 studies Post grad & masters	25	No
Whānui	Male	50-59	Māori Irish	1990s addiction studies diploma	25	No
Shaun	Male	30-39	Pākehā	2014 BSW honours 2017 MSW	4 months	Yes
Aroha	Female	40-49	Māori	2010 Bachelor of applied social work	19	Yes

meant moving on to the next transcript and repeating steps 1 to 4. It was important to bracket out my learnings from the previous transcript to view the following transcript with fresh eyes and without preconceived ideas of what I might find.

Step 6 incorporated elements of Colaizzi's (1978) analysis. Four participants were randomly selected to check that the interpretation of their interview was a valid representation of their experiences. And finally, step 7 aligns with Smith and colleagues' (2009) final step in which the analyst looks for emerging patterns across cases. At this point, I used NVivo 12, a qualitative software program, which enabled me to manage many emergent themes and group them more efficiently into higher-order nodes (Edlund & McDougall, 2019). During this stage, I created several parent nodes (representing the higher order concepts drawn from the emergent themes) and a series of child nodes (emergent themes) linked to relevant parent nodes. This was an inductive process that took considerable time and continued to evolve during the writing up of the findings.

### Ethics

I applied to the University of Auckland Human Participants Ethics Committee (UAHPEC) and received ethics approval (reference 022943) on 29 May 2019 for 3 years. Through my personal experiences of the social work education system and profession as a woman with criminal convictions, I have experienced some personal barriers to practice. I had to be careful not to project my experiences onto the participants. As Kockelmans (2017) stated: "it is impossible to tear oneself completely away from that tradition, to adopt a 'neutral' and 'objective' attitude, and, in this way, to achieve an 'authentic' understanding" (p. 42). I ensured that my background and experiences were not made known to the participants during recruitment and interviewing. Of course, not

all the participants came into the interview space unaware of some elements of my background. Two interviewees knew me at different stages of my life and had some knowledge of my convictions. I maintained ethical and professional boundaries by refraining from engaging in dialogue about the project except in the confines of the interview and subsequent communication. I ensured that I anonymised participant contributions and used extracts carefully to limit the risk of identification.

### Findings

Three themes in the findings captured participants' views of mandatory registration and their experiences with the SWRB's registration processes. The first theme, "To be or not to be ... registered", gathers the participants' experiences with the SWRB and explores their views of mandatory registration. The second theme, "Smoke and mirrors", presents participants' views that the SWRB lacks transparency within the registration process and does not clarify whether someone can be registered before undertaking a 4-year degree. The third theme, "Black mark for life", conveys participants' displeasure that the CSA (2004) does not apply within the registration process and illustrates how minor convictions are a black mark they carry throughout their career pathway.

#### *To be or not to be ... registered*

Whether registered or not participants expressed a strong sentiment of support for the broad principles and ideals underlying mandatory registration. Several participants said legalising the title "social worker" was good. Sarah said, "if you've done your social work degree, Joe Bloggs down the street who's never done anything can't say they're a social worker". Luke felt that the SWRB set the bar where "you need to be" and that this is "way better". Iosefa said, "I think it's really good, it strengthens that accountability". Aroha had the view that registration improved the

safety of clients and enabled them “to ... lay a complaint should they need to ... if they feel that they’re not being, you know, treated fairly. I think that’s a good thing”. Sarah saw registration as providing a “kind of protection of title”. However, she also questioned whether “this professional bod[y]” was “getting us further away from the clients”.

Over half of the participants expressed concerns about mandatory registration and its application in practice. Phillipa said the “cost is a bit extreme” when registering, and Sarah was concerned that “for some people ... who have kids ... paying a lot of rent, that’s quite a stretch”. Shaun shared Sarah’s insight about the financial impact on less privileged social workers in the following account:

The people who are more able to get social work qualifications are going to be white, privileged, middle class, and the people who get stuck in community worker positions are...more likely to be working-class parents, people who can't afford to study, Māori people who face systemic discrimination.

Sarah was also concerned with declining diversity within the profession due to registration, questioning whether a 4-year degree was “equally open to everyone” and wondering if, before registration, “were we getting different social workers from different avenues?”.

