

# With Due Consideration: Australian Human Service Practitioners' Understandings of Confidentiality and Disclosure Obligations in Regard to Cases Concerning Gambling-Related Theft

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**Abstract** Preserving confidentiality is problematic for human service practitioners if they know that a client is seriously harming a third party or could do so in the future. The present study concerned financial harm, as generated by gambling-related theft. Clients who disclose gambling-related theft potentially create a dilemma for practitioners, who may need to consider whether they have a professional duty to warn or in other ways protect third parties who are identifiable but uninvolved in treatment. Study participants included specialist gambling counsellors, practitioners working in agencies likely to attract clients with gambling problems and students in training. Data was collected by means of an online survey. Findings reveal how practitioners construe their profession's legal and ethical obligations when clients admit to gambling-related theft and when they personally believe that disclosure is warranted. Areas of uncertainty and disagreement have import for employing agencies, professional associations and tertiary training institutions.

**Keywords** Professional ethics · Ethical dilemmas · Confidentiality · Disclosure · Gambling-related theft · Problem gambling

Practitioners working in various fields of human service provision are reported to perceive confidentiality as an important factor in the maintenance of a therapeutic relationship (Jagim, Whittman & Noll, 1978; McMahon & Knowles, in Kampf, McSherry, Thomas & Abrahams, 2008). Clients likewise appear to value confidentiality in therapeutic relationships (Collins and Knowles 1995; McGuire, Toal & Blau, 1985), and are more inclined to remain in treatment and speak candidly when confidentiality is guaranteed (Miller and Thelen 1986). Nonetheless, preserving confidentiality is potentially problematic when practitioners know or suspect that a client is seriously harming a third party or could do so. Practitioners who

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disclose information in order to protect a third party may fear being reported to their professional body as well as legal claims for negligence, breach of contract or breach of confidence. In situations where there is a legal or an ethical duty to disclose, those who choose to maintain confidentiality may anticipate legal charges and public condemnation if a client does succeed in injuring others.

Practitioners contemplating disclosure are obviously well-advised to clarify their legal situation. Unfortunately, the law may be complex and varied in application; for example, Australia has nine legal jurisdictions with different laws covering the management of confidential information. The federal Privacy Act (1988) distinguishes between Information Privacy principles applying to federal and Australian Capital Territory government agencies and National Privacy Principles governing parts of the private sector (Kampf et al. 2008). In addition, the law may be incomplete in the sense that scope for discretionary judgments remains. This point is appropriately illustrated with reference to criminal activity, which is a central issue in the present research. Specifically, Australia's National Privacy Principles state that limitations on the disclosure of personal information are not intended to deter cooperation with law enforcement agencies and that health service organizations are at liberty to reveal personal information when it appears that clients have already broken the law or could potentially do so in future. At the same time, a supplementary note makes plain that so long as there is no legal impediment, the option of non-disclosure is always available.

Besides considering their legal position, practitioners contemplating disclosure are wise to refer to the standards and values of their profession. Professional codes of ethics offer protection as well as guidance in the sense that they articulate consensually developed expectations and ideals (Hemingway and Querin 2011). For example, the current code of the Australian Association of Social Workers (AASW, 2010) concedes that confidences may need to be revealed without clients' consent and enjoins practitioners to discuss limits to confidentiality at the outset of a professional relationship. The code of the Australian Psychological Society (APS, 2007) likewise acknowledges limits to confidentiality, although it does not always clarify whether psychologists "may" or "must" disclose information (Kampf et al.). Standard A.5.2 states that psychologists disclose confidential information only where there is "... a legal obligation to do so" or if there is "... an immediate and specified risk of harm to an identifiable person or persons that can be averted only by disclosing information".

Practitioners contemplating disclosure should also refer to governmental and/or agency codes, since these codes are most likely to provide detailed and setting-specific rules for managing particular situations (Banks 1998). It is important to note that legal, professional and organizational imperatives may not always coincide. Asserting the primacy of ethics, the AASW code (2010) directs social workers to seek guidance if legal and organizational requirements raise moral concerns.

### **Managing Dilemmas in Regard to Confidentiality and Disclosure**

Investigations of practitioners' understandings regarding confidentiality and disclosure largely take the form of analogue research where hypothetical dilemmas are presented for comment (Millstein 2000). Little is known as to when practitioners themselves identify ethical dilemmas (Fleck-Henderson 1991; Millstein). On some occasions, dilemmas that are identified may be quickly and routinely resolved since practitioners have already developed clear value priorities. On other occasions, practitioners may feel caught between competing imperatives and uncertain as to what they should do (Fleck-Henderson 1991; Millstein).

Studies suggest that colleagues are often seen as a major source of guidance and support when challenging situations arise (Sullivan 2005).

Accumulating studies and clinical commentaries have now linked a range of factors to decisions regarding disclosure. These factors include judgments about the kind and level of risk involved (Kampf et al. 2008; Lindenthal and Thomas 1980; Totten, Lamb & Reeder, 1990); the imminence of danger to third parties (McGuire, Nieri, Abbott, Sheridan & Fisher, 1995); victims' potential to be identified (Totten et al.); client characteristics (Kampf et al.; Jensen and Nicholas 1984; Pais et al.); and attributes of the therapist (e.g., theoretical orientation and personal value preferences) (Neukrug and Lovell 1996; Mattison, 2000; McMahon and Knowles 1995; Pais, Piercy & Miller, 1988). Findings also indicate that disclosure is less likely when practitioners have sketchy information and foresee that clients will be lost or harmed (Rodríguez, Wallace, Woolf & Mangione, 2006).

### Changing Approaches to Confidentiality and Disclosure

Consonant with the reality of a socially pluralist society, modern approaches to professional ethics have a relativist slant. Traditional notions of shared values are increasingly challenged, with the merits of formal codes being assessed rather than assumed (see, for example, Banks 1998). Exemplifying this shift, McConkey (1995) contends that the tenets of psychological codes exemplify various philosophical traditions and can be broadly characterized as "... moral relativism masking a legal formalism together with some utilitarian consequentialism and some assumptions of natural law" (p. 154). Davidson (1995) follows suit, asserting that maintaining the client's privacy is not necessarily an ethically acceptable response to a situation unless the rule *Keep this information secret* is a binding principle within the system of ethics being used.

