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**Enactivism and Correctional Practice: An Analysis of Agency in a Neoliberal Climate**

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**Abstract**

Enactivism is a contemporary strand of cognitive science that depicts cognition as embodied, embedded and enactive, ultimately submitting a relational cognitive-affective agency, constituted of habits of bodies and minds. In this paper we outline current correctional treatment of agency, as it stands in contrast to insights offered by enactive accounts, and as embedded in a broader

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neoliberal context. Some illustration of the relationship between psychological theory and neoliberal ideology will be provided, with specific attendance to the principles of individualism and self-governance it is purported to cultivate. We maintain that the Risk-Need-Responsivity model provides an overly thin representation of agency that is driven by an internal and limited perspective of functioning that precludes aspects essential to the personhood of agents including its active, affective and phenomenological nature. As embedded in a neoliberal context, this significantly limits rehabilitative practice, and reiterates an abstraction of mindedness from material and social contexts. A pluralistic approach to rehabilitation is therefore necessary, including enactive and related perspectives outlined in this paper, in order to provide explanation and therefore practice beyond entrenched normative assumptions of agency and human function.

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Correctional science aims to explain the causes of crime and thereby inform the applied discipline of correctional psychology (Heilbrun, 2020; Ward, 2020). Forensic rehabilitation is accordingly shaped and guided on the basis of dominant theoretical explanations in this field, thus the nature and extent of representation of human agency it provides has a considerable impact on practice. Currently it is primarily characterized by what has been described as a risk paradigm, an approach governed by the prominent Risk-Need-Responsivity (RNR) practice framework, theoretically based on the General Cognitive and Social Learning perspective of Bonta and Andrews (2017). The initial development of the RNR provided a practice framework grounded in a number of core empirically supported principles (risk, need and responsivity) in an era where substantial doubt was being cast on the efficacy of rehabilitation (Sarre, 2001). Critics have since, however, noted fundamental theoretical flaws in this framework, concerning the nature of its explanatory tools, its exclusive focus on criminal outcomes and dependence on crime-based categories, which leaves considerations of agency a mostly excluded aspect (e.g., Carter, Ward & Strauss-Hughes, 2020; Dent, Nielsen & Ward, 2020; Ward, 2020). These limitations arguably underly the modest efficacy reported of current practice, including its relatively weak effect sizes in terms of reducing criminal behaviors, as well as substantial issues with motivation and program non-completion of individuals who have offended (Day, 2021; Klepfisz, Daffern & Day, 2016). As such, the field of correctional science has been described as constituting a state of stagnancy or theoretical illiteracy, which is in part attributed to its divorce from broader scientific perspectives of human functioning (Ward, 2020). This is further complicated by the long acknowledged social-cultural embeddedness of forensic and correctional systems, which have been noted in their regularly pre-reflexive operation on the basis of cultural 'common sense' (Sellers & Arrigo, 2021).

The purpose of this paper is in part to outline perspectives of agency offered by contemporary cognitive affective science such as those entailed by Enactivism, and to their implications for correctional practice (Dent et al., 2020; Ward 2019). With this objective, enactive principles will be outlined that present *mindedness* as a dynamic, affective and active process concerning brains and bodies, in social and material environments. (Ward et al., 2017).

### Enactivism

As mentioned, enactivists propose that minds are best conceived as *embodied* and *embedded* (Di Paulo & Thompson, 2014; Ward et al., 2017). Embodied in this context refers to the idea that consciousness necessarily depends on neurobiological embodiment; cognition requires our possession of bodies with their particular sensorimotor capacities, which are themselves embedded in a wider socio-cultural environment (Barrett, 2018). In this respect, cognition is inseparable from the body or environment and constitutes a type of action entwined with perception, called *sense-making* (Colombetti & Krueger, 2015; Krueger, 2019). By adopting this view, enactive theorists aim to reconcile cognitive science with subjective experience, drawing additionally on principles of phenomenology and evolutionary biology (Ward et al., 2017). An illustrative exemplar in this case, is the bacterium, striving towards sources of glucose and away from harmful toxins. From an enactive view, this bacterium constitutes an autonomous self-regulating system by differentiating between the viable and sugary, or non-viable toxic conditions (Di Paulo & Thompson, 2014). Such distinction requires an evaluation and in this sense, the environment becomes 'meaningful' to the bacterium; toxic areas are to be avoided while sources of food should be exploited. This type of evaluation is called 'sense-making', which describes the capacity to assess and engage with surroundings as motivated by embodied experience, which for enactivists, is the benchmark of cognition (Di Paulo & Thompson, 2014). In order to capture cognitive phenomena, Enactivism therefore focuses on the organism and environment as a complex dynamical system entailing a variety of tangled interacting processes (De Haan, 2020).

Cognition for the enactivist is thus not neutral or detached but rather, intrinsically affective, and active (Colombetti, 2014). Affective here does not mean highly emotional states like anger or fear but is used in the sense that something strongly 'affects' and appears meaningful and salient for organisms inherently concerned with their survival (De Haan, 2020).

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This challenges the distinction between emotion and cognition, which traditional cognitive science has maintained (Nielsen, 2020). Perception too in this sense is *action-oriented* in that in objects we perceive *affordances*: possibilities of action *afforded* by a given object (Ward, Silverman, & Villalobos, 2017). Such affordances are motivated by current concerns: if an organism is hungry, it will likely attend to affordances that involve eating. The demands and shapes of our bodies thus motivate and physically delineate respective possibilities of action, placing organisms of distinctive bodies in distinctive *umwelt* (Colombetti, 2017). For humans of course, sense-making is not exclusively or even emphatically focused on biological necessity. De Haan (2020) distinguishes between basic and evaluative sense-making in this respect. *Basic* sense-making is based on biological survival and fully immersed in the present moment, predominantly underlying the agency of most non-human animals. *Evaluative* sense-making depends on the capacity to transcend the present, as the consciousness of humans normally does. Consequently, we inhabit a socio-cultural world of values such as courtesy, dignity, and friendship (De Haan, 2020). Sense-making is thus not necessarily based on mere survival, but rather living a 'good life' in accordance with a particular socio-cultural context when applicable. Though the term 'Enactivism' does refer to diverse accounts of mind, these apply in the context of a shared conception of cognition as emergent from our "engaged, bodily lives" (Ward et al., 2017, p. 374). It is an alternative to the popular conception of mind as linear, representational, or purely neurological and posits *mindedness* as dependent on the brain, body and world. Enactive explanations of agency thus emphasize the environmental and social attunement required of living beings.

### Enactivism and sociability

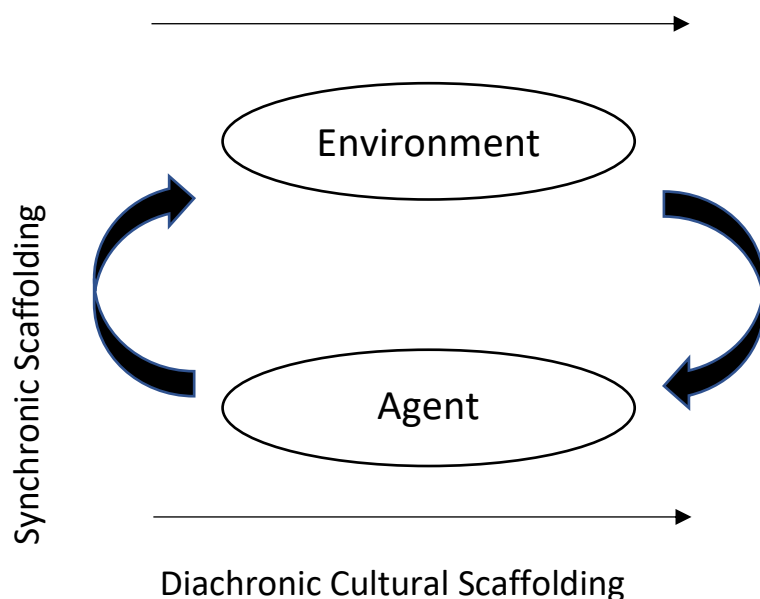
There is a widely held perspective in psychology that claims social cognition and the adaptive success of our species can be primarily explained in terms of individual capacities to represent mental states: beliefs, desires and attitudes (Zawidski, 2018). In contrast, the '*mindshaping*' hypothesis assumes that social cognition is *emergent*, molded by embodied and socio-culturally embedded processes of shaping and tracking behavioral dispositions (Zawidski, 2018). Instead of characterizing the social life of humans as dependent on neurally realized computational processes, it emphasizes social structures in which specific roles are enacted. By this account, we shape each other's minds by means of norm enforcement, active or explicit teaching, and imitation, in relation to culturally specific ideologies; "according to the mindshaping hypothesis, culturally specific ideologies to which members of human populations try to conform are the most adaptive way to solve the coordination problems that characterize distinctively human socio-ecology" (Zawidski, 2018, p. 3). Notably, these theoretical elements of mind-reading and mind-shaping are not mutually exclusive, but the importance and prioritization of these capacities differs in their explanation of sociality.

Given the idea that our minded capacities are embodied, and co-dependent on the material and social world, it would reasonably follow that the institutions to which we belong thus exert a substantial influence upon our agency. Indeed, in their book '*The Mind-Body Politic*', Maiese and Hanna (2019) describe this relationship as "partial determining" and "literally shaping" in terms of affective framing patterns, which emphasizes the affective and embodied aspects of sense-making in humans (Maiese, 2017). Enactivists use this term to describe how human agents are understood to cultivate patterns of discriminating, filtering and selecting information affectively through bodily engagement, bodily fluency and bodily attunement (Maiese, 2017). The body accordingly becomes an affective "sounding board" that shapes our orientation to the world in a manner that is non-deliberative and built on a history of learning (Maiese, 2017). We perceive and make sense of the world through our bodies in a spontaneous, non-intellectual, and pre-theoretical fashion that focuses our attention through holistic somatic sensations. These eventually form our basic affective orientations based on what we learn and come to care about (Maiese, 2017). Affective framing in sum thus entails a learned habitual attunement to the environment relative to an agent's needs and body, enabling an *emergent*

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sense-making process distributed across a network of brain and bodily processes (Maiese, 2017).

So-called ‘habits of the body’, or otherwise termed “sensorimotor co-ordinations” are explicitly cultivated in various social institutions (Maiese & Hanna, 2019): ballet academies, sports clubs, or performance troupes for example, all require highly specialized repertoires of co-ordination using their bodies and material tools. Such co-ordination operates in concert with ‘habits of mind’: schemas, means of categorizing and engaging with the world, who and what to pay attention to (Maiese & Hanna, 2019). Scolding, punishment, expressions of approval, reward, are all means, be they explicit or implicit, of providing feedback. Humans are naturally, born into environments characterized by norms, which have themselves persisted through the expression of each generation to the next. Thus, it is argued that such habits or affective framing patterns, are shaped by collectively sustained norms of cultural ideologies, which are themselves shaped by us (see figure 1).



*Figure 1. A Scaffolded*

Figure 1 illustrates an agent-environment relationship across the lifespan (diachronic scaffolding) and concurrently (synchronic scaffolding). Accordingly, agents are scaffolded over time with the acquisition of cultural and material tools (technologies, language, systems) against the backdrop of a normative framework that entrains affecting framing patterns specific to a socio-cultural context. Synchronic scaffolding describes the concurrent scaffolding that constantly occurs whereby cognitive-affective states and processes are supported and realized through adaptive dynamic coupling with the environment. As the circularity reflects, agents actively shape their environments, which thereby constrains and shapes action possibilities for the agent.

### Neoliberalism and Psychology

‘Neoliberalism’ is a term used by various critics to describe the mainstream cultural ideology of modern society (Maiese & Hanna, 2019). It is described as a contemporary capitalist perspective that strongly emphasizes principles of liberty and self-government, depicting citizens as individuals in free competitive markets in which they are autonomous and responsible with a “widespread sense that not only is capitalism the only viable political and economic system, but also that it is impossible even to imagine a coherent alternative” (Fischer, 2009, p. 2). According to the claims of the critical literature, contemporary ‘common sense’ reflects and services the underlying financial-industrial complex (Bettache & Chiu, 2019). Liberty is thereby centralized

and deemed a matter of paramount importance in this view, which sanctifies principles of self-governance and free choice with the psychological axiom that freedom of interference from others is the foremost universal human desire (Bettache & Chiu, 2019; Pickren, 2018, p. 576). Individual freedom is consequently protected by preserving free competitive markets that are subject to minimal state intervention (Bettache & Chiu, 2019). In other words, neoliberalism entails a particular conception of person as “an autonomous and abstract being” (Kashima, 2019, p. 351). Autonomy in this case places the individual at the dynamic center of consciousness, entailing all of its constituent phenomena (emotion, attention, judgement and so on) organized into a coherent entity, while an abstract individualism sets her against other such entities as well as her social and material context (Pickren, 2018). Under institutional influence, these premises are internalized, reified and encourage those qualities associated with idealized models of the self, referred to in the literature as ‘homo economicus’ or an ‘entrepreneurial self’ (for example including independence, ambition, self-reliance and competitiveness) (Arfken, 2018; Beattie, 2019; Pickren, 2018).

This influence extends to healthcare under the banner of ‘medical neoliberalism’, a term of the critical literature that describes the cultural trend toward privatization, surveillance and the commodification of health (Cosgrove & Karter, 2018; Fisher, 2007). Critics suggest this in part, involves an implicit production of a ‘rationality’ sustained by discourses that place the subject as responsible for their own health in conjunction with the normalization of an increased monitoring of bodies with macro-technologies (for example tools of screening diagnostic categories: depression, anxiety, and so on) (Cosgrove & Karter, 2018; Fisher, 2007). Healthcare thus allegedly becomes a product to be purchased, and the patient, a consumer in another aisle of the free marketplace. In connection with this, neoliberalism is implicated in sustaining a biologically reductionist view of mental illness that is best amended with chemical interventions (Bettache & Chiu, 2019). This afford clients an independent ‘productive’ lifestyle as enabled by their self-government thereby justifying their use (Bettache & Chiu, 2019; Cosgrove & Karter, 2018). This view is termed by some as ‘biopsychiatry’, a hegemonic discourse that depicts cognitive, affective and behavioral complications as tantamount to diseased brain states, thereby shaping mental health services fundamentally (public and private research, treatment, education and professional initiatives) (Dougherty, 2019). Neoliberal ideology is thus ultimately depicted by various critics as expanding beyond economic policy, infiltrating mainstream culture and reformatting psychological life (Arfken; 2018; Pickren, 2018). The implications of this view are profound, involving the reification of a fundamental individualism, and a consequent blindness to the role of power dynamics, intersectionality, and oppression (Arfken, 2018).

### **The Risk-Need-Responsivity Model and Enactivism**

The outcomes of current rehabilitative practice are modest, yielding weak effect sizes (a 10% reduction in recidivism) and entailing significant issues pertaining to client engagement and completion (Klepfish, Daffern & Day, 2016; Ward, 2019). Key critiques include the fact that the fundamental approach of risk assessment misapprehends the process of desistance, instead treating crime itself as a dependent measure of evaluating the success of our programmes (McNeill, 2012). Reconviction fails to reflect positive change or behavior because it more accurately measures detection of criminal activity, which itself entails a certain occurrence of events (witnessing, reporting etc.); these are removed from the desired notion of a positive shift in identity, that is, desistance from crime and primarily underly the enforcement of legal norms (McNeill, 2012). However, because the risk paradigm foundationally depends on crime (the notion of risk is relative to criminal outcomes) and offence-related frameworks in explanation and application, it has borne a host of theoretical criticisms; Ward (2020) has described this state of the field as one of ‘theoretical illiteracy’ due to the following key elements:

- A misdirected focus on crime: explanatory theories should not focus on offence, crime or similar categories. Other correctional psychology practice frameworks such as *Psychological Jurisprudence* for example, attends to the promotion of human flourishing on the basis of theory that exceeds an exclusively criminogenic focus (see Sellers & Arrigo, 2021). Because crime is a psychologically arbitrary construct, its related categories yield limited explanatory value because they fail to track coherent phenomena, social or psychological processes in the

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world. Criminal outcomes result from a mix of psychological, social, and contextual factors that reflect issues running deeper and wider than offence driven explanations are likely to yield. Better explanatory and therefore treatment targets would be gained by appeal to current theories of human functioning more generally (Dent et al., 2020).

- Dynamic risk factors, the currency of RNR based practice, entail an array of theoretical issues, for example, their vague incohesive and composite nature (Ward, 2019; Ward & Fortune, 2016). The need principle of the RNR lends primary attendance to seven of the 'central eight' risk factors in correctional treatment and therefore case formulation, (seven of the eight are dynamic and therefore receptive to change, as opposed to the static 'criminal history'). According to Bonta and Andrews (2017), these factors have a cumulative effect on the outcome of offending, alongside the immediate situation and distal factors, which influence the perceived rewards and costs of a given criminal action. In this fashion, DRFs have been imbued with causal status by RNR proponents, a claim subject to various criticisms (Ward, 2019). Namely, dynamic risk factors cannot be said to simply cause crime (rather functioning as markers of causality), nor is there substantive evidence of association with desistance from offending (Ward & Fortune, 2016). They are better conceived as collections of various factors associated with criminal outcomes.

The RNR is thus here argued to constitute a practice framework that is data driven in that its central currency are dynamic risk factors, statistical tools that suffer from a dual function problem (Ward & Fortune, 2016). In its explanation beyond these, the GPCSL depends primarily on social learning theory and portrays behavioral outcomes as situated in relation to probabilistic risk factors, more specifically the aforementioned 'central eight' (Dent et al., 2020). Cognition is thereby represented as an exclusively internal process, directing attention inwards toward higher level reasoning processes or features (beliefs, attitudes and so on) as abstracted from the goal driven or phenomenological nature of human agency, which is alternatively reduced to a statistically determined mechanism (Dent et al., 2020). This leaves minimal attendance to affective, embodied, or relational components expounded under an enactive perspective, which reformulates cognition as the dynamic interplay between brains, bodies and environments (Ward, 2017).

This relates to a core issue in the exclusive emphasis on (criminally) behavioral outcomes in explanations of crime itself. Because agents are goal driven, a narrow focus on criminal outcomes is likely to preclude a broader understanding of the life worlds they operate within, the context in which these behaviors and habits are formed, the goals they aim to fulfil, and therefore how they may be redirected. Criminal action may reflect a broad array of motivations and functions across a variety of lives, which vary in accordance with the history of embodied and embedded agents (Dent et al., 2020). Regardless, forensic psychological practice depends on crime-based categories (offence types), using broad amalgamations of environmental, cognitive, and interpersonal correlate clusters (DRFs) towards strictly internal intervention targets (Ward, 2021). Explanations on which rehabilitative practice depend are in this way relatively weak, given their exclusion of embedment and embodiment, and the meaningfully enacted nature of action and therefore crime (Dent et al., 2020). All such components are excluded in explanation by the GPCSL in its theoretical internalism: which informs an approach that targets criminal behaviors without aiming to understand their functions in the lives of those ideally rehabilitated.

### **Neoliberalism and Correctional Practice**

Neoliberalism has been outlined in this chapter as a global political-economic ideology that is in part characterized by an emphasis of market-based values and an atomized and individually driven agency, which is attached to norms of exclusively personal accountability (Kramer, Rajah & Sung, 2013; Maiese & Hanna, 2019). It is deeply entrenched, constituting the common sense of mainstream culture and therefore embedded and institutionalized within justice and penal systems internationally (Bettache & Chiu, 2019; Dougherty, 2019; Maiese & Hanna, 2019; Pickren, 2018). If these premises are accepted, the context of work and practice

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for forensic psychologists is fundamentally shaped by neoliberal assumptions and policies, including principles of individual responsibility for mental well-being, behavior, poverty, inequality, and ethnic discrimination (Teague, 2016; Sellers & Arrigo, 2021). The 'criminal' that forensic practitioners intend to rehabilitate, is of course, part of a criminal justice system that evaluates the culpability of individuals in relation to crimes committed. From this viewpoint, the generic principles of individualism and self-government, translate to an exclusive focus on internal or personal factors that arguably fail to address considerations of structure and social inequality in explanations and therefore reactions to crime (Sellers & Arrigo, 2021).

As has been illustrated in contrast, the enactive paradigm presents a fundamentally different image of human functioning, one that contradicts the neoliberal image of self in its presupposition of a profound dynamic co-dependence between agents and their worlds. Human identity becomes genuinely relational as opposed to egocentric and firmly embodied and thereby embedded in a social-material context and environment (Dominey et al., 2016; Kyselo, 2014). Indeed, if such propositions are to be taken seriously, they present issues for the state of correctional science as described in this paper and the individualism with which it is complicit. Namely, from an action-oriented and enactive perspective, a "human being is not an isolated individual responsible alone for his/her destiny, but rather a member of a grounded cultural system" (Dominey et al, 2016, p. 355). Given that mainstream correctional practice currently entails the application of CBT within an exclusively risk oriented framework, in conjunction with the application of a socially significant label 'criminal', it might be described as fundamentally palliative. It directs rehabilitative efforts solely on the basis of deficiency as abstracted from context and core elements of ourselves as human agents (Ward et al., 2021). It is therefore unsurprising that this approach is critiqued as overlooking the significance of the therapeutic alliance between practitioners and incarcerated persons and limits its potential through a focus on deficit (Ward et al., 2021; Arrigo, 2015). Enactive principles alternatively demand attendance towards the person beyond the act, grounding our 'selves' in the phenomenological embodied affective experience of agency, and outward toward the environments and socio-cultural contexts in which habits of body and mind might be changed and scaffolded toward prosocial outcomes (Dent et al. 2020; Ward, 2017). It would appear sensible that because such redirection recognizes the essential needs of incarcerated individuals, it would enable the possibility of effective therapeutic engagement on the basis of genuine collaboration and common cause (among other possible values) and therefore the transformative influence this may have given a relational human nature (Sellers & Arrigo, 2021).

We therefore suggest that there are important differences between a co-dependent, embodied and fundamentally social agent, and the individual personally driven 'criminal'. A redirection of behaviors within Enactivism necessitates understanding criminality as part of the goal driven nature of agents, in their socio-cultural and material context of functioning. This presents issues for a system that appears punitively inclined to understand crime as a primarily individual and not social or material, issue (Teague, 2016). Such individualism has indeed been noted as part of the problematic treatment of culture in correctional contexts, where an over-representation of indigenous groups is typical in neoliberal nations of colonial histories (Beck & Blumstein, 2018). Individuals are not however, as neoliberal ideology would purport, abstract, exclusively autonomous, and self-driven, but equally a product of their socio-cultural worlds and co-dependent on their environments to realize the types of prosocial outcomes rehabilitative practice aims to facilitate (Smail, 2005). Therefore, it is only with an extra-individual inclusion of socio-economic context coupled with a rich conception of culture that explanations may better represent criminal outcomes and facilitate pro-social trajectories. As expounded, humans are fundamentally acculturated agents in that they are comprised of physical and psychological habits that reflect their normative conditions of development and function (Dent et al., 2020; Maise & Hanna, 2019). They are influenced throughout their development and lives, through the institutions to which they are borne and belong (Maise & Hanna, 2019; Zawidski, 2018). Mainstream correctional science, however, remains limited in its treatment which in essence relegates culture to a 'responsivity' principle, an element that affects treatment engagement based on group membership; it thus becomes peripheral to biological, psychological and social aspects of criminal behaviors (Dent et al., 2020).



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Ward (2020) notes that, among the dangers of ignoring good theoretical practice, is an increasing dogmatism regarding current theories in place, a tendency to view science as strictly empirically driven and a resistance to epistemic pluralism (this is the notion that in scientific practice it is appropriate to incorporate various theoretical perspectives of the same phenomena at the same or different levels of explanation). Because different means of understanding human function may bear differently on the 'common sense' of prevailing ideology, such resistance thus prevents challenges to the powerful cultural biases that may be in place in the given, or any theoretical context. Illustrating agency as relational and subject to socio-cultural forces beyond traditionally cognitive events, clearly complicates dominant conceptions of the abstract individualism reified by judicial process and exacerbated within a broader neoliberal ideology. It reminds practitioners that individuals who have offended, are in a number of important respects, just like them. In a system that centralizes, disembodies, and individualizes agents, Enactivism there constitutes an essential alternative theoretical perspective and resource for forensic practitioners, who otherwise operate on the basis of a mono-theoretical risk-oriented framework that offers no contradiction to prevailing neoliberal assumptions (Beattie, 2019; Maiese & Hanna, 2019).

### **Strength-based Rehabilitation**

In contrast with the RNR, we maintain there is a congruence between the assumptions of Enactivism as outlined in this paper, and strength-based rehabilitation models such as the Good Lives Model that explicitly account for human agency (Ward & Fortune, 2013). The GLM is based on notions of human dignity and universal human rights and posits an array of universal human needs that underly our goals and behaviours (Ward & Fortune, 2013). It aims to equip individuals who have committed crimes with the means to realise their needs in prosocial ways through their strengths and capabilities and engages at the "level of personal agency and meaning" (Ward & Fortune, 2013, p. 31) . Given that clinical relationships are framed by the values of the practice frameworks that are institutionally implemented, we submit this is an essential foundation for forensic practitioners if the objective is understood as co-produced sense-making. In other words, if individuals who have committed crimes are to be authentically engaged to re-reroute their life trajectory, acknowledgement of their personhood is essential, which models like the GLM enable.

Naturally, there are an array of therapeutic modalities that are recruited to effect meaningful change in general and correctional practice, including cognitive behavioural therapy, counselling or psychodynamic theory among various others (Orford, 2008). However the equivalence paradox in psychology, the apparent finding that numerous distinctive therapies have been found to be equally effective, is understood to suggest that it is the relational elements of the therapeutic process that underly consequent progress and change (Budd & Hughes, 2009). Some research supports this notion and Orford (2008, p. 2) speaks to this in the context of addiction treatment, "treatment is seen, like a medication, as a piece of technology that requires only therapist skill and efficiency and patient compliance in order to be delivered effectively.. ..There have always been voices raised against it, suggesting that the essence of psychological treatment is not a technique but rather the therapist-client relationship". This idea reinforces the importance of the relational elements of psychological treatment and therefore of the strength based models that prioritise these. As Ward and McDonald (2022) outline, in reality the qualities or characteristics that support successful therapeutic relations cannot be considered in isolation from their underlying practice frameworks, which are themselves characterised by values that determine and foster the development of said qualities or 'virtues' in the professionals that use them. To clarify this link, practice frameworks can be understood to be founded on core moral, epistemic and prudential values, which ultimately determine guidelines of practice and intervention (Ward & McDonald, 2022). Briefly put, in correctional settings moral values concern what is right and wrong and determines ethical priorities, epistemic values constrain what constitutes knowledge within given models (e.g. RNR or GLM) and prudential values are about improving well-being. For example, in an RNR context practitioners might be oriented towards concern for the well-being of victims of the criminal

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action, while those using strength-based models equally address the well-being of those who have committed crimes. With respect to enabling these values, virtues refer to those characteristics of the role of psychologists that ensure that they are realised in practice, they are the 'action' aspect of values (Ward & McDonald, 2022). Given a strength-based perspective, such virtues specifically ensure practitioners are able to successfully engage and connect with individuals, to identify their core values and try to understand the crimes they have committed in the context of these, facilitate individual agency, increase well-being and foster opportunities that may support prosocial outcomes (Ward & Gannon, 2006). Though it is beyond the scope of this paper to detail such virtues are exhaustively, these are not mysterious based on such objectives and what is required for authentic human connection.

### Conclusions

Enactivism is a contemporary account of cognitive science that illustrates agency as constituted by embodied cognitive-affective systems, embedded in their socio-cultural contexts that shape the way they make sense of the world and themselves (Dominey et al., 2016); Kyselo, 2014; Maiese, 2018; Maiese & Hanna, 2019). While dominant views of mindedness have typically centered on brain bound cognitive events, Enactivism reformulates cognition as an action-oriented process of establishing relevance and meaning in the world in order to adapt (Dominey et al., 2016). Agents accordingly become grounded in the phenomenological lived experience of their bodies with which they remain in constant engagement with the social and material world in order to meet their needs, as determined by their history as a brain-body-environment system (Dent et al., 2020). As illustrated, they are further proposed to be fundamentally social and shaped by prevailing cultural ideology through the institutional influence they bear across their lives (Maiese & Hanna, 2019). On this basis critical theorists refer to the toxic impact of neoliberalism in which modern contemporary society is entrenched. This has been described as a global 'common sense' or cultural logic of Western capitalism, characterized by principles concerning the human condition, as well as social and economic management of society (Bettache & Chiu, 2019; Maiese & Hanna, 2019). Specifically, as depicted in neoliberal ideology, society is atomized, comprised of abstracted, disembodied and autonomous minds, who are thereby held individually accountable on this basis (Maiese & Hanna, 2019). We have thus aimed to situate correctional science and rehabilitation in context of the biases neoliberalism has been claimed to reinforce in psychological theory and practice, when considering perspectives and treatment of agency in comparison to enactive principles of function. An enactive perspective promotes the principle of attending to agents in the context of their lives, where they function in their environments as complex dynamical systems (Dent et al., 2020). By decentralizing intrapersonal features of agents, it necessarily incorporates a socio-cultural environment and context as part of explanation and directs practical consideration to internal and external barriers to living an adaptive and prosocial life. It thereby challenges an abstraction of mind and provides essential iteration of the fact that crime is not an exclusively individual issue, but one of societies and their management. From this perspective, there is a need for forensic practitioners to incorporate and look to theoretical resources outside the presently dominant practice framework (RNR) such those offered by and based on Enactivism. As argued in this paper, this can shift our explanatory focus beyond ideology and toward a view of human functioning based on our best science. We are creatures of context, meaning, and culture, as well as risk management agents.

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### References

- Arfken, M. (2018). From resisting neoliberalism to neoliberalizing resistance. *Theory and Psychology*, 28(5), 684-693. <https://doi.org/10.1177/0959354318800393>
- Arrigo, B. A. (2015). Responding to crime: Psychological jurisprudence, normative philosophy, and trans-desistance theory. *Criminal Justice and Behavior: An International Journal*, 42, 7-18. <https://doi.org/10.1177/0093854814550023>
- Barrett, L. (2018). The evolution of cognition: A 4e perspective. In A. Newen, L. D. Bruin, &, Gallagher, S. (Eds.), *The Oxford Handbook of 4E Cognition* (719-735). Oxford University Press. DOI:10.1093/oxfordhb/9780198735410.013.38
- Beattie, P. (2019). The road to psychopathology: Neoliberalism and the human mind. *Journal of Social Issues*, 75(1), 89-112. <https://doi.org/10.1111/josi.12304>
- Beck, A. K., & Blumstein, A. (2018). Racial disproportionately in U.S. state prisons: Accounting for the effects of racial and ethnic differences in criminal involvement, arrests, sentencing and time served. *Journal of Quantitative Criminology*, 34, 853-883. <https://doi.org/10.1007/s10940-017-9357-6>
- Bettache, K., & Chiu, C. (2019). The invisible hand is an ideology: Toward a social psychology of Neoliberalism. *Journal of Social Issues*, 75(1), 8-19. <https://doi.org/10.1111/josi.12308>
- Bonta, J., & Andrews, D. (2017) *The psychology of criminal conduct* (6th ed.). Routledge.
- Budd, R. & Hughes, I. (2009). The Dodo Bird verdict – Controversial inevitable and important: A commentary on 30 years of meta-analyses. *Clinical Psychology and Psychotherapy*, 16, pp. 510-522. <https://doi.org/10.1002/cpp.648>
- Carter, E, Ward, T., & Strauss-Hughes, A. (2020). The classification of crime and its related problems: A pluralistic approach. *Aggression and Violent Behaviour*. <https://doi.org/10.1016/j.avb.2020.101440>
- Colombetti, G., & Krueger, J. (2015). Scaffoldings of the affective mind. *Philosophical Psychology*. 28(8), 1157-1176. <http://dx.doi.org/10.1080/09515089.2014.976334>

## FORENSIC TREATMENT OF AGENCY

- Cosgrove, L., & Karter, J. M. (2018). The poison is in the cure: Neoliberalism and contemporary movements in mental health. *Theory and Psychology, 28*(5), 669-683.  
<https://doi.org/10.1177/0959354318796307>
- Day, A. (2021). Time to stop and smell the roses: On 'rushing headlong' into service delivery without really knowing what we are doing. *Criminal Behaviour and Mental Health, 31*(1), 5-8. <https://doi.org/10.1002/cbm.2171>
- De Haan, S. (2020). *Enactive psychiatry*. Cambridge University Press.
- Dent, H., Nielsen, K., & Ward, T. (2020). Correctional rehabilitation and human functioning: An embodied, embedded and enactive approach. *Aggression and Violent Behaviour, 5*, 1-9.  
<https://doi.org/10.1016/j.avb.2020.101383>
- Di Paolo, E., & Thompson, E. (2014). The enactive approach. In L. Shapiro (Ed.), *Routledge handbooks in philosophy. The Routledge handbook of embodied cognition* (pp. 68–78). Routledge/Taylor & Francis Group.
- Dominey, P. F., Prescott, T. J., Bohg, J., Engel, A. K., Gallagher, S., Heed, T., Hoffmann, M., Knoblich, G., Prinz, W., & Schwartz, A. (2016). Implications of action-oriented paradigm shifts in cognitive science In A. K. Engel, K. J. Friston, & D. Kragic (Eds.), *The pragmatic turn: Toward action-oriented views in cognitive science* (pp. 333-361). MIT Press.  
<https://doi.org/10.7551/mitpress/9780262034326.001.0001>
- Dougherty, R. J. (2019). The psychological management of the poor: prescribing psychoactive drugs in the age of Neoliberalism. *Journal of Social Issues, 75*(1), 217-237.  
<https://doi.org/10.1111/josi.12313>
- Fisher, J. A. (2007). Coming soon to a physician near you: Medical neoliberalism and pharmaceutical clinical trials. *Harvard Health Policy Review, 8*(1), 61-70.
- Fisher, M. (2009). *Capitalist realism*. O Books.
- Heilbrun, K. (2020). Using theory and data in forensic research and practice. *Criminal Behaviour and Mental Health, 31*(1), 9-12. <https://doi.org/10.1002/cbm.2172>

## FORENSIC TREATMENT OF AGENCY

- Kashima, Y. (2019). Neoliberalism and its discontents: Commentary on social psychology of Neoliberalism. *Journal of Social Issues*, 75(1), 350-355.  
<https://doi.org/10.1111/josi.12314>
- Klepfisz, G., Daffern, M., & Day, A. (2016). Understanding dynamic risk factors for violence. *Psychology Crime & Law*, 22(1-2), 124-137.  
<https://doi.org/10.1080/1068316X.2015.1109091>
- Kramer, R., Rajah, V., & Sung, H. (2013). Neoliberal prisons and cognitive treatment: Calibrating the subjectivity of incarcerated young men to economic inequalities.
- Krueger, J. (2019). Enactivism, other minds and mental disorders. *Synthese*, 1-25.  
<https://doi.org/10.1007/s11229-019-02133-9>
- Kyselo, M. (2014). The body social: An enactive approach to self. *Frontiers in Psychology*, 5, 1-16. DOI: 10.3389/fpsyg.2014.00986
- Maiese, M. (2017). Can the mind be embodied, enactive, affective and extended?  
*Phenomenological Cognitive Science*, 17, 343-361. <https://doi.org/10.1007/s11097-017-9510-6>
- Maiese, M. (2017). Transformative learning, Enactivism and affectivity. *Studies in Philosophy and Education*, 36,197-216. <https://doi.org/10.1007/s11217-015-9506-z>
- Maiese, M. (2018). Embodiment, sociality, and the life-shaping thesis. *Phenomenology and the Cognitive Sciences*, 18, 353-374. <https://doi.org/10.1007/s11097-018-9565-z>
- Maiese, M. & Hanna, R. (2019). *The mind-body politic*. Palgrave Macmillan.  
<https://doi.org/10.1007/978-3-030-19546-5>
- Criminology*. *Crime and Justice* (pp. 725-735). Palgrave Macmillan.
- McNeill, F. (2012). Four forms of 'offender' rehabilitation: Towards an interdisciplinary perspective. *Legal and Criminological Psychology*, 17(1), 18-36.  
<https://doi.org/10.1111/j.2044-8333.2011.02039.x>
- Nielsen, K. (2020). *What is a mental disorder? Developing an embodied, embedded and enactive psychopathology* (Doctoral dissertation). Retrieved from

## FORENSIC TREATMENT OF AGENCY

[https://www.researchgate.net/publication/338790044\\_What\\_is\\_Mental\\_Disorder\\_Developing\\_an\\_Embodied\\_Embedded\\_and\\_Enactive\\_Psychopathology](https://www.researchgate.net/publication/338790044_What_is_Mental_Disorder_Developing_an_Embodied_Embedded_and_Enactive_Psychopathology)

Orford, J. (2008). Asking the right questions in the right way: The need for shift in research on psychological treatments for addiction. *Alcohol, Drugs, Gambling and Addiction research*, 103(6), pp. 875-885. <https://doi.org/10.1111/j.1360-0443.2007.02092.x>

Phelps, M. S. (2011). Rehabilitation in the punitive era: The gap between rhetoric and reality in U.S. prison programs. *Law Society Review*, 45(1), 33-68. <https://doi.org/10.1111/j.1540-5893.2011.00427.x>

Pickren, W. E. (2018). Psychology in the social imaginary of neoliberalism: Critique and beyond. *Theory and Psychology*, 28(5), 575-580. <https://doi.org/10.1177/0959354318799210>

Sarre, R. (2001). Beyond 'What Works'. A 25-year jubilee retrospective report of Robert Martinson's famous article. *Australian and New Zealand Journal of Criminology*, 34(1), 38-46. <https://doi.org/10.1177/000486580103400103>

Sellers, B. G., & Arrigo, B. (2021). The narrative framework of psychological jurisprudence: Virtue ethics as criminal justice practice. *Aggression and Violent Behaviour*. <https://doi.org/10.1016/j.avb.2021.101671>

Smail, D. (2005). *Power, interest and psychology. Elements of a social materialist understanding of distress*. PCCS Books.

Teague, M. (2016). Probation, people and profits: the impact of neoliberalism. *British Journal of Community Justice*, 14(1), 133-138.

Thompson, E. (2007). *Mind in life: Biology, phenomenology, and the sciences of mind*. Harvard University Press.

Ward, T. (2017). Emotion, cognition, and motivation: An enactive perspective. In T. Ward & P., M. Yates (Eds.), *Sexual offending: Cognition, emotion, and motivation* (pp. 1-16). John Wiley & Sons Ltd.

Ward, T. (2019). Why theory matters in correctional psychology. *Aggression and Violent Behaviour*, 48, 36-45. <https://doi.org/10/1016/j.avb/2019.08.015>

## FORENSIC TREATMENT OF AGENCY

- Ward, T. (2020). Why theoretical literacy is essential for forensic research and practice. *Criminal Behaviour and Mental Health*, 31, 1-4. <https://doi.org/10.1002/cbm.2170>
- Ward, T., Arrigo, B., Barnao, M., Beech, A., Brown, D. A., Cording, J., Day, A., Durrant, R., Gannon, T., Hart, S., Prescott, D., Strauss-Hughes, A., Tamatea, A., & Taxman, F. (2021). Urgent issues and prospects in correction practice and research. *Legal and Criminological Psychology*. <https://doi.org/10.1111/lcrp.12211>
- Ward, T., & Carter, E. (2019). The classification of offending and crime-related problems: a functional perspective. *Psychology, Crime and Law*, 25(6), 542-560. <https://doi.org/10.1080/1068316X.2018.1557182>
- Ward, T., & Fortune, C. (2013). The Good Lives Model: Aligning risk reduction with promoting offenders' personal goals. *European Journal of Probation*, 2(5), 29-46. <https://doi.org/10.1177/206622031300500203>
- Ward, T., & Fortune, C. (2016). The role of dynamic risk factors in the explanation of offending. *Aggression and Violent Behaviour*, 29, 79-88. <https://doi.org/10.1016/j.avb.2016.06.007>
- Ward, T., & Gannon, T. A. (2006). Rehabilitation, etiology, and self-regulation: The comprehensive Good Lives Model of treatment for sexual offenders. *Aggression and Violent Behavior*, 11(1), 77-94. <https://doi.org/10.1016/j.avb.2005.06.001>
- Ward, D., Silverman, D., & Villalobos, M. (2017). Introduction: The varieties of Enactivism. *Topoi*, 36, 365-375. <https://doi.org/10.1007/s11245-017-9484-6>
- Zawidski, T. W. (2018). Mindshaping. In A. Newen, L. D. Bruin, & S. Gallagher (Eds.), *The Oxford handbook of 4e cognition* (pp. 735-755). DOI: 10.1093/oxfordhb/9780198735410.013.39