To be considered for social work registration, applicants must complete a recognised Aotearoa social work qualification or hold an equivalent overseas qualification (SWRB, 2020b). If they have extensive practice history but no recognised qualification, they may also apply through the experience pathway (SWRB, 2020c). Shaun outlined his views about experienced individuals being excluded from registration due to a lack of education in this account:

The idea that everyone should be forced to go and get a four-year social work

degree at great expense and that that qualifies you to then be a social worker is absolutely absurd when there are people working in communities who have far more lived knowledge and experience and far more skill than I ever will.

Phillipa wondered “if some organisations will get away with it by not calling people social workers even though they are doing a social work kind of job”. The concerns Phillipa and Shaun expressed about registration were being experienced by Whānui, who is unregistered due to the barriers around needing a 4-year degree qualification:

At jail at the moment, I've raised the bar another level when it comes to clinical practice...my manager was mentioning it, that I've raised the bar and yet I'm on the lowest grade. So, I've got 20-something years' experience in the field but I'm still on the bottom rate I think I'm on the ... lowest rate for social workers.

Whānui was resigned *to being part of a system* that did not recognise lived experience and work history as being equal to a qualification and registration by a professional body. It seemed he was going backwards professionally and financially in the face of professionalisation.

Some participants held off applying for registration due to their criminal convictions. Chad expressed anxiety about being rejected:

I think I've kind of like put it off, because of that aspect, I feel like I would've applied for it a lot sooner ... still to this day kind of still makes you a little bit more anxious and nervous about it all. So I've kinda just put it on the back burner I haven't really like been in a hurry to get registered because of that.

Shaun questioned the SWRB’s narrow focus on criminal convictions in determining an applicant’s ethical standing. Shaun said he was asked to disclose his conviction during

his application but that he “wasn't asked to disclose other unethical behaviour I'd been engaged in”.

Chad directly experienced Shaun's hypothetical point in his career pathway.

I mean I know a lot of people at university that did way worse stuff than me but didn't get caught ... I know doctors, I know lawyers, I know accountants, I know teachers, that did some real ... bad stuff but didn't get caught and that's kind of the difference ... between me and them.

He understood first-hand that he was deemed less ethical and “worthy” than his peers due to being “caught” while his peers got away with “worse” actions.

### ***Smoke and mirrors***

Many participants viewed the SWRB as lacking transparency and most expressed some uncertainty about the SWRB registration process.

Shaun spoke of the lack of guidance when registering and divulging his ongoing commitment to protest action:

I got in touch with them [SWRB] and said ... I've got a conviction for civil disobedience, still engaged in it ... can you give me any guidance on how the board would look at it, they said “no we have nothing that we can tell you or no guidance we can give you the only thing that we can say is that we would look at it with like from a social work perspective” and I go “what the fuck does that mean?”

Other participants shared concerns about a lack of transparency and expressed an undercurrent of fear, uncertainty and anxiety when applying for registration. When asked what she thought of the current screening of social workers with criminal convictions, Phillipa replied: “What is the current screening? All I know is that I had to write to

the Social Work Registration Board and then nothing else happened.”

Several participants expressed concerns that the SWRB does not give prospective students with criminal justice involvement certainty about their ability to gain registration once qualified. Sarah stated:

When I started my degree and you know they said, “you know registration will be coming”, and I started my degree in like 2009 and that you know they can't tell you at the beginning that you are going to spend all that money and at the end potentially you won't get registration.

Iosefa expressed a similar sentiment. Although he had gained social work registration, he acknowledged it was more accessible due to the amount of time between his incarceration and needing to be registered.

I think what was difficult back then when I first started was I didn't have a history of change, whereas now I have the history so it's a lot easier for me ... when I initially started they'd ask me questions around “what changes?” The only changes was I came out of prison, I don't drink anymore, and I help out at church where now it's very different.

Some social workers in this study would likely fail against registration criteria within the current regime if their conviction history were more proximate to graduation. Other unforeseen barriers were also revealed. Sarah spoke about applying for a job and being viewed as an ideal candidate and how she had “applied for registration, but it hadn't come through yet, and they actually declined me for the position based on the fact that I potentially may not get my registration”.

### ***Black mark for life***

The theme “Black mark for life” was referenced by many participants. They



sensed that the systems did not allow minor convictions to be wiped, which meant a permanent black mark remained with them. Eight participants had elements within their interviews that linked strongly to this theme.