In line with the above, theorists increasingly call for more explicit dialogue about values (Miner 2005; Osmo and Landau 2001; Rhodes 1986) and more extensive instruction in ethical or moral theory (see Davidson, Garton & Joyce, 2003; Miner 2005). Clinical practice guidelines are recommended to enhance ethical decision-making in the workplace, since they can potentially incorporate expert opinions on legal and ethical issues (Howard and Jensen 1999). Decision-making models are likewise recommended (Congress 2000; Day and White 2008; Hope Lincoln and Holmes 2010), even though they are not always well-grounded, either philosophically or theoretically, and have yet to be empirically assessed (Cottone and Claus 2000).

### The Focus, Aims and Significance of the Present Study

As indicated above, confidentiality is problematic when a client is harming others. Although harm can take many forms, discussion has traditionally centred on clients' propensity for suicide, homicide and/or physical assault. To extend knowledge, the present study focused on financial harm, as manifest in gambling-related theft. Practitioners' responses to gambling-related theft constitute a topical area for research, given that gambling is now big business in Australia and public participation is high. According to the Productivity Commission (2010), around 70 % of Australians undertook some form of gambling in 2009. Studies suggest that problem gamblers (i.e., people whose gambling goes beyond recreation or entertainment and has adverse consequences for themselves and/or others), often chase their losses and may eventually resort to theft (Abbott, Cramer & Sherrets, 1995; Castellani

2000). The prevalence of gambling-related theft is hard to ascertain since victims do not always press legal charges (Probit Research, 2004; Sakurai and Smith 2003); however, one study involving pathological gamblers found that almost 60 % admitted to gambling-related offences such as theft, embezzlement or misappropriation (Blaszczynski and McConaghy 1994).

The financial costs of excessive gambling fall heavily on gamblers' marital and de facto partners, who may only discern the reality of their situation when a full-blown crisis can no longer be disguised (Castellani 2000; Tepperman 2009; Wedgeworth 1998). Some are well-placed to recoup but others are irreparably harmed (Patford 2007 & 2008; Tepperman). Brading (2005) argues that Australian laws offer little help to partners who are trying to protect their personal money and property. Counsellors may also neglect financial matters, preferring to focus on emotional and relationship issues (Patford 2004).

Studies of gambling-related theft are timely given shifting attitudes towards financial abuse in the family. Fehlberg (2004) argues that family finances - except as they concern children - have been somewhat neglected by Australian policy-makers because of deep-rooted societal expectations that couples will equitably share their resources in the interests of the family overall. In 2010, the Australian Family Law Council advocated changes to the Family Law Act (1975), arguing that the legal definition of violence should be widened to encompass economically abusive or coercive behaviours (Overington 2010). In Victoria, South Australia, Tasmania and the Northern Territory, family violence is already defined with reference to economic abuse. Studies of gambling-related theft have further relevance in light of media reports concerning large-scale fraud and misappropriation in the workplace (Milovanovic 2004; David 2009), and recent evidence suggesting that internal theft costs Australian businesses around \$875 million each year (Rollings 2008).

Following the above, the primary aim of the present study was to explore how Australian practitioners working in the field of human services construe their legal and ethical obligations in regard to cases concerning gambling-related theft. Gamblers who disclose theft in an individual therapy session but decline to notify the person(s) affected create an ethical dilemma in the sense that practitioners may need to consider whether they have a professional duty to warn or in other ways protect third parties who are identifiable but uninvolved in treatment. As indicated above, their decisions may be influenced by a range of factors including their personal value preferences and perceptions of formal role obligations. Disjunctions between (perceived) professional obligations and personal inclinations have rarely been scrutinized, although DiFranks (2008) and Milgram (1974) note the potential for distress when individuals feel caught between the dictates of conscience and authority.

Although it is now widely acknowledged that practitioners often have competing loyalties and obligations (Banks 1998; Fisher 2009); little is known as to how these are weighted in reality. Further information is a necessary prelude to assessing the adequacy of professional training programs, organizational protocols and written guidelines. As noted by Mattison (2000), these points of reference are important to practitioners, whose uncertainty is potentially compounded by the lack of case references and formal opinions regarding appropriate professional conduct.

Given the exploratory nature of the present study and the limitations of previous findings, no hypotheses were specified. Nonetheless, it was tentatively expected that practitioners would most often perceive a professional obligation to disclose, and be personally inclined to disclose, when hypothetical cases involved: (i) physical or emotional injury as well as financial injury; (ii) large rather than small sums of money; and (iii) employers rather than family members as victims. Client attributes were also expected to affect practitioners' attitudes and choices; for example, it was anticipated that practitioners would report a

greater professional duty to disclose, and a greater personal inclination to disclose, when clients involved in gambling-related theft had a history of violence, psychosis or white collar crime, or alternatively, seemed unmotivated to change or confess to their victims.

## Method

### Participants

The present study targeted (i) human service practitioners in specialist roles concerning gambling; (ii) students undertaking tertiary training programs in relevant professional disciplines; and (iii) practitioners based in agencies likely to attract clients with gambling problems; for example, family counselling, mental health, domestic violence and substance abuse agencies. These agencies were selected in light of the reported links between problem gambling and substance abuse (Tonneatto & Brennan 2002), alcoholism (Winters and Kushner 2003); mood disorders (McIntyre et al. 2007); and domestic violence (Lorenz and Shuttlesworth 1983). Participants were sought in all capital cities except Darwin and in some regional towns such as McKay and Rockhampton. Contacts were made during 2010 and 2011 using word of mouth, telephone directories, professional and organizational email networks, university mailing lists and advertising databases.

