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[10.1080/13218719.2020.1742243](https://doi.org/10.1080/13218719.2020.1742243)

This is an Accepted Manuscript of an article published by Taylor & Francis in *Psychiatry, Psychology and Law* on 21st April 2020, available online: <http://www.tandfonline.com/10.1080/13218719.2020.1742243>.

Allan, A. (2020). Structuring the debate about research ethics in the psychology and law field: An international perspective. *Psychiatry, Psychology and Law*, 27(3), 397-411. <https://doi.org/10.1080/13218719.2020.1742243>

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Structuring the Debate About Research Ethics in the Psychology and Law Field: An International Perspective

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Abstract

Forensic psychologists' role is well established, and they are rightly well-regulated because their decisions and behaviour can have a significant impact on people's rights and interests. Their ethical integrity, however, partly hinges on the psycholegal research products (data, methods and instruments) they and others use. The ethical regulation of researchers who produce products and their research processes is, however, fragmented, limited, and narrow and largely focusses on domestic research. Relatively few scholars have examined the regulation of psycholegal research or commented on the ethical implications of recent court decisions. The purpose of this paper is to start a debate about the ethical regulation of researchers in the psycholegal field and consider methods of improving it to maintain society's trust in the field.

Keywords: ethics, editor, institutional committee, law, psychology, research, review

Conflict of interest declaration

Author Alfred Allan has declared no conflicts of interest

Ethics declaration

This article does not contain any studies with human participants or animals performed by the author.

Structuring the Debate About Research Ethics in the Psychology and Law Field: An International Perspective

Psychologists' role in providing services to law (defined here as the legal, corrective, investigative and justice systems) is well-established and they have a significant impact on the legal rights and interests of many people (see Grisso, 2018). The media, courts and professional and regulatory bodies therefore scrutinise forensic psychologists' behaviour and decisions to determine whether they are ethical (right and good; Allan, 2018). Professional bodies (e.g., Australian Psychological Society[APS], 2011; Australian Psychological Society, 2013) and scholars (see, e.g., Allan, 2015a; Allan & Grisso, 2014) provide ethical advice to forensic psychologists and researchers to explore issues such as the impact of bias, without necessarily identifying them as ethical issues (Kukucka, Kassin, Zapf, & Dror, 2017; Zapf & Dror, 2017).

Forensic psychologists and others involved in the administration of law (administrators; i.e., lawyers, police officers, policy makers, presiding officers, psychiatrists and social workers), however, rely on psychology and law (psycholegal) researchers' products (i.e., data, methods and instruments). Researchers' contributions could therefore have a significant influence on law (e.g., Steinberg, 2013), legal precedents (e.g., *Miller v Alabama*, 2012; *Roper v Simmons*, 2005; Zapf, Hubbard, Cooper, Wheelles, & Ronan, 2004), and policies (Grisso & Kavanaugh, 2016). Their contributions can also have a direct impact on society and individuals. Police using line-ups based on indefensible research might arrest the wrong people or allow offenders to escape (for a debate about this issue see Gronlund, Wixted, & Mickes, 2014; Wells, 2014). Sentencing courts could detain people who would have desisted if they rely on psychologists' evidence that was based on risk assessment instruments that lack specificity, whilst courts using evidence obtained with instruments that are not sensitive enough might underestimate offenders' risk of reoffending. People could suffer harm in both

situations because offenders and their families suffer harm if sentences are unnecessarily long, and their victims and their families suffer harm if sentences are too lenient. Society also unnecessarily suffers financially either way, because it carries the cost of detaining and providing expensive treatment programmes to offenders, but also bears much of the financial burden of offending.

Despite the potential impact of their research courts and scholars have given relatively little attention to the ethics of psycholegal researchers' activities (Ward & Willis, 2010) compared to those of forensic psychologists. This lack of scrutiny is, however, not necessarily an indication that there are no problems as I demonstrate in the next section. My belief is that psycholegal researchers should avoid even trivial unethical behaviours that could erode society's and administrators' trust in their research products and that it is time to start debating research ethics within the psycholegal field. My aim is to start this debate by using five ethical principles to analyse some of the ethical challenges I see and then making tentative proposals regarding how the profession could respond.

Nature of Problem

Psycholegal research has to the best of my knowledge escaped major ethical embarrassments and there has been little public discourse about allegations that have been made. Regehr, Edwardh and Bradford (2000) for instance alleged that the researchers collecting the data used to develop the Statistical Risk Appraisal Guide (SRAG; G. T. Harris, Rice, & Quinsey, 1993) did not inform participants they were collecting data, or gave them a choice of participating. The importance of this from an ethical perspective is that this instrument forms the basis of the Sex Offender Risk Assessment Guide (SORAG; G. T. Harris, Rice, Quinsey, & Cormier, 2015) and the Violence Risk Appraisal Guide (VRAG; Rice & Harris, 1997).

There has similarly been little debate about Australian (e.g., Director of Public Prosecutions [WA] v Mangolamara, 2007), Canadian (e.g., Canada v Ewert, 2016; Ewert v Canada, 2015, 2018) and New Zealand (e.g., R v Peta, 2007) decisions that raise questions about the field's ability to produce products that serve all people.

Some of these decisions, however, point to a further underlying ethical question - namely, how the field can prevent the deliberate or inadvertent misuse of its research products.

Researchers understand that instruments such as the Static-99 (Hanson & Thornton, 1999) are not meant to identify a particular individual as a recidivist or a non-recidivist. The instrument is, however, used for this purpose in Australia leading to an Australian judge finding that there is no evidence that the Static-99 has any efficacy whatsoever in relation to Australian Indigenous men (see Director of Public Prosecutions [WA] v Samson, 2014).

The problem facing the field is that that the public and law administrators' trust in the field's products might be eroded by judicial statements about the credibility of psychological research even though the researchers in question might not define themselves as psycholegal researchers. This happened in *Brown v Entertainment Merchants Association* (EMA; 2011) where the United State (US) Supreme Court considered psychological research regarding the impact of video violence "unpersuasive" (p. 17). Justice Scalia was circumspect in explaining this decision but it further erodes the perceived trustworthiness of psychologists who, like other scientists, are steadily losing the trust of the public, particularly conservatives (Gauchat, 2012) who see them as social justice advocates who use their research to liberalise public policy (Cofnas, Carl, & Woodley of Menie, 2018). Even fair-minded observers could rightly question psychologists' objectivity given the lack of socio-political diversity (e.g., Redding, 2001) within the profession and it allowing situations such as occurred in *Brown v EMA* (2011) where psychologists made statements that surpass their data or disregard objective disconfirming evidence (e.g., Ferguson, 2013). One possible explanation for this phenomenon

is that the psychologists used moral disengagement (see Bandura, 1996) to justify using imperfect products to pursue a liberal moral agenda. Halsam (2016, p. 1) for instance, explains how psychologists through “concept creep” expanded their concepts of harm and vulnerability beyond that of the general public to protect those they define as defenceless. Some psychologists might therefore in the pursuit of goals that they and/or many in society highly value disregard their ethical obligations to be honest, fair and trustworthy. Such a “dual commitment to science and advocacy” (Grisso, 2018, p. 21) is apparent amongst psycholegal researchers and this is an issue that the field should consider.

Psycholegal scholars also neglect to write about psycholegal research ethics or the ethics of publishing psycholegal research findings. My search in *Law and Human Behavior*, *Behavioral Science and the Law* and *Ethics and Behavior* using “research ethi” and “publi ethi” as search terms identified no relevant publication. *Law and Human Behavior*’s revised classification codes similarly do not provide a logical heading for papers on research ethics or directly refer to research ethics (see McAuliff et al., 2019). Scholars in particular do not write about the research ethics from an international perspective even though psycholegal research has become a global enterprise. Researchers increasingly work in international teams and/or undertake research outside their own countries and psychologists and administrators from all over the world use psycholegal researchers’ products. The ethical regulation of research is furthermore still primarily country-centric and fragmented with several bodies directly or indirectly regulating researchers.