Several participants spoke directly about their frustration with the SWRB decision to access all criminal justice involvement, even minor convictions that would have been restricted as per the criteria contained within the CSA (2004). Shaun described this approach as making “the purpose of the Clean Slate Act redundant”. The CSA (2004) “was supposed to prevent people from facing unreasonable barriers for the rest of their life based on a minor conviction” and yet “the SWRB said no ... we want to be the judges of that rather than your conduct ... be covered by the Clean Slate Act”.

Tania spoke of the confidence the Clean Slate Act 2004 gave her in progressing within her career:

For my next job I didn't have to disclose my criminal record cos of the clean slate bill was there and that was actually that was probably 2004 so the clean slate would have been in around 2003 ... and I think having the clean slate actually gave me the confidence to apply for that role.

Chad said the CSA (2004) “kind of give[s] you a false sense of hope”. He thought the CSA (2004) was “absolutely useless” and “a crock of shit”. However, he also understood why the “social work field needs to know about criminal convictions” but believed there were “ways they can improve it”. Chad acknowledged that he would “love for my one [criminal conviction] to just disappear and be gone”. Chad was frustrated with a “black and white” system that did not consider the context of criminal charges. He said his conviction was at the “very, very low end of the spectrum”, many participants echoed these feelings of frustration; that the system is unjust.

## Discussion

### *To be or not to be ... registered*

Most participants responded positively to mandatory registration; however, concerns remained. For instance, several participants stated that the cost of registration could be a barrier. Recently ANZASW (2021) made a submission on behalf of its members who vehemently opposed the 64% fee increase proposed by the SWRB. In a recent email to members, ANZASW stated that registration has had unintended consequences, which include a reduced number of social workers due to people leaving the profession and social work roles being “morphed” into non-social worker jobs so that employers can avoid mandatory registration (B. Clark, personal communication, December 21, 2021). The ANZASW concerns were mirrored by participants when they spoke about the potential for the registration process to create two different streams of social workers: those who were registered and legally allowed to use the name social worker and those who were unregistered but still performed social work responsibilities under another job title.

Participants raised concerns that entrance to the social work profession was narrowing due to the criteria set by the SWRB. In 1996 ANZASW members expressed concern about the potential for statutory registration to impact Māori and cause them to be “marginalised by the process” (Randal, 2018, p. 22). As Te Momo (2015) pointed out, an indigenous social worker mindset is not solely determined by academic institutions or governments, nor are registered social workers the “only experts of social work practice for indigenous people” (p. 506).

Given that structural racism exists at every level of the criminal justice system in Aotearoa (Brittain, 2016; Department of Corrections, 2007; Fergusson et al., 1993a, 1993b; Fergusson et al., 2003; Hook, 2009; Jackson, 1988; O'Malley, 1973; Tauri, 2005; Webb, 2009; Workman, 2011), one would

expect the social work profession, including the professional and regulatory bodies, to be more outspoken about biases and discrimination within that system. Similarly, it is ironic that the SWRB does not have more of a critical viewpoint about the need for social work to tackle the problem of incarceration, given the emphasis it places on an applicant's criminal conviction history during the registration process.

Two participants spoke about their history of political activism and indicated that registration would not keep them from activism in the future. They viewed NVSJA as a risk worth taking and consistent with the aspirations of the social work profession. Williams (2019) believed that the Fit and Proper Person Policy Statement (SWRB, 2018) needs to be amended to reflect that NVSJA is an important right of social workers to fight for social justice and human rights. This aligns with the participants' views and highlights the disconnect between social work values set by our international and national professional bodies and what the statutory SWRB decides is acceptable behaviour befitting a social worker. In omitting NVSJA from its Fit and Proper Person Policy Statement (2018) the SWRB is showing that its allegiance falls firmly in the lap of the state. In writing about the history of social work professionalisation in Aotearoa New Zealand, Hunt et al. (2020) highlighted the threat to the profession's social justice mandate as the state regulator gains more control in defining and policing social work practice.

Finally, the issue of what it means to be ethical, and how the SWRB views this, was raised by participants when they said receiving a criminal conviction is not necessarily the only marker of unethical behaviour. In a study of Scottish students, anonymously self-reporting criminal activities, only 3% indicated that they had never committed one of the 11 offence types listed. The majority of those were for drunkenness, theft, and traffic offences.

However, over a third self-reported offences such as fraud, drug possession, smuggling or breach of the peace (Perry, 2004). Most of the participants in my study experienced significant change through their criminal justice involvement. It appears they worked hard to ensure that they became ethical social workers and ethical members of society.

### ***Black mark for life***

Studies show that those with criminal justice involvement are more likely to be discriminated against in workplaces where they are mandated to divulge their criminal history (Carlin & Frick, 2013; Graber & Zitek, 2022). Many participants' accounts implied that their criminal convictions were an enduring black mark, no matter how minor. This aligns with the thinking of most criminal justice scholars who believe that "a criminal conviction – no matter how trivial or how long ago it occurred – scars one for life" (Petersilia, 2003, p. 19).

Participant data conveyed a sense of frustration about the differing legislation covering criminal convictions and how it was applied within the social work profession. The anxiety expressed by participants in this research align with a study that suggests ex-offenders are constantly fearful of being judged and rejected when their criminal record is disclosed (Aresti et al., 2010). Several participants conveyed this sense of injustice and suggested a continued feeling of being under scrutiny, or surveillance, and that they needed to be prepared to defend themselves at any given moment.

### ***Smoke and mirrors***

Participants expressed considerable concern about the lack of transparency, especially for those with criminal convictions unable to find out if they were suitable for registration before undertaking study. It appears that educators are left to decide whether they believe a potential social work student meets the SWRB Fit and Proper Person Policy

Statement (2018) well before that person will go before the Board and apply for registration.

Educators are left to second guess what the SWRB might choose to do, which could lead to reduced admission for those with criminal convictions and a subsequent reduction in diversity and lived experience within our workforce. Several authors have written about the process of *othering* and how rigid admissions policies that exclude criminal justice involved individuals from social work education can result in creating two separate groups: “Offenders are people who social work students have as clients” (Pomeroy et al., 1999, 2004, as cited in Crisp & Gillingham, 2008 p. 313). It is important that educating and hiring those from marginalised spaces continues to occur, otherwise we will end up with social workers who are not representative of the people we support. We must remain relatable and grounded within the communities where we work.

Also, while a social work degree may not guarantee registration it could help secure a role within another caring profession, for example, peer support or community work. It could also open the door to academic and research opportunities to benefit education providers and the social work profession. It seems small-minded to hang someone’s entrance to social work education purely on guessing whether they may, or may not, be registerable once they graduate.

Most participants in this study had the relevant pre-qualifications and had no issue securing a place at an education provider. However, most participants had completed their social work studies some time ago, so their experiences would likely differ from those attempting to access social work education today. Due to mandatory registration, those applying for social work education with recent criminal convictions would not now have a buffer of time post-graduation. As noted in the Fit and Proper

Person Policy Statement, the “time that has elapsed since the offence took place” is an important factor the SWRB considers when making its deliberations (SWRB, 2018, p. 9). If access to social work education and registration narrows due to the emphasis placed on criminal conviction history, are we, as a profession, doing a disservice to the social work values we are mandated to uphold and, ultimately, to the people we support?

### Limitations

Interpretive validity is critical in IPA research. I used different tools to ensure that the sense-making process was ordered appropriately. Smith and colleagues state, “[the] participant’s meaning-making is first-order, while the researcher’s sense-making is second-order” (p. 35). Although deeper understandings of a phenomenon gained in IPA can be transferable, they are unlikely to be generalisable (Smith et al., 2009). One limitation to the generalisability of this study was the time factor. Given that most of the participants with criminal convictions were older than the average graduate and/or had spent some time in practice, their experiences may have been very different to those of a person with recent criminal convictions attempting to enter the field of social work today.

To ensure my interpretation of each participant’s account was as accurate as possible, I used reflexive journaling, participant checking, discussions with my supervisor, and a *critical friend* (Kember, 1997). A limitation within IPA is that relying on verbatim transcripts of participant interviews can mean missing out on subtleties conveyed through non-verbal communication (Duminda, 2020). In recognition of this, I wrote notes in a reflective journal after the interviews and re-listened to the recordings while reading through the transcripts. The role of the critical friend is to advise the researcher in a partnership-type relationship, different to

that of the more formal supervisory role. My critical friend was beneficial during the later stages of data analysis.

### Conclusion

Participants were asked for recommendations about how the profession should approach educating, employing, and registering those with criminal justice involvement. Suggestions included reform of the current approach to the CSA (2004) and a more flexible and transparent process. One consistent element within participant accounts was the need for clarity and consistency from the SWRB, social work education providers and employers about educating, registering, and employing people with criminal convictions.