Two hundred practitioners commenced the survey but only 178 produced useable response sets and were treated as study participants (see below). Included in the latter group were 47 (26.4 %) social workers; 43 (24.2 %) psychologists; 5 (2.8 %) lawyers; 15 (8.4 %) financial counsellors; 23 (12.9 %) personal/relationship counsellors; and 1 (0.6 %) physician. The remaining 44 (24.7 %) participants cited another professional identity (e.g., venue support worker, agency manager, youth worker, nurse, community worker or teacher). Sixty-eight (38.2 %) indicated that they were currently employed as a gambling specialist (e.g., as a gambling counsellor, financial advisor or community educator). Comparisons of practitioners who provided useable data and practitioners who did not ( $N=22$ ) indicated that those who designated themselves as social workers or “others” may have been relatively prone to drop out; however, the small size of the excluded group cautions against any over-interpretation of these findings. Missing data precluded further sub-group comparisons.

### Materials

Data regarding practitioners' views on confidentiality and disclosure were collected by means of a specially-tailored 3-part survey, designed with reference to the work of Kampf et al. (2008). In contrast to some earlier research (e.g., Gilligan 1982), practitioners' notions of professional duties were separated from their personal views and inclinations in regard to action. Completion of the survey normally took around 25–35 min.

Part A (Section 2) requested practitioners to state their professional identity for the purpose of survey completion<sup>1</sup> and to indicate whether they were currently employed as a specialist in gambling. It then asked whether the law required or permitted members of the practitioner's profession to disclose confidential information if they believed a client was harming another adult in either physical or non-physical ways. Two further questions enquired whether members of the practitioners' profession had an ethical duty to maintain

<sup>1</sup> Practitioners with multiple qualifications were asked to select one professional identity (e.g., the identity which seemed most relevant to the research or which they had most strongly internalized).

absolute confidentiality, or alternatively, a duty to disclose confidential information in some circumstances. Possible answers to these questions were “yes”, “no” and “unsure”. A seventh question asked practitioners whether their professional code of ethics provided useful guidelines for decisions concerning confidentiality and disclosure. Possible answers were “yes”, “to some degree”, “no” and “unsure”. In addition, practitioners were asked to indicate their level of confidence in their knowledge regarding the legal and ethical constraints on confidentiality, using a 7-point Likert scale (0 = Not at all confident; 6 = Very confident). An extra item assessed their confidence regarding the way in which their professional body would adjudicate client complaints about confidentiality and disclosure.

Subsequent items asked practitioners when members of their profession should accede to demands for case notes; for example, whether they should comply with a court order. Possible answers were “yes”, “no” and “unsure”, with participants having the option of naming other circumstances in a blank field. Practitioners were also required to identify factors that could potentially discourage disclosure, even if a third party appeared to be at risk.

Part B of the survey asked practitioners to identify professionally appropriate responses in situations where a client’s gambling-related theft was harming, or could potentially harm a third party. Possibilities included placing a note on the client’s file and seeking oral consent for disclosure. Response options were “yes”, “no” and “unsure”. Practitioners were then presented with 7 vignettes describing strategies gamblers may use to obtain money from their marital or de facto partner. Following Hargrave (n.d.), these vignettes were based on real-life situations, encompassing physical assault, threats to life, emotional manipulation and different forms of theft. Two additional vignettes concerned thefts from an employer. For all 9 vignettes, practitioners indicated their profession’s obligations in regard to disclosure as well as their personal views on whether disclosure was warranted, with or without client consent. Using a 10-point Likert scale (0 = Not at all likely; 10 = Extremely likely), they then estimated the likelihood that they would disclose in reality and identified appropriate contact points (e.g., the police or government agencies). The layout of the vignettes used in the survey can be seen in [Appendix A](#).

The following 9 items described clients who posed different risks to third parties by virtue of their different personal histories and attributes. In each case, practitioners indicated whether the conjunction of gambling with an additional problem (e.g., psychosis or substance abuse) or personal attribute (e.g., lack of motivation for change) would increase their professional duty to disclose or alter their personal inclination to disclose.

Part C of the survey gathered additional personal details regarding practitioners’ gender, age, qualifications, professional affiliations, work roles since graduation and theoretical orientation. Despite an explicit request in the emailed information sheet, a number of practitioners submitted their survey without completing this section. They may have been taxed by the length of the survey or alternatively, preferred to remain anonymous in case their answers were deemed incorrect. Since there were gaps in the information obtained and analyses pertaining to research aims did not necessitate this information, responses to Part C are not reported here.

## Procedure

After ethics clearance was obtained from the University of Tasmania, an information sheet containing a link to the online survey was emailed to potential participants and organizational personnel who had previously agreed to be a point of distribution. To encourage candour, the information sheet indicated that participants were expected to hold different views and views that would not necessarily coincide with those expressed in professional

codes of ethics. Participants were requested to complete and submit the survey electronically. Prior to responding, they also signed a statement of informed consent. Reminder notices were emailed where possible. (For reasons of privacy, employees' email addresses could not always be obtained).

## Results

### Data Analysis

When surveys were returned, practitioners' responses were entered into an SPSS database. Practitioners who failed to complete the survey up to Part B, Section 6 - the point at which the vignettes begin - were deleted from the data set. Initially, basic descriptive data were derived from the data file. Continuous variables were assessed for normality, but none was sufficiently skewed to warrant transformation. Categorical data were cross-tabulated and continuous data were compared using One-way ANOVA and Games-Howell post-hoc comparisons.

### Beliefs about Legal and Ethical Duties in Relation to Confidentiality and Disclosure

Practitioners' beliefs about their profession's obligations in regard to confidentiality and disclosure are summarized in Table 1. An overwhelming majority (89.3 %) indicated that the law permitted disclosure to a third party if a client was believed to be physically harming another adult, with a substantial but lesser percentage (50.6 %) believing that the law imposed a duty of disclosure in this situation. Practitioners were far less likely to believe the law either permitted or imposed the disclosure of non-physical harm (46.1 % and 19.7 % respectively); indeed, almost 30 % expressed uncertainty about the law when non-physical harm was at issue.