Regulatory bodies (e.g., professional licensing or registration boards) for instance regulate all registered psychologists doing research in their jurisdiction whilst professional bodies (e.g., American Psychological Association [APA]) only regulate researchers who are their members. Some people involved in psycholegal research might do so without oversight from any regulatory body. The bodies’ ethical codes and guidelines primarily focus on

psychologists “conducting research” (APLS, 2011, p. 1) and ignore psychologists’ other research related roles. These roles include determining psycholegal research agendas and priorities and allocating research funds, and serving as members of institution review boards (IRBs, also known as ethics committees, Schneider, 2006), research assistants, reviewers of manuscripts and editors.

IRBs provide the next level of regulation and have become important ethical gatekeepers of psycholegal research in most countries because they approve researchers’ proposals and oversee the execution of their research projects. Schüklenk’s (2000) conclusions after examining historical cases of breaches of research ethics in medicine were that IRBs are only moderately effective in determining the ethical justification of proposed research projects and ineffective in monitoring the execution and outcomes of research projects. Part of the problem is that IRBs mainly respond to complaints they receive and that their members are often lay people and/or researchers from disciplines who do not necessarily fully understand the subtleties of specific research projects (Schüklenk, 2000; Straight, 2009).

The peer review process has therefore become the ultimate gatekeeper to ensure that researchers act ethically (Allan, 2015a). Authors have, however, expressed concern about the effectiveness of the review process in general (e.g., Bohannon, 2013; Smith, 2006) and the ethical review of researchers’ behaviour in particular (e.g., Kapoor, Young, Coleman, Norko, & Griffith, 2011; Koocher & Keith-Spiegel, 2016; Levelt, 2012). They even question whether some behaviour of editors is ethical (e.g., Lilienfeld, 2002; Stone & MacCourt, 2008). Editors and reviewers’ role as ethical scrutineers of research is further becoming more difficult as the volume of projects grow and researchers increasingly use more sophisticated methods and statistical approaches and tools for analysing data (Kazak, 2018; Wright, 2016). Editors must therefore increasingly rely on the ethical integrity of researchers whom they

know are under pressure to publish and therefore might be careless or dishonest when they submit manuscripts (Schminke, 2009; Wright, 2016).

Some editors and publisher have formed the Committee on Publication Ethics (COPE) to increase the ethical scrutiny of editors and reviewers' decisions and behaviour (Godlee, 2004). COPE published a Code of conduct (2011) and Core practices (Undated) to guide editors regarding their specific ethical obligations but compliance is voluntary and some recommendations might be difficult to enforce. Angelski, Fernande, Weijerand and Gao (2012) for instance found that only 38% ($n = 13$) of the editors who participated in their survey (of all 103 English language journals in the Abridged Index Medicus) indicated that they specifically instruct reviewers to reject manuscripts based on ethical grounds alone. The authors do not indicate why editors do not give such instructions but some might believe that there is sufficient ethical scrutiny if IRBs approved the research, feel that they do not have a mandate or resources to make such requests (e.g., Godlee, 2004) or doubt that reviewers have the ethical sensitivity, knowledge and skills to undertake a proper ethical analysis of the manuscripts they review (e.g., Pierson, 2015). The scope of the COPE guidelines is also narrow and the editors of the new journals with uncertain reputation that are constantly appearing might not follow them (Roberts, 2016).

Contemporary researchers can, however, disseminate their findings on-line (e.g., blogs) or in grey literature published outside the traditional academic or commercial publication and distribution channels without any review or scam reviews (see Bohannon, 2013). Published material falling in these two categories might increase as digital publication has become a lucrative business with authors paying \$ 250 million in 2014 to publish above two million articles in more than 20,000 digital journals (see Bohannon, 2015). Researchers might also increase their use of the outlets as major funding bodies in several regions (Federal Food

Drug and Cosmetic Act, 1938; Schiltz, 2018) require researchers to provide open access to their research findings.