This small study raises issues, not only for the SWRB, but for the entire social work profession. We lack data and research about those with criminal justice involvement accessing education, gaining employment and becoming registered within the profession. It would be interesting to research individuals with recent criminal convictions wanting to study and practise social work and to compare their experiences. Are higher education providers admitting fewer students with criminal justice involvement?

The social work profession has been going through significant change over recent decades, shifting toward “economic rationalism, efficiency and risk management” (Randal, 2018, p. 25). It is important to understand whether this increasing professionalisation and regulation is changing the social class and privileged nature of the social work workforce. The SWRB could provide insight into their decision-making by publicising what criminal justice involvement has resulted in a declined registration application. Ultimately, as a profession we need to consider the shape of social work practice within Aotearoa. If decisions are being made

that are changing the face of social work, we as social workers should be aware, engaged, and have the opportunity to challenge those decisions.

Submitted: 12 April 2022

Accepted 7 September 2022

Published: 23 September 2022

### References

- Aotearoa New Zealand Association of Social Workers (ANZASW). (2019). *ANZASW Code of ethics 2019*. <https://anzasw.nz/wp-content/uploads/Code-of-Ethics-Adopted-30-Aug-2019.pdf>
- Aotearoa New Zealand Association of Social Workers (ANZASW). (2021). Submission on the Social Work Registration Board's fees and disciplinary levy consultation on change proposals. <https://swrb.govt.nz/consultation/>
- Apaitia-Vague, T., Pitt, L., & Younger, D. (2011). “Fit and proper” and fieldwork: A dilemma for social work educators? *Aotearoa New Zealand Social Work*, 23(4), 55–64. <https://anzswjournal.nz/anzsw/article/download/151/234>
- Aresti, A., Eatough, V., & Brooks-Gordon, B. (2010). Doing time after time: An interpretative phenomenological analysis of reformed ex-prisoners' experiences of self-change, identity and career opportunities. *Psychology, Crime & Law*, 16, 169–190. <https://doi.org/10.1080/10683160802516273>
- Beddoe, L., & Duke, J. (2009). Registration in New Zealand social work: The challenge of change. *International Social Work*, 52(6), 785–797. <https://doi.org/10.1177/0020872809342649>
- Brittain, E. (2016). *Whai tikanga: In pursuit of justice. Māori interactions with the criminal justice system and experiences of institutional racism* [Unpublished doctoral dissertation]. Massey University.
- Brown, M. (2000). *Care and protection is about adult behaviour: The ministerial review of the Department of Child, Youth and Family Services*. <https://www.ms.govt.nz/documents/about-msd-and-our-work/publications-resources/archive/2000-care-and-protection-is-about-adult-behaviour.pdf>
- Carlin, M., & Frick, E. (2013). Criminal records, collateral consequences, and employment: The FCRA and Title VII in discrimination against persons with criminal records. *Seattle Journal for Social Justice*, 12(1), 109–163. <https://digitalcommons.law.seattleu.edu/sjsj/vol12/iss1/4>
- Carpenter, D. R. (2007). Phenomenology as method. In H. J. Streubert & D. R. Carpenter (Eds.), *Qualitative research in nursing: Advancing the humanistic imperative* (pp. 75–99). Lippincott.
- Colaizzi, P. F. (1978). Psychological research as the phenomenologist views it. In R. S. Valle & M. King (Eds.), *Existential-phenomenological alternatives for psychology*. Oxford University Press.

- Corrigan, R. (2000). Position paper on the statutory registration of social workers, August 2000. *Social Work Review*, 12(2), 3–7.
- Criminal Records (Clean Slate) Act, No. 36. (2004). <http://www.legislation.govt.nz/act/public/2004/0036/latest/DLM280840.html>
- Crisp, B. R., & Gillingham, P. (2008). Some of my students are prisoners: Issues and dilemmas for social work educators. *Social Work Education*, 27(3), 307–317. <https://doi.org/10.1080/02615470701380360>
- Department of Corrections. (2007). *Over-representation of Māori in the criminal justice system. An exploratory report*. [https://www.corrections.govt.nz/\\_data/assets/pdf\\_file/0014/10715/Over-representation-of-Maori-in-the-criminal-justice-system.pdf](https://www.corrections.govt.nz/_data/assets/pdf_file/0014/10715/Over-representation-of-Maori-in-the-criminal-justice-system.pdf)
- Duarte, F. (2017). Reshaping political ideology in social work: A critical perspective. *Aotearoa New Zealand Social Work*, 29(2), 34–44. <https://anzswjournal.nz/anzsw/article/viewFile/282/463>
- Duminda, R. (2020). Interpretative Phenomenological Analysis (IPA) as a coaching research methodology. *Coaching: An International Journal of Theory, Research and Practice*, 13(2), 176–190. <https://doi.org/10.1080/17521882.2019.1694554>
- Edlund, B., & McDougall, A. (2019). *NVivo 12 essentials*. Lulu.com.
- Eketone, A. (2015). Will the oppressed ever be able to participate in the social work profession? *Aotearoa New Zealand Social Work*, 27(4), 1–4. <https://anzswjournal.nz/anzsw/article/viewFile/431/509>
- Fergusson, D. M., Horwood, L. J., & Lynskey, M. T. (1993a). Ethnicity and bias in police contact statistics. *Australian & New Zealand Journal of Criminology*, 26(3), 193–206. <https://doi.org/10.1177/000486589302600302>
- Fergusson, D. M., Horwood, L. J., & Lynskey, M. T. (1993b). Ethnicity, social background and young offending: A 14-year longitudinal study. *Australian & New Zealand Journal of Criminology*, 26(2), 155–170. <https://doi.org/10.1177/000486589302600205>
- Fergusson, D. M., Horwood, L. J., & Swain-Campbell, N. (2003). Ethnicity and criminal convictions: Results of a 21-year longitudinal study. *Australian & New Zealand Journal of Criminology*, 36(3), 354–367. <https://doi.org/10.1375/acri.36.3.354>
- Finlay, L. (2011). *Phenomenology for therapists: Researching the lived world*. Wiley-Blackwell.
- Graber, J., & Zitek, E. M. (2022). Reducing criminal record discrimination through banning the box: the importance of timing and explanation in the reveal of a drug conviction. *Psychology, Crime & Law*, 28(4), 390–415.
- Harington, P. (2006). Practitioner scholarship and civic literacy: Will registration lift the game? *Social Work Review*, 18(Summer), 90–99.
- Hook, G. R. (2009). "Warrior genes" and the disease of being Māori. *MAI Review*, 2, 1–11. <http://www.review.mai.ac.nz/mrindex/MR/article/download/222/222-1507-1-PB.pdf>
- Hughes, C., Staniforth, B., Adamson, C., Hancox, J., McNabb, D., & McKechnie, R. (2017). Report to CSWEANZ on behalf of the Fit and Proper Working Group. [https://unitec.researchbank.ac.nz/bitstream/handle/10652/4445/Hughes,%20C.%20\(2017\).pdf?sequence=3](https://unitec.researchbank.ac.nz/bitstream/handle/10652/4445/Hughes,%20C.%20(2017).pdf?sequence=3)
- Hunt, S. (2017). The social work regulation project in Aotearoa New Zealand. *Aotearoa New Zealand Social Work*, 29(1), 53–64. <https://researchcommons.waikato.ac.nz/bitstream/handle/10289/11662/The%20SW%20regulation%20project%20in%20ANZ%20Aotearoa%20NZ%20SW.pdf?sequence=2>
- Hunt, S., Staniforth, B., & Beddoe, L. (2019). Establishing the qualification criteria for social worker registration in Aotearoa New Zealand: Conflict and compromise. *Social Work Education*, 38(7), 894–907. <https://doi.org/10.1080/02615479.2019.1593957>
- Hunt, S., Staniforth, B., & Beddoe, L. (2020). Disrupting the grassroots narrative of social work in Aotearoa New Zealand. *Aotearoa New Zealand Social Work*, 32(1), 45–60. <https://anzswjournal.nz/anzsw/article/viewFile/703/681>
- International Federation of Social Workers (IFSW). (2012, March 3). *Global standards*. <https://www.ifsw.org/global-standards/>
- International Federation of Social Workers (IFSW). (2018). *Global social work statement of ethical principles*. <https://www.ifsw.org/global-social-work-statement-of-ethical-principles/>
- International Federation of Social Workers (IFSW). (2022). *What is social work?* <https://www.ifsw.org/what-is-social-work/>
- Jackson, M. (1988). *He whaipanga hou: Māori and the criminal justice system – A new perspective*. Ministry of Justice.
- Jackson, S. (2021). *Career pathways of social workers with criminal convictions: Gifted healers and misunderstood misfits* [Master's thesis]. The University of Auckland.
- Keane, B. (2012). *Ngā rōpū tautohetohe: Māori protest movements*. <http://www.TeAra.govt.nz/en/nga-ropu-tautohetohe-maori-protest-movements>
- Kember, D., Ha, T. S., Lam, B. H., Lee, A., NG, S., Yan, L., & Yum, J. C. (1997). The diverse role of the critical friend in supporting educational action research projects. *Educational Action Research*, 5(3), 463–481. <https://doi.org/10.1080/09650799700200036>
- Kockelmans, J. J. (2017). Toward an interpretative or social science hermeneutic. In B. Babich (Ed.), *Hermeneutic Philosophies of Social Science* (pp. 25–50). De Gruyter.
- Lonne, B., & Duke, J. (2009). The registration of social workers. In M. Connolly & L. Harms (Eds.), *Social work contexts and practice* (2nd ed., pp. 378–392). Oxford University Press.
- Morrow, R., Rodriguez, A., & King, N. (2015). Colaizzi's descriptive phenomenological method. *The Psychologist*, 28(8), 643–644. [http://eprints.hud.ac.uk/id/eprint/26984/1/Morrow\\_et\\_al.pdf](http://eprints.hud.ac.uk/id/eprint/26984/1/Morrow_et_al.pdf)
- O'Brien, M. (2005). A just profession or just a profession? Social work and social justice. *Social Service Review*, 17(1), 13–22. <https://anzasw.nz/wp-content/uploads/Social-Work-Review-Issue-17-Autumn-05-Article-O'Brien.pdf>
- O'Brien, M. (2013). Social work registration and professionalism: Social justice and poverty – fellow travellers or discarded passengers? *Aotearoa*

- New Zealand Social Work*, 25(3), 50–59. <https://anzswjournal.nz/anzsw/article/download/73/169>
- O'Malley, P. (1973). The amplification of Māori crime: Cultural and economic barriers to equal justice in New Zealand. *Race*, 15(1), 47–57. <https://doi.org/10.1177/030639687301500103>
- Orme, J., & Rennie, G. (2006). The role of registration in ensuring ethical practice. *International Social Work*, 49(3), 333–344. <https://doi.org/10.1177/0020872806063405>
- Ostrander, J. A., Lane, S., McClendon, J., Hayes, C., & Smith, T. R. (2017). Collective power to create a political change: Increasing the political efficacy and engagement of social workers. *Journal of Policy Practice*, 16(3), 261–275. <https://doi.org/10.1080/15588742.2016.1266296>
- Perry, R. W. (2004). The impact of criminal conviction disclosure on the self-reported offending profile of social work students. *British Journal of Social Work*, 34(7), 997–1008. <https://doi.org/10.1093/bjsw/bch125>
- Petersilia, J. (2003). *When prisoners come home: Parole and prisoner reentry*. Oxford University Press.
- Pomeroy, E. C., Holleran, L. K., & Kiam, R. (2004). Postmodern feminism: A theoretical framework for a field unit with women in jail. *Social Work Education*, 23(1), 39–49. <https://doi.org/10.1080/0261547032000175692>
- Pomeroy, E. C., Kiam, R., & Abel, E. M. (1999). The effectiveness of a psychoeducational group for HIV-infected/affected incarcerated women. *Research on Social Work Practice*, 9(2), 171–187. <https://doi.org/10.1177/104973159900900203>
- Public Service Association (PSA). (2016). Inquiry into the Social Workers Registration Act 2003: Submission to the social services select committee. <https://www.psa.org.nz/assets/DMS/Our-Voice/SUBMISSIONS/Submission-on-the-Inquiry-into-the-Social-Workers-Registration-Act-2003/20160713-PSASubmission-Inquiry-into-the-Social-Workers-Registration-Act-2003.pdf>
- Public Service Association (PSA). (2018). *PSA submission: Social Work Registration Legislation Bill*. <https://www.psa.org.nz/assets/DMS/Our-Voice/SUBMISSIONS/Submission-on-the-Social-Worker-Registration-Legislation-Bill/20180131-PSASubmission-Social-Worker-Registration-Legislation-Bill.pdf>
- Public Service Association (PSA). (2022). *About the PSA*. PSA. <https://www.psa.org.nz/about-us/about-the-psa/>
- Randal, H. (1999). Guest editorial: Accountability for social work. *Social Work Review*, 12(1), 1–2.
- Randal, H. (2018). Lifting the veil on the government's regulatory agenda for the social work profession in Aotearoa New Zealand. *Aotearoa New Zealand Social Work*, 30(1), 20–31. <https://anzswjournal.nz/anzsw/article/viewFile/469/557>
- Rennie, G. (2013). Registration ten years on: A perspective from a social work educator. *Aotearoa New Zealand Social Work* 25(3), 3–10. <https://anzswjournal.nz/anzsw/article/viewFile/68/164>
- Schrader, B. (2010). *Parades and protest marches*. <https://teara.govt.nz/en/parades-and-protest-marches>
- Simmons-Hansen, M. (2010). *Lost voices: Why is Te Tiriti not named in the Social Work Registration Act (SWRA) 2003?* [Master's thesis]. Massey University. <http://www.scribd.com/doc/178796215/Lost-voice-5-AUGUST-pdf-Submissions-and-the-disconnectaround-the-Registration-of-Social-Workers-Act-2003>
- Smith, J. A. (1996). Beyond the divide between cognition and discourse: Using interpretative phenomenological analysis in health psychology. *Psychology & Health*, 11(2), 261–271. <https://doi.org/10.1080/08870449608400256>
- Smith, J. A., Flowers, P., & Larkin, M. (2009). *Interpretative phenomenological analysis: Theory, method, and research*. Sage.
- Social Workers Registration Act, No. 17. (2003). <http://www.legislation.govt.nz/act/public/2003/0017/latest/whole.html>
- Social Workers Registration Legislation Act, No. 3. (2019). <https://www.legislation.govt.nz/act/public/2019/0003/latest/DLM7396721.html>
- Social Workers Registration Board (SWRB). (2018). *Fit and proper person policy statement*. <https://swrb.govt.nz/download/fit-and-proper-policy-3/>
- Social Workers Registration Board (SWRB). (2020a). *Mandatory registration*. <https://swrb.govt.nz/about-us/legislation/mandatory-the-next-step/>
- Social Workers Registration Board (SWRB). (2020b). *SWRB and education*. <https://swrb.govt.nz/education/>
- Social Workers Registration Board (SWRB). (2020c). *Experience pathway: S13*. <https://swrb.govt.nz/social-workers/experience-pathway-s13/>
- Tauri, J. (2005). Indigenous perspectives and experiences: Māori and the criminal justice system. In R. Walters & T. Bradley (Eds.), *Introduction to criminological thought* (pp. 129–145). Prentice Hall.
- Te Momo, O. H. F. (2015). Māori social work. In *International encyclopedia of the social & behavioral sciences* (2nd ed., pp. 505–511). Elsevier.
- Tran, N. T., Baggio, S., Dawson, A., O'Moore, É., Williams, B., Bedell, P., Simon, O., Scholten, W., Getaz, L., & Wolff, H. (2018). Words matter: A call for humanising and respectful language to describe people who experience incarceration. *BMC International Health and Human Rights*, 18(1), 1–6. <https://bmcinthealthhumanrights.biomedcentral.com/articles/10.1186/s12914-018-0180-4>
- van Heugten, K. (2011). Registration and social work education: A golden opportunity or a Trojan horse? *Journal of Social Work*, 11(2), 174–190. <https://doi.org/10.1177/1468017310386695>
- Vliek, A. S. (2018). *Examining the impact of a criminal background in social work education* [Unpublished doctoral dissertation]. Western Michigan University, U.S.A.
- Webb, R. (2009). Māori, Pacific peoples and the social construction of crime statistics. *MAI Review*, 3, 1–4.
- Williams, N. J. (2019). Social work and social justice: The relationship between fitness to practise and criminal convictions for non-violent activism. *Aotearoa New Zealand Social Work*, 31(2), 64–68. <https://anzswjournal.nz/anzsw/article/download/638/650>
- Workman, K. (2011). Māori over-representation in the criminal justice system – Does structural discrimination have anything to do with it? [http://www.rethinking.org.nz/assets/Newsletter\\_PDF/Issue\\_105/01\\_Structural\\_Discrimination\\_in\\_the\\_CJS.pdf](http://www.rethinking.org.nz/assets/Newsletter_PDF/Issue_105/01_Structural_Discrimination_in_the_CJS.pdf)