### Certainty Regarding Legal, Ethical and Professional Constraints on Confidentiality

As indicated above, practitioners were asked to rate their confidence in their understanding of legal and ethical constraints on confidentiality. They expressed most confidence in their understanding of ethical constraints ( $M=5.30$ ;  $SD=1.13$ ), although the mean score for legal constraints was only slightly lower ( $M=5.08$ ;  $SD=1.08$ ). They were least certain about the

**Table 1** Legal and ethical aspects of disclosure

Disclosure is:	Yes (%)	No (%)	Unsure (%)	To some degree (%)
Legally permitted (physical harm)	89.3	4.5	6.2	
Legally permitted (non-physical harm)	46.1	26.4	27.5	
A legal duty (physical harm)	50.6	33.7	15.7	
A legal duty (non-physical harm)	19.7	51.7	28.7	
Confidentiality an ethical absolute for my profession	40.4	57.9	1.7	
There is an ethical duty to disclose sometimes	96.6	2.2	1.1	
Code of ethics useful	57.3	3.4	5.6	33.7

*N*=178

way in which their professional body would adjudicate client complaints regarding confidentiality and disclosure ( $M=4.40$ ;  $SD=1.40$ ).<sup>2</sup>

#### Access to Written Case Notes

Practitioners' views as to when members of their profession should provide access to written case notes are detailed in Table 2. Consensus was highest in relation to legal demands, with substantial majorities agreeing that access was obligatory in regard to a court order and magistrate's instruction (78.1 % and 65.2 % respectively), but non-obligatory in regard to a written request from the police (72.5 %). Almost 40 % expressed uncertainty regarding the status of employment contracts.

#### Factors Affecting Disclosure when Third Parties are at Risk

To shed light on choices in regard to confidentiality and disclosure, practitioners were asked to identify factors that would deter them from disclosing, even when a third party appeared to be at risk. The client's safety emerged as the paramount concern, with a 70.2 % endorsement rate. Personal safety came next with a 55.6 % endorsement rate. The remaining factors were ordered as follows: (i) possible discrimination against the client (32 %); the need to protect the therapeutic relationship (31.5 %); the need to maintain the client's progress (26.4 %); and potential complaints to a professional body or another sanctioning authority (26.4 %).

#### Professional Options when Gambling-related Theft Entails Risk for Third Parties

Practitioners' views on appropriate professional responses to gambling-related theft are set out in Table 3. As indicated, consultation with an organizational superior and a professional colleague were most frequently deemed to be appropriate, being endorsed by 93.8 % and 87.1 % of practitioners respectively. Most practitioners believed it was appropriate to discuss disclosure by the client outside counselling sessions as well as the inclusion of the third party in counselling sessions (82.6 % and 73.6 % respectively); however, fewer believed it was appropriate to advocate these options (58.4 % and 34.8 % respectively). Responses most frequently deemed to be inappropriate were notifying a third party without client permission and terminating treatment if the client refused to inform the victim about the theft (76.4 % and 73 % respectively). A moderate number of practitioners expressed uncertainty as to whether informing the police and recommending voluntary hospitalization were appropriate professional initiatives (32.6 % and 25.3 % respectively).

#### Disclosure according to the Injury Sustained by the Gambler's Partner

As indicated above, 7 vignettes concerned gamblers who intimidated or manipulated their partner in order to obtain money for gambling. Practitioners' views on the legal and ethical obligations of their profession in each situation are displayed in Table 4. Threats to the partner's life were most often considered to entail a legal and ethical duty to disclose, with relevant scores being 75.8 % and 89.9 % respectively. Most practitioners (85.4 %) indicated that they personally considered disclosure of these threats to be warranted and would seek

<sup>2</sup> It is not clear how practitioners who assumed an identity such as venue support worker or agency manager defined their professional body when answering this question.

**Table 2** Access to written case notes

Access is obligatory:	Yes (%)	No (%)	Unsure (%)
Written request from police	11.2	72.5	16.3
Search warrant	48.9	23.0	28.1
Instruction from magistrate	65.2	12.9	21.9
Subpoena from law firm	51.1	25.3	23.6
Court order	78.1	6.2	15.7
Request from superior	21.9	55.1	23.0
Stipulated in employment contract	19.7	40.4	39.9

*N*=178

client consent for this. Most (81.9 %) also believed that disclosure was warranted irrespective of client consent. A sizeable proportion of practitioners likewise believed that members of their profession were legally and ethically obligated to disclose physical assault on a partner, with relevant scores being 50.6 % and 76.4 % respectively. Around 77 % expressed a personal belief that disclosure of assault was warranted and said they would seek client consent for this. Almost 62 % felt that disclosure was warranted irrespective of client consent. For each vignette, the police were most often nominated as an appropriate point of disclosure.

**Table 3** Professional options when gambling-related theft places third parties at risk

Option is appropriate:	Yes (%)	No (%)	Unsure (%)
Placing note on client's file	78.7	12.9	8.4
Trying to persuade client to change	71.3	23.0	5.6
Discussing disclosure by client outside counselling sessions	82.6	12.9	4.5
Advocating disclosure by client outside counselling sessions	58.4	26.4	15.2
Discussing inclusion of third party in counselling	73.6	18.0	8.4
Advocating inclusion of third party in counselling	34.8	44.4	20.8
Seeking oral consent for disclosure from client	39.9	49.4	20.8
Seeking written consent for disclosure from client	78.7	11.2	10.1
Ordering psychological testing	21.9	55.1	23.0
Recommending further treatment	61.1	18.5	12.4
Recommending voluntary hospitalization	25.8	48.9	25.3
Consulting with professional colleague	87.1	7.9	5.1
Consulting with organizational superior	93.8	3.4	2.8
Notifying third party after client permission obtained	66.9	17.4	15.7
Notifying third party without client permission	6.7	76.4	16.9
Informing police	26.4	41.0	32.6
Setting stipulations on treatment (e.g., saying gambling-related theft must cease while treatment in train)	38.2	42.7	19.1
Terminating treatment if client will not inform victim	11.2	73.0	15.7
Referring client on	44.9	30.9	24.2

*N*=178

**Table 4** Percentage of sample choosing disclosure option, according to injury sustained by partner or employer

Injury sustained	Professional duty		Inclination to disclose		Recipient of disclosure		
	Legal duty	Ethical duty	With consent	Without consent	Partner	Police	Gov't agency
Physical assault	50.6 <sup>d</sup>	76.4 <sup>d</sup>	77.4 <sup>c</sup>	61.5 <sup>c</sup>	NA	60.5 <sup>c</sup>	19.2 <sup>c</sup>
Sale of partner's goods	18.5 <sup>d</sup>	38.2 <sup>d</sup>	64.6 <sup>d</sup>	21.5 <sup>c</sup>	44.4 <sup>d</sup>	25.3 <sup>d</sup>	15.2 <sup>d</sup>
Secret purchase of credit card	5.1 <sup>d</sup>	20.8 <sup>d</sup>	47.8 <sup>d</sup>	9.0 <sup>c</sup>	34.8 <sup>d</sup>	8.4 <sup>d</sup>	8.4 <sup>d</sup>
Emotional manipulation	12.9 <sup>d</sup>	32.0 <sup>d</sup>	48.3 <sup>d</sup>	14.7 <sup>c</sup>	NA	8.4 <sup>d</sup>	9.0 <sup>d</sup>
Threat to partner's life	75.8 <sup>d</sup>	89.9 <sup>d</sup>	85.4 <sup>d</sup>	81.9 <sup>c</sup>	NA	80.9 <sup>d</sup>	48.3 <sup>d</sup>
Theft of \$150,000 from joint account	16.6 <sup>b</sup>	43.8 <sup>b</sup>	65.7 <sup>b</sup>	26.8 <sup>a</sup>	52.7 <sup>a</sup>	17.8 <sup>a</sup>	15.4 <sup>a</sup>
Theft of \$2000 from joint account	12.4 <sup>b</sup>	32.5 <sup>b</sup>	59.2 <sup>b</sup>	13.7 <sup>b</sup>	47.3 <sup>b</sup>	8.9 <sup>b</sup>	8.3 <sup>b</sup>
Embezzle \$150,000 from employer	44.4 <sup>b</sup>	58.6 <sup>b</sup>	72.6 <sup>b</sup>	44.0 <sup>a</sup>	NA	57.4 <sup>b</sup>	25.4 <sup>b</sup>
Theft of goods worth \$2000 from employer	36.1 <sup>b</sup>	52.1 <sup>b</sup>	61.5 <sup>b</sup>	31.0 <sup>a</sup>	NA	39.1 <sup>b</sup>	20.1 <sup>b</sup>

Note, <sup>a</sup> = N of 168, <sup>b</sup> = N of 169, <sup>c</sup> = N of 177, <sup>d</sup> = N of 178, Gov't Government

Two additional vignettes concerned gamblers who secretly withdrew \$150,000 and \$2000 from an account held jointly with their partner. As noted in Table 5, practitioners were more likely to believe that members of their profession were legally and ethically obligated to disclose when the amount involved was relatively large. For the larger withdrawal, the scores pertaining to a legal and ethical duty were 16.6 % and 43.8 % respectively. For the smaller withdrawal, scores pertaining to these duties were 12.4 % and 32.5 % respectively. With reference to the larger withdrawal, 65.7 % of practitioners said that they personally considered

**Table 5** Percentage of sample deciding to disclose or not, with client consent

Injury to Third Party	Decision Process					
	LN/EN/DY	LN/EY/DY	LY/EN/DY	LY/EY/DY	LY/EY/DN	Other/DN
Physical assault of partner <sup>c</sup>	11.3	24.3	1.7	40.1	7.3	15.3
Sale of partner's goods <sup>d</sup>	28.7	19.1	1.7	15.2	0.6	34.7
Secret purchase of credit card <sup>d</sup>	28.1	14.6	0.6	5.1	0	51.6
Emotional manipulation <sup>d</sup>	18.5	18.0	1.7	10.1	1.1	50.6
Threat to partner's life <sup>d</sup>	3.4	14.0	1.7	66.3	7.9	6.7
Theft of \$150,000 from joint account <sup>b</sup>	25.4	24.3	0.6	15.4	0.6	33.7
Theft of \$2000 from joint account <sup>b</sup>	29.6	17.8	0.6	11.2	0.6	40.2
Embezzle \$150,000 from employer <sup>a</sup>	19.6	13.7	2.4	36.9	4.8	22.6
Theft of goods worth \$2000 from employer <sup>b</sup>	16.6	14.2	1.8	29.0	5.3	33.1

Note. <sup>a</sup> = N of 168, <sup>b</sup> = N of 169, <sup>c</sup> = N of 177, <sup>d</sup> = N of 178, L legal duty to disclose, E ethical duty to disclose, D Disclose, N no, Y yes

For example, LN/EN/DY indicates practitioners who did not consider that members of their profession had a legal or ethical duty to disclose but personally believed that disclosure was warranted and would seek client consent

disclosure to be warranted and would seek client consent for this. By contrast, only 26.8 % stated that disclosure was warranted irrespective of client consent. With reference to the smaller withdrawal, scores pertaining to disclosure with and without client consent were 59.2 % and 13.7 % respectively. For each vignette, partners were most often nominated as an appropriate point of disclosure, followed by the police and government agencies.

Scores relating to the remaining vignettes were relatively low; i.e., practitioners less often reported a professional duty to disclose and less often expressed a personal belief that disclosure was warranted. Only 5.1 % thought that members of their profession were legally obliged to disclose the surreptitious purchase of a credit card and only 9 % personally believed that this purchase should be disclosed irrespective of client consent.

Tables 5 and 6 present more fine-grained information regarding the congruence between perceptions of professional duties and personal beliefs in regard to disclosure. As indicated, the most consistent findings emerged in relation to the vignette concerning threats to a partner's life. Around 66 % of practitioners thought that members of their profession were legally and ethically bound to disclose such threats and also expressed a personal view that disclosure was warranted with client consent. Slightly more (70 %) thought that members of their profession were legally and ethically bound to disclose such threats and personally considered disclosure to be warranted irrespective of client consent. A small number gave inconsistent responses, in the sense that they recognized professional obligations to disclose but nonetheless stated that they themselves would not disclose, either with or without client consent (7.9 % and 5.1 % respectively).

Reasonably consistent findings also emerged in relation to the vignette concerning physical assault on a partner. Roughly 40 % of practitioners perceived a legal and ethical obligation to disclose an assault and went on to say that they personally considered disclosure to be warranted and would seek client consent for this. A slightly higher proportion (44.6 %) recognized professional obligations to disclose and personally thought that disclosure was warranted irrespective of client consent. Once again, a small number of practitioners gave inconsistent responses, on the one hand acknowledging professional

**Table 6** Percentage of sample deciding to disclose or not, irrespective of client consent

Injury to Third Party	Decision Process					
	LN/EN/ DY	LN/EY/ DY	LY/EN/ DY	LY/EY/ DY	LY/EY/ DN	Other/ DN
Physical assault of partner <sup>b</sup>	1.7	13.6	1.1	44.6	3.4	35.6
Sale of partner's goods <sup>b</sup>	2.8	6.8	1.1	10.7	5.1	73.5
Secret purchase of credit card <sup>b</sup>	1.7	3.4	0	4.0	1.1	89.8
Emotional manipulation <sup>b</sup>	0.6	4.5	0.6	0.9	2.3	91.1
Threat to partner's life <sup>b</sup>	1.1	10.7	1.1	68.9	5.1	13.1
Theft of \$150,000 from joint account <sup>a</sup>	4.8	6.0	0.6	15.5	0.6	72.5
Theft of \$2000 from joint account <sup>a</sup>	1.3	4.2	0.6	7.7	4.2	82.0
Embezzle \$150,000 from employer <sup>a</sup>	3.0	4.8	1.2	35.1	6.5	49.4
Theft of goods worth \$2000 from employer <sup>a</sup>	1.2	3.0	1.2	25.6	8.9	60.1

*Note.* <sup>a</sup> = *N* of 168, <sup>b</sup> = *N* of 177, *L* legal duty to disclose, *E* ethical duty to disclose, *D* Disclose, *N* no, *Y* yes. For example, LN/EN/DY indicates practitioners who did not consider that members of their profession had a legal or ethical duty to disclose but personally believed that disclosure was warranted, irrespective of client consent

obligations to disclose but on the other hand indicating that they would not do so, either with or without client consent (7.3 % and 3.4 % respectively).

Findings were less consistent in regard to the vignette concerning an embezzlement of \$150,000 from an employer. In this instance, almost 37 % of practitioners believed that members of their profession had a legal and an ethical obligation to disclose and personally felt that disclosure was warranted with client consent. A similar number (35.1 %) stated that members of their profession had a legal and an ethical obligation to disclose and personally considered disclosure to be warranted irrespective of client consent. A few recognized professional obligations to disclose but expressed no personal belief that disclosure was warranted, either with or without client consent (4.8 % and 6.5 % respectively).

In respect to all of the vignettes, there were also practitioners who perceived no professional duty to disclose but were personally inclined to do so. For example, 19.6 % argued that members of their profession had no legal or ethical reason to disclose an embezzlement of \$150,000 but personally viewed disclosure as warranted with client consent. A small number (3 %) thought disclosure was warranted irrespective of client consent. Parallel findings emerged in relation to the removal of \$150,000 from a joint account. In this instance, roughly 25 % of practitioners saw no professional reason to disclose but personally thought that disclosure was warranted with client consent. A small number (5 %) viewed disclosure as warranted irrespective of client consent.

#### Likelihood of Disclosure According to the Risks faced by Third Parties

Using a one-way ANOVA, practitioners' self-reported likelihood of disclosing (rated 0-10) was compared across the 7 vignettes where partners were victims. The results were significant:  $F(6,1220)=74.73, p<.001, \eta^2=.27$ . Since Levene's test of homogeneity of variance was also significant  $F(6,1220)=8.65, p<.001$ , Games-Howell post-hoc comparisons were undertaken. Essentially, these comparisons showed that the vignette regarding threats to a partner's life had the highest mean score ( $M=7.93, SD=2.60$ ) for likelihood of disclosure, and that this score differed significantly from the matching scores obtained for the remaining vignettes ( $p<.001$ ). The vignette concerning assault on a partner had the second highest mean score ( $M=6.58, SD=3.14$ ) for likelihood of disclosure, and this score once again differed significantly from the matching scores obtained for the remaining vignettes ( $p<.001$ ).

Secretly removing \$150,000 from an account held jointly with a partner had the third highest mean score ( $M=4.28, SD=3.44$ ). Although this score surpassed the matching score for secretly obtaining a credit card ( $p<.001$ ), it did not differ significantly from the matching scores pertaining to emotional manipulation of a partner, selling a partner's possessions and secretly removing \$2000 from a joint account. Emotional manipulation of the partner had a relatively low mean score for likelihood of disclosure ( $M=3.28, SD=3.13$ ). Although this score was significantly lower than the matching scores for assaults on a partner and threats to a partner's life (see above), it did not differ from the matching scores obtained in relation to the remaining vignettes. Secretly obtaining a credit card had the lowest mean score for likelihood of disclosure ( $M=2.45, 2.89$ ). This score exceeded the matching score pertaining to selling a partner's possessions ( $p<.001$ ), but was no different from the matching scores pertaining to the emotional manipulation of a partner and the removal of \$2000 from a joint account.

#### Likelihood of Disclosure According to the Identity of the Victim

Using a one-way ANOVA, practitioners' self-reported likelihood of disclosing was further explored across the 4 vignettes concerning thefts of a specified magnitude from partners and

employers. The results were significant, although the eta value indicates a tiny effect size:  $F(3,672)=11.84, p<.001, \eta^2=.05$ . Since Levene's test of homogeneity of variance was also significant  $F(3,672)=2.86, p<.05$ , Games-Howell post-hoc comparisons were undertaken. These comparisons show that an embezzlement of \$150,000 from an employer ( $M=5.47, SD=3.48$ ) was significantly more likely to be disclosed than a secret withdrawal of \$150,000 from an account held jointly with a partner ( $M=4.28, SD=3.44$ ) ( $p<.01$ ). An embezzlement of \$150,000 was also more likely to be disclosed than the smaller thefts described in the remaining vignettes ( $p<.01$ ). A secret withdrawal of \$150,000 from a shared account was significantly more likely to be disclosed than a secret withdrawal of \$2000 ( $M=3.29, SD=3.11$ ) ( $p<.01$ ); however, it was no more likely to be disclosed than the theft of goods worth \$2000 from an employer ( $M=4.15, SD=3.49$ ). In addition, the theft of goods worth \$2000 from an employer was no more likely to be disclosed than the withdrawal of \$2000 from a shared account.

### Disclosure according to the Gambler's Personal History and Attributes

Table 7 shows how practitioners construe their profession's obligation to disclose when gamblers have additional problems or particular personality traits. As indicated, practitioners reported that their profession's legal and ethical obligations to disclose were greater when co-morbidity was present and when the client's personal characteristics were liable to render therapy more difficult. They also perceived their profession's legal and ethical obligations to disclose as greater when the gambler was relatively young (<21) and experiencing significant life stressors. An increased ethical obligation to disclose was more frequently reported than an increased legal obligation to disclose: across the 9 items, scores ranged from 23.8 % to 44.8 % and from 13.4 % to 33.3 % respectively. Professional obligations to disclose were deemed to increase most markedly when the gambler's personal history included violence: 33.3 % of practitioners perceived an increased legal obligation in this instance while 44.8 % perceived an increased ethical obligation.

Findings regarding practitioners' personal inclinations showed points of parallel and difference. Specifically, an increased personal inclination to disclose was most often reported when the gambler had a history of violence (50.3 %) or resisted speaking with the victim

**Table 7** Percentage of sample choosing disclosure option, according to the gambler's personal history and attributes

Gambler's history includes	Professional obligation to disclose		Personal inclination to disclose		
	Legally increased	Ethically increased	Greater	Less	Unchanged
Substance Abuse	14.5	24.2	14.9	5.0	80.1
White collar crime	26.1	30.9	27.3	1.9	70.8
Psychosis	18.8	35.8	28.6	7.5	64.0
Intellectual disability	21.8	41.2	28.0	13.0	59.0
Violence	33.3	44.8	50.3	1.9	47.8
Resistance to telling victim	18.8	30.9	32.3	1.9	65.8
Lack of motivation to change	17.0	26.7	23.6	3.7	72.7
Relative youth (age <21)	15.2	24.2	11.2	13.0	75.8
Significant life stressors	13.4	23.8	8.1	19.3	72.7

*N*=161

(32.3 %). A decreased personal inclination to disclose was most often reported when the gambler's history included significant life stressors (19.3 %) and intellectual disability (13 %). In general, however, a preponderance of practitioners indicated that their personal inclination to disclose would not be changed by the factors specified.

## Discussion

The present study aimed to explore how human service practitioners construe their legal and ethical obligations in regard to confidentiality and disclosure when a client reports involvement in gambling-related theft. Its findings echo the work of Kampf et al. (2008), firstly in suggesting that most practitioners correctly understand that confidentiality is not absolute in either law or ethics and secondly in suggesting that some overestimate their profession's legal obligation to disclose. As noted above, 5 % perceived a legal duty to disclose the purchase of a credit card, even though this is not an illegal act. In addition, its findings highlight areas of uncertainty and disagreement; for example, practitioners expressed less certainty about their legal and ethical obligations when clients posed non-physical rather than physical risks to third parties and had mixed reactions to demands for written case notes.

Another notable aspect of the present study's findings is the discrepancy in practitioners' views. Although there are variations from vignette to vignette, scores for the vignettes overall (see Table 5) do not suggest that practitioners have an especially high level of consensus about their legal and/or ethical obligations. In addition, practitioners appear to have different personal inclinations and inclinations that do not always coincide with understandings of professional duties. The merits of particular viewpoints are beyond the scope of this paper, in part because practitioners were not required to detail their reasoning in full. This being said, previous studies suggest that practitioners vary considerably in their analytic capacities (Patford 2004; Sheppard, Newstead, Di Caccavo & Ryan, 2000, 2001). The divergence in practitioners' opinions suggests that there is considerable scope for discussion, both within and between the occupational groups involved. Discussion could potentially benefit gamblers and their partners by pre-empting ill-judged responses to particular case situations and creating greater rapport between individual practitioners and practitioner groups.

Responses to the vignettes concerning the gambler's partner obviously warrant interpretation. As indicated above, practitioners seem most likely to perceive a professional obligation to disclose and most likely to anticipate disclosing in reality when a gambler's need for money leads to physical assault or threats to a partner's life. These trends are predictable, given that practitioners' legal and ethical obligations, as well as the risks they face, are most frequently discussed with reference to physical harm. Findings from the present study also suggest that larger thefts, either from a partner or an employer, are more likely to be disclosed than smaller thefts. It is reasonable to conjecture that practitioners view larger thefts as more damaging than smaller ones and as less amenable to informal restitution. Although these assumptions are reasonable, they may not hold true in all circumstances.

