

Ethical Conflicts in Psychology

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When Laws and Ethics Collide: What Should Psychologists Do?

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At times the laws under which psychologists function may appear to contradict generally recognized ethical values and/or good clinical care. When these circumstances arise, psychologists must determine if a conflict really exists and, if so, seek solutions that reconcile respect for the law with their ethical values. At times, psychologists may decide to follow the law despite their ethical concerns. At other times, they may determine that a conscientious objection is warranted. The authors recommend options to consider when these situations arise and offer a decision-making process.

Keywords: laws, virtue ethics, principle-based ethics, ethical decision making

Laws governing psychologists come from a variety of sources such as court decisions, federal and state statutes (including psychology licensing laws and regulations), and the enforceable standards of the American Psychological Association's "Ethical Principles of Psychologists and Code of Conduct" (American Psychological Association, 2002; hereinafter referred to as the Ethics Code) if they are adopted by state psychology licensing boards. For the most part, the laws regulating the practice of psychology are consistent with generally recognized ethical values. For example, almost every ethical psychologist would agree that, among other things, psychologists should (a) not have sex with patients, (b) keep information about patients confidential (except in a few unusual circumstances), (c) be competent when delivering services, and (d) refrain from insurance fraud. When Knapp and Vandecreek (2004) examined the Ethics Code from the

standpoint of principle-based ethics, they found that almost all of its enforceable standards could be justified from the perspective of overarching ethical principles.

The consistency between ethical and legal requirements generally allows practitioners to adhere to both without disruption of their daily functioning. Nevertheless, circumstances may arise in which a law (broadly defined to include state and federal laws and regulations, binding case law, administrative rules, or court orders) may require psychologists to do something that could harm patients, limit patient autonomy, and/or otherwise offend the personal and professional ethical values of most psychologists (Knapp & Vandecreek, 2006). When such conflicts arise, psychologists need to engage in an ethical decision-making process to evaluate the alternatives available to them and determine the best possible (or least harmful) course of action.

If a conflict arises between a specific law and an enforceable standard of the Ethics Code, Standard 1.02 provides the following guidance:

If psychologists' ethical responsibilities conflict with law, regulations, or other governing legal authority, psychologists make known their commitment to the Ethics Code and take steps to resolve the conflict. If the conflict is unresolvable via such means, psychologists may adhere to the requirements of the law, regulations, or other governing legal authority.

Nevertheless, Pope and Baj (1988) surveyed senior-level psychologists, including those knowledgeable about ethics, and found that 57% of the respