

Correction and Disclosure

Regarding:

**Lewis DO, Yeager CA, Blake P, Bard B, Strenziok M:
Ethics Questions Raised by the Neuropsychiatric, Neuropsychological,
Educational, Developmental, and Family Characteristics of 18 Juveniles
Awaiting Execution in Texas.
J Am Acad Psychiatry Law 32:408–29, 2004**

Because of information received after publication of the article, the Editor and a Committee appointed by the President of the American Academy of Psychiatry and the Law have determined that a correction and disclosure are appropriate.

A. The article states on page 410, under the heading “IRB Approval and Confidentiality,” the following: “The protocol was approved by the Institutional Review Board of Physicians for Human Rights.”

–The Institutional Review Board of Physicians for Human Rights did not approve the research protocol or the informed consent form. Furthermore, no approval was sought or obtained from any other Institutional Review Board.

B. The Journal’s published instructions, provided to all of its contributing authors, state that authors “will identify in writing in advance any financial involvement they may have in relation to the manuscript that may be considered a conflict of interest. When appropriate, notice of financial disclosure will be published as part of the article so that the reader may be aware of any possible biases. . .”

–The authors did not disclose to the Editor or in their article’s text that Physicians for Human Rights had funded their research.

Ezra E. H. Griffith, MD, Editor

The Editor received a letter from the authors, in response to communications about these errors, in which the authors stated, in part, the following:

December 11, 2005

To the Editor:

The purpose of this letter is threefold. First, we wish to correct a misstatement in our paper, "Ethics Questions Raised by the Neuropsychiatric, Neuropsychological, Educational, Developmental and Family Characteristics of 18 Juveniles Awaiting Execution in Texas" (*J Am Acad Psychiatry Law* 32: 408–29, 2004) in which we mistakenly said that the research protocol had been approved by the Physicians for Human Rights (PHR) research review committee. We wish to explain how we believe such an error occurred. Prior to publication we received written notification from the attorney coordinating the project that the protocol had been approved and that his statement could be verified by the research director of PHR, the original project coordinator. However, several months after the paper was published, we were informed that such was not the case, that the protocol had not been so approved. We believe that this error occurred because the project was managed sequentially by several different individuals during its course. The director of research at PHR, its initial coordinator, retired from the project after several months, placing responsibility for following through in the hands of a temporary coordinator. She in turn, left the project after two or three months, informing us that she would be in Europe and no longer available to us. At this point, the tasks of coordinating the clinical work with the administrative and legal work fell to one attorney with whom we remained in touch from the beginning to the end of the project. . . . It was he who mistakenly informed us in writing that the protocol had been approved. The authors apologize for the misstatement. We wish to emphasize, however, that neither [the] attorney nor the authors had any intent to deceive the editor or the readers of the journal.

Our second purpose for writing this letter concerns the issue of informed consent. The protocol was prepared by the director of research of PHR, . . . with the assistance of Dorothy Otnow Lewis, MD, and Catherine Yeager, MA. We were informed by the director of research that the consent forms had to be prepared by a colleague in Texas in consultation with the subjects' individual attorneys in order to ensure confidentiality. The Texas attorneys did not consider the standard research forms to provide suf-

ficient protection. We were subsequently informed by the attorney in Texas coordinating the work with inmates, attorneys and the prison, that permissions were "rolling in" and that the clinicians should come to Texas as soon as possible. Our requests to be provided copies of the consent form went unanswered; however, in our previous studies involving prisoners, inmates presented them to us at the time of examination so we were not unduly concerned.

When we began our work at the prison, we became concerned when the inmates failed to give us their forms. They were all knowledgeable about the clinical and scientific aspects of the project and indicated that they had provided consent. In fact, four inmates who were not on the list of participants provided to us by the Texas attorney, requested to participate, but the warden refused because he said he did not have written consent in advance. At this point we had three options: 1) we could return home and abandon the project; at the risk of never being allowed to return and do the work. The authors believe such a decision would be unethical, given the potential importance of the clinical findings to each inmate; 2) we could assume that consent forms had been signed and were in the possession of the warden of the prison or of the inmates' attorneys; or 3) we could obtain informed consent then and there, prior to proceeding with the evaluations. We chose option three. The psychologist and neurologist obtained verbal informed consent. The psychiatrist spent the first part of her evaluations determining whether each inmate understood the clinical relevance of the findings to his case and the fact that the findings as a whole would be analyzed and, if of scientific importance, presented anonymously in a scientific paper in which no individual subject could be identified. Although this procedure was obviously a simplified substitute for a standard, uniform consent form we chose to obtain consent as described rather than abandon the project. Each inmate either dictated to the psychiatrist or wrote out for himself his understanding of the project and his wish to participate. (The editor has been provided with samples of these written consents absent identifying material.) Because even an IRB approved research study does not guarantee confidentiality from subpoena unless a certificate of confidentiality is obtained from the federal government prior to the study, the design of the study stipulated that each evaluation would be conducted as a service to the inmate and his lawyer and as

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such attorney-client and doctor-patient confidentiality would be preserved. As evidence of this clinical function, the psychiatrist has been in touch with every attorney whose client was examined and has shared the individual findings with them. The psychiatrist remains available to them should they desire more detailed data or reports. Most of the lawyers were grateful to have the clinical information.

Third, in response to the editor's request that we clarify our funding source the authors want it to be known that the project was funded primarily by the Physicians for Human Rights with the stipulation that the funding source have absolutely no prior knowledge of the findings nor any approval or disapproval rights over their publication. We hope that this letter clarifies any questions readers may have had about the project. The authors assure the editor that every effort was made to conduct this organizationally complex project in an ethical and responsible manner.

Sincerely yours,

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