Additional findings suggest that victim identity may be another influence on disclosure. Specifically, practitioners' self-reports indicate that a theft from an employer is more likely to be disclosed than an equivalent theft from a partner, although only when the amount involved is relatively large. By implication, practitioners' potential to disclose may be shaped by an interaction between the amount stolen and the victim's identity; however, the small effect size found in the second ANOVA indicates that the impact of these variables is subtle. The nature of the theft may be a third influence on disclosure. For example,

embezzlement may be a less ambiguous version of theft than the removal of money from a joint account, given that money in a joint account may be regarded as jointly owned and legally available to either partner where there is no joint signature requirement. Qualitative studies, together with analogue studies using more finely honed vignettes are obviously needed to tease out practitioners' reasoning processes in more direct and detailed ways. To the extent that clinical reasoning and decision-making processes can be successfully identified, professional educators and workplace supervisors are better placed to correct problematic heuristics and hone clinical judgment (Falvey, 1992).

A key question arising from the present study is what practitioners can and should do to manage dilemmas over confidentiality and disclosure. Those who wish to respect the principle of confidentiality and assist a partner can obviously discuss the possibility of the gambler "coming clean", either within or outside of therapy sessions. More proactively, they can advocate direct disclosure to the partner or the partner's inclusion in therapy, even though advocacy potentially conflicts with the ideal of respecting clients' autonomy and may alienate clients who are already defensive and distressed. Options available to couples therapists are discussed by Butler, Seedhall & Harper (2008), who consider what should be done when a client privately confesses to injuring or deceiving their partner but asks that this information be kept secret. As they point out, in this situation the client's request for confidentiality runs counter to the principle of multilateral advocacy (i.e., the therapist's equal commitment to each partner), and ignores the injured partner's right to relationship-relevant information. They suggest that the conflict is usually best resolved through the facilitated disclosure of the injury, with boundaries on the extent of disclosure being set by the injured partner. Important provisos are that therapists choosing to encourage facilitated disclosure should discuss their policies (and grounds for exception) at the outset of therapy and periodically check to ensure that there is mutual understanding and agreement between the parties involved.

A further question is what can be done to assist practitioners who are dealing with gambling-related theft. With reference to undergraduate and ongoing education about the law, training institutions, professional associations and/or employing agencies all have a role to play in ensuring that practitioners in different locations and roles understand their legal obligations in general and requirements in regard to crime investigation and law enforcement in particular. Illustrating the need for professional and geographic specificity, McSherry (2004) argues that medical practitioners in Queensland must inform police if they become aware of an attempted or completed crime but should not disclose information about future crime since this is potentially protected by public interest immunity. In regard to undergraduate and ongoing education about ethics, it is reasonable to suggest that training programs should incorporate discussions of complex case-studies illuminating the physical, financial and emotional repercussions of gambling-related theft, not only on the gambler but on family members. These case studies should explicitly challenge practitioners to weigh up competing ethical philosophies, interests and accountabilities, rather than encouraging a slavish adherence to the global templates of professional codes or presenting imperatives such as confidentiality independent of context (for discussion, see Butler, Amott Rodriguez, Olsen Roper & Feinauer, 2010). Finally, training institutions, professional associations and employing agencies may need to assist practitioners to manage the stress that can potentially arise when personal beliefs or concerns for third parties must be subordinated to legal and/or professional requirements.

In conclusion, it is appropriate to acknowledge the limitations of this study. Firstly, recruitment processes attempted to gather a purposive sample of practitioners who were either dealing with gambling problems or had the potential to do so; however, since information about practitioners who either chose or declined to participate was not available,

the degree to which results can be generalized is unclear. Secondly, the study used an online survey, and participants’ level of understanding and candour is thus unknown. Thirdly, practitioners’ views about different situations and self-reported propensity to disclose were explored via vignettes. As noted by Barter & Renold, (1999) and Renold, (2002), vignettes allow researchers to compare individual responses to a “uniform” set of stimuli and to include individuals who either lack direct experience of a particular situation or are too defensive to answer personal questions. On the other hand, the degree to which vignette-based responses accurately mirror people’s real world behaviour remains unclear, since findings from multi-method studies are mixed. Finally, differences between practitioner groups were not explored since these groups varied in size and the principle of confidentiality is widely endorsed.

**In Summary**

Gambling-related theft is a significant social issue in Australia and could conceivably increase if gambling venues continue to proliferate and new gambling technologies emerge. The present study provides some preliminary evidence as to how practitioners from different disciplines are likely to deal with gambling-related theft. It also identifies areas of uncertainty and disagreement that training institutions, professional bodies and employing organizations may find it worthwhile to address.

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**Appendix A**

**Section 7A Scenario A**

**(a) The client reports physically assaulting his or her partner in order to obtain money for gambling.**

	<b>Yes</b>	<b>No</b>
Disclosure is a LEGAL duty for my profession in this instance	<input type="checkbox"/>	<input type="checkbox"/>
Disclosure is an ETHICAL duty for my profession in this instance	<input type="checkbox"/>	<input type="checkbox"/>
I PERSONALLY believe that disclosure is warranted and would seek client consent for this	<input type="checkbox"/>	<input type="checkbox"/>
I PERSONALLY believe that disclosure is warranted, irrespective of the client’s wishes	<input type="checkbox"/>	<input type="checkbox"/>
The police would be an appropriate point for disclosure	<input type="checkbox"/>	<input type="checkbox"/>
A government authority/agency would be an appropriate point for disclosure	<input type="checkbox"/>	<input type="checkbox"/>
Another appropriate point for disclosure would be (specify)	<input type="checkbox"/>	<input type="checkbox"/>

**(b) Rated out of ten, the likelihood that I would disclose in this instance would be: (0= not at all likely; 10= extremely likely)**

- |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |
|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| <input type="checkbox"/> |
| 1                        | 2                        | 3                        | 4                        | 5                        | 6                        | 7                        | 8                        | 9                        | 10                       |

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