Ethical Framework

The profession has traditionally used the principles in codes of ethics (e.g., American Psychological Association, 2002; Australian Psychological Society, 2007; Canadian Psychological Association, 2017) to state its moral ideals. These principles are universally accepted (see Gauthier, Pettifor, & Ferrero, 2010; International Association of Applied Psychology [IAAP] and the International Union of Psychological Science [IUPsyS], 2008), but the drafters of codes differ regarding how they combine the principles and what they call them (Allan, 2011). Given the international approach I am taking I will use the framework of ethical principles that Allan (2018) used to examine the ethical challenges forensic psychologists face internationally, namely Respect for the dignity of humanity (Respect), Justice, Fidelity or Trust, Care and Responsibility principles.

The Respect principle underlies both human rights law and ethics (Allan, 2013) and is of importance to all researchers as it requires them to recognise potential participants' self-worth, moral and legal rights and interests, autonomy, and privacy (including their right to be left alone, Allan, 2015a). The principle further requires psychologists to be truthful (i.e., honest, open and able to account for their decisions and actions and admit the limitations of their research products and their application).

The Justice principle is of particular importance to the psycholegal field because distributive justice requires psychologists to ensure that the benefits, costs and risks of their research are fairly distributed amongst all people. Distributive justice partly underlies the European Plan S that was launched in 2018 (Schiltz, 2018). Procedural justice requires researchers to

contribute to fair decision-making regarding other people's rights and interests (Allan, 2015b).

The Trust principle recognises that psychologists must be trustworthy in order to realize their social purpose (e.g., MacDonald, 1995; Parsons, 1968). Society, including administrators, cannot determine individual researchers' competence (i.e., their ability, knowledge and skill) and whether they are acting in society's best interests, or the reliability of their research products. Society could start mistrusting researchers if courts regularly reject testimony based on psycholegal research products even though the researchers own behaviour was ethical.

Psychologists are familiar with the Care principle, which requires them to take reasonable steps to avoid reasonably foreseeable harm and to minimise unavoidable or unintended harm to participants. Researchers responsibility, however, extends beyond foreseeable direct and physical harm to participants to include potential indirect and non-physical harm that could occur when others use their research products.

Researchers might be unfamiliar with the Responsibility principle that reflects psychologists' collective and individual ethical responsibilities to several entities and people depending on their roles. Society considers psycholegal research important and governments and public enterprise therefore support researchers by giving them opportunities and funds to do research. Society in return expects psychologists to use their knowledge, skill and experience to the benefit of society as a whole (e.g., MacDonald, 1995; Parsons, 1968). They must therefore undertake only socially beneficial research and disseminate comprehensible accounts of their research findings as broadly as possible (e.g., Federal Food, Drug and Cosmetic Act, 1938; Fuller, Pearson, & Peters, 2016). Psycholegal researchers who acquire their professional identity and credibility from their role as psychologists should furthermore refrain from doing anything that could impair the standing of the field and their peers and

therefore take steps to protect the reputation of the field when they see peers misbehaving (e.g., Koocher, 2012; Koocher & Keith-Spiegel, 2010).

Analysis

These principles apply to all psychologists whether they act collectively or individually as researchers, delegates (e.g., graduate students and research assistants), reviewers or editors. I first consider some of the challenges I believe the psycholegal field as a collective faces and then briefly examine the challenges to individual psychologists in different roles.

Collective

Society expects psychology to develop products that benefit it in a manner that all their members equally share the benefits, costs and risks. This includes indigenous, migrant or other minority groups within jurisdictions (e.g., Allan, Dawson, & Allan, 2006). Individual researchers cannot meet the needs of all people in the world, but the field's global¹ reach further implies that researchers should consider the distributive justice implications of their research endeavours in at least those jurisdictions where there are researchers who contribute to the development of their products or practitioners use them. The Ewert-case (e.g., Canada v Ewert, 2016; Ewert v Canada, 2015, 2018) is, however, a reminder of how far the field still is from achieving these goals even for all groups within the country for which these instruments were developed. The applicant in this case was a Métis (Canadian Aboriginal)

¹ The extra-territorial legal responsibilities of psychologists are beyond the ambit of this paper, but psychologists who adhere to the aspirational ethical principles will generally be acting within the ambit of morally acceptable law in most, if not all, jurisdictions as law generally prescribes less aspirational minimum behavioural standards.

man whose legal team argued that a range of well-known psychological tests such as the Psychopathy Checklist – Revised (PCL-R; Hare, 1991); VRAG (Quinsey, Harris, Rice, & Cormier, 1998); SORAG (Quinsey, Harris, Rice, & Comier, 2006); Static-99 (Hanson & Thornton, 1999; A. J. R. Harris, Phenix, Hanson, & Thornton, 2003; Helmus, Hanson, & Thornton, 2009) and the Violence Risk Scale - Sex Offender (VRS-SO; Wong, Olver, Nicholaichuk, & Gordon, 2006; Wong, Olver, Nicholaichuk, & Gordon, 2003) “generate false results and false conclusions when used on Aboriginal persons” (¶20 of Canada v Ewert, 2016). The essence of the Supreme Court’s decision is that these instruments, some that were developed in Canada, discriminate against Aboriginal offenders (Ewert v Canada, 2018). This discrimination, however, extends beyond offenders because this lack of appropriate instruments place the public, but especially Aboriginal people, at risk because they are more likely to be the victims of Aboriginal offenders (Allan et al., 2018). Many practitioners continue to use instruments inappropriately because they are unaware of the ethical implications and/or because they have no appropriate alternatives to use.

Individual researchers have a role to play in minimising the inappropriate use of their research products as I discuss later, but can do little to influence the behaviour of practitioners. They will in particular find it difficult to independently overcome obstacles that individually or in combination with others make it difficult to satisfy society’s ultimate requirement that the field should meet the realistic needs of all members in an equitable manner. Researchers might, for instance, find it difficult or unattractive to undertake research in certain areas for a variety of reasons, including ideological opinions within society and psychology (e.g., female perpetrated domestic violence, Lee & Lincoln, 2017). They might equally anticipate difficulties in ensuring the privacy of research participants when they study small populations (e.g., mass killers) because they could find it difficult to hide participants’

identifying information when they report their findings, especially if they do research in a small jurisdiction.

The field as a collective will have to address these issues and other similar problems that might need a strategic and collaborative approach. The field might, for instance have to coordinate the development of research methods that will allow researchers to develop risk prediction instruments that satisfy legal and ethical standards for small populations (e.g., indigenous people or migrants) where the base rate of the offending behaviour is low (e.g., sexual and violent offending). A collective attempt might also be necessary to make use of opportunities to obtain research funds for some types of research. Cases such as the Ewert case (Ewert v Canada, 2018) might encourage governments to fund the research necessary for them to meet their human rights obligations and this provides opportunities for the field to fulfil some of its own ethical responsibilities.

The field as a collective is also in a better position to consider emerging ethical issues across the world, encourage research that can inform researchers' practice and help psychologists understand their ethical responsibilities, including those relevant beyond the jurisdiction that they work in. It could, for instance, promote a more pluralistic discourse by creating opportunities for respectful and informed debate between psycholegal researchers who have diverse values and beliefs. The field could also encourage researchers to undertake research to identify the role of bias in their research in the same way as they are studying the role of partiality in forensic psychologists' assessment (e.g., Neal & Brodsky, 2016; Neal & Grisso, 2014; Zapf & Dror, 2017). It could aid psychologists by developing ethical guidelines and educating them about their roles as ethical agents, especially within a global context. The field is finally in a stronger position to encourage publishers to endorse and monitor that researchers, editors and reviewers implement, them.

Researchers

Rosenthal (1994) pointed out that researchers' ethical obligations span a wide range of decisions and behaviours that start with their choice of research topics, designs and questions, how they frame these questions and who they invite as participants. Their ethical obligations continue when they execute projects, delegate tasks, choose analytical methods and interpret, report and explain their research findings. Most researchers are intent on behaving ethically, but they are also enthusiastic about their research ideas, getting approval from, and sometimes entering into agreements with host organisations that can give them access to participants or data. They could therefore commit themselves to projects without fully understanding the challenges and resources they require or fail to identify or ignore or minimise potential ethical problems with their research projects. They might specifically not understand the challenges of projects they undertake in jurisdictions where they are unfamiliar with the law and morals (Benatar & Singer, 2000). Researchers might also not understand how their everyday activities and attempts to boost their self-esteem could bias them. Their competition with peers to attract research grants and enhance their careers; commercial interests; and the promotion of ideological or theoretical views might, for instance, bias them (e.g., FeldmanHall et al., 2012; Greenwald & Banaji, 1995; Greenwald, Pickrell, & Farnham, 2002). Those who appreciate the risk of being biased might underestimate how difficult it is even for critical thinkers (Babcock & Loewenstein, 1997; Babcock, Loewenstein, & Issacharoff, 1997) who are trying their best to do the right thing (for a discussion, see Epley & Caruso, 2004) to overcome bias.

Researchers should therefore consider strategies that will simultaneously ensure that their projects are feasible, ethical and unbiased and avoid creating unrealistic expectations from those who support their research. They could do this by planning their projects in detail at the onset and inviting peers whom they trust to be objective or who hold opposing ideological

views to critique the research methodology (Grisso & Steinberg, 2005). They can further enhance their perceived objectivity by pre-registering their hypotheses, methods and analyses before undertaking their projects (e.g., Van 't Veer & Giner-Sorolla, 2016) and maintaining audit trails of their activities that will allow them to give an account of their research.

Researchers should also consider the broader implications of their studies, such as whether their research is a justifiable use of limited research funds or merely very narrow studies that serve little purpose other than further their careers (Lilienfeld, 2012; Nosek & Bar-Anan, 2012). Every project cannot benefit every group in society, but researchers should explicitly consider the distributive justice implications of their research. They should ideally undertake projects that will bring benefits to those groups that are currently not well served and strive to distribute the costs of their research fairly by not placing an unnecessary burden on victims (e.g., of human rights abuses, Allan, 2000) and offenders (e.g., in drug courts, DeMatteo, Filone, & LaDuke, 2011). Researchers could argue that research with victims and offenders is justified because it benefits society as a whole, but this argument is unconvincing when researchers place additional burdens on participants by using their time and adding to the stress they experience (DeMatteo et al., 2011).

Professional ethics obliges researchers to go beyond merely complying with the requirements of IRBs when they consider the possible ethical challenges they might encounter. Many researchers find it challenging to avoid placing undue pressure on people to give consent (e.g., Van Loon & Lindegger, 2009) or provide inaccurate information (e.g., Bowling & Huang, 2018). Psycholegal researchers' potential participants, however, often have several characteristics that might subtly influence their ability to give free consent and accurate responses. Cultural and literacy issues (e.g., Strickland, Parry, Allan, & Allan, 2016), can for instance influence detainees ability to understand information and make detached decisions. Modest financial incentives and/or contact with friendly attractive research assistants could

influence detainees and other participants who are materially, emotionally and socially deprived (e.g., Rosenfeld & Green, 2009). Detainees with mental disorders (e.g., Regehr et al., 2000) or people under investigation or involved in legal proceedings (e.g., in family or drug courts, DeMatteo et al., 2011) typically experience emotional and other stress and they could agree to participate in research because it is easier to acquiesce or because they fear they might suffer prejudice if they refuse to participate.

Researchers should also consider how they can limit the potential misuse of their research products in a manner that could potentially cause harm. Allan and Dawson (2002), for instance, had to cease developing a model for predicting Australian Indigenous men's risk of violence when they found that whilst "the recidivism predictive accuracy (95.4%) of the model for the violent offenders was good ... the desisting predictive accuracy (55%) was poor" (p. 10) and that the model was therefore "geared toward identifying re-offenders at the expense of non-reoffenders .. [that] ... would only heighten the over representation of Indigenous people within the prison system" (p. 84).

Delegates and Collaborators

Graduate students, research assistants and other research collaborators who are psychologists have a personal and professional responsibility to use their intimate knowledge of projects to identify fabrications and falsifications that might otherwise go undetected (see Koocher, 2012). The field might, however, have to find ways to encourage and support whistleblowers because they report that such disclosure have a negative effect on their personal lives and their careers (Koocher, 2012).

Peer Reviewers

The Justice principle obliges those who benefit from the efforts of those who serve as committee members, editors, editorial board members and reviewers to share the burden of reviewing proposals, grant applications and manuscripts (Pierson, 2016). The challenge is, however, to find reviewers that understand their own ethical obligations (Gallagher, 2013) and are competent to investigate the scientific and ethical appropriateness of researchers' procedures, including the global ethical implications of their projects and manuscripts. Reviewers might, furthermore, know that they must be procedurally fair and therefore unbiased but, as I pointed out earlier, they might be unable to identify their biases and therefore might not disclose conflicts of interest. Editors and publishers can to a degree regulate reviewers' behaviour but will find it difficult to, for example, ensure that they respect researchers' intellectual property rights and refrain from disclosing or using information they obtained during the review process.

The best strategy for the field is arguably to improve reviewers' ethical knowledge and develop novice reviewers' skills by identifying and encouraging competent reviewers to present workshops at conferences that specifically focus on reviewers' ethical obligations. It could also encourage editors to identify and help early career researchers develop their reviewing skills. Editors could do this by giving constructive feedback to inexperienced reviewers, providing them the opportunity to work with experienced reviewers and finding ways of rewarding their contributions.

Editors

Editors have all reviewers' ethical responsibilities plus those that come from their responsibility to monitor the ethical appropriateness of what reviewers do and make the final

decisions about the acceptance and publication of manuscripts. Editors should therefore encourage reviewers to be honest and critical in their reports but ensure that the tone and content of their reports are respectful and devoid of intemperate criticism or language that demeans researchers.

Editors should in particular ensure that reviewers are unbiased, and some editors try to do this by allowing authors to disqualify people who they would prefer not to be reviewers. Authors might, however, not be able to identify all the potential conflicted reviewers. An approach that could improve the transparency of reviews would be to remove reviewers' anonymity. Some reviewers might, however, not give critical reviews because they fear reprisals whilst others might refuse to undertake reviews if they are identified. An alternative approach could be that editors propose a panel of appropriate reviewers and invite authors to make a shortlist that they then use to appoint reviewers.

Editors should monitor reviewers' reports for any signs of bias such as when they extensively cite themselves and/or their close associates, or instruct authors to read such papers.

Reviewers who do this might nevertheless be raising valid points. Editors who accept such manuscripts for publication could consider inviting reviewers to submit their commentaries as short articles that accompany the original manuscripts with the authors' replies to those commentaries. Open and frank debates of this nature are informative and could combat concerns that the peer review system lacks transparency.

Editors who try, or expect reviewers to undertake substantial ethical reviews might find that there is seldom enough information in manuscripts to do that because authors merely report that they had IRB consent to undertake the project. Authors, for instance, routinely report little or no information that allows editors and reviewers to confirm that the participants were fully informed and competent. Editors and reviewers could in many instances be comfortable with blunt statements of compliance, but where the participants might have been vulnerable,

they have a responsibility to obtain evidence that the participants made voluntary, free and fully informed decisions. Authors will probably resent providing additional information and there is also a risk of extensive communications between them and editors that could delay publication of papers. Publishers could, however, consider requiring researchers to make their working documents and raw data available in secure online sites where editors and reviewers can access them when required.

An outcome of the wide use of the fields' research products is that some users might lack a sound understanding of the limitations of these products and therefore use them in an unethical way. Many Australian assessors (see Director of Public Prosecutions [WA] v Mangolamara, 2007) and Departments of Corrective Services employees use the Static-99 to identify offenders as recidivists or non-recidivists (Allan, 2015a, 2018; Allan et al., 2018). This practice is unethical because the Static-99 was not designed for this purpose and has not been validated in Australia, and specifically not for Australian Indigenous men, who are over-represented in the prison system (Allan, 2015a). Smallbone and Rallings (2013) therefore considered it necessary to include data about the low true-positive and high false-positive rates of their Static-99 data for Indigenous sexual offenders in the original manuscript they submitted (personal communication, S Smallbone, September, 23, 2013). The editor and reviewers, however, asked them to remove the relevant table and discussion because they considered it inappropriate to report such data for the Static-99. The implication of this deletion is that users of the Static-99, experts instructed by the defendants and lawyers, and therefore courts, are deprived of important data. This appears to be a case where those involved focuss on reporting to other scientists and sophisticated users of research (see Fuller et al., 2016) without considering the ethical implications of removing the relevant data.

This case demonstrates the need for editors to be sensitive to ethical issues that go beyond merely the normal publication ethics and to take into account the unique circumstances at the

location where the data were collected (Salaam & Brown, 2013) or might be used. Publishers could consider identifying ethicists whom editors and reviewers can consult if they are uncertain about the ethical appropriateness of manuscripts or the research they are based on. Editors should specifically consider the ethical aspect of manuscripts and instruct reviewers to do the same. Editors should reject manuscripts when appropriate or require authors to make changes that address their ethical concerns. Editors could also consider adding an editorial caveat regarding the ethical concerns (see Angelski et al., 2012) and how they were addressed or inviting the specialist reviewers to write a commentary on the published paper. Such editorial comments and commentaries will serve the additional purpose of providing ethical education to others partaking in the research process and readers and users of the articles.

Discussion

Psycholegal research is a success story. The field can point to several areas where its research products enhance the administration of justice and protection of the public (e.g., identification of reoffenders). It can also point to the very high number of non-researchers that use its research products, extending from psychologists to other administrators of law. It can even point to the financial rewards it brings to some researchers, which in turn motivates them and others to do psycholegal research. The field has achieved this with minimal external regulation because society and administrators trust researchers and their products. Society is, however, becoming more critical of researchers and the field cannot shrug all such criticism off as mere ideological scepticism, because an analysis of the case law points to issues regarding researchers' objectivity and the distribution of the benefit, harm and risk of their research. Many researchers might not consider the issues raised in these cases as ethical

issues, but they are and if the field fails to address them it could lead to an erosion of society and administrators' trust in the field. This scrutiny of psycholegal research is likely to increase as the human rights culture develop in more countries, because courts applying human rights law often make findings that indirectly reflect on the field's research ethics as psychology's ethics and human rights law share the same foundation (Allan, 2013). The field therefore faces the prospect that society directly or through courts could prescribe to it how it should regulate research. Researchers as individuals and a collective can prevent this by aspiring to realise the profession's ethical principles, even though they most likely never be able to do so fully because these moral ideas are at the outer limit of what can pragmatically be reached (see Brownlee, 2010).

The lack of international professional and/or regulatory bodies with formal legal structures makes it difficult for the field to respond at a global level, but the field could partly overcome this limitation if national bodies that represent psychologists such as the APLS, the APS' College of Forensic Psychologists and the British Psychological Society' Division of Forensic Psychology affiliate with a body that has an international structure (e.g., the IAAP), which can then coordinate the field globally. Law's jurisdictional nature (e.g., Allan, 2011) will prevent such a coordinating body from adopting and enforcing a common code, but it could orchestrate the non-regulatory activities of the various national bodies. Editors could encourage authors to submit papers on the ethics of psycholegal research and explicitly instruct reviewers to consider the ethics of the projects manuscripts are based on. I concede that the article is limited because I mostly draw from areas that I am familiar with, such as the development of instruments to predict the risk of reoffending, and that my ideas are aspirational and many will argue impractical, but the field needs to debate these issues if it wants to maintain the trust of society and the sooner it starts the better.

Acknowledgments

I presented an earlier draft of this article as the psychology and law keynote presentation at the 29th International Congress of Applied Psychology in Montreal, Canada. I thank Doctors Maria Allan, Tom Grisso and Anthony Love for their useful comments on previous drafts of this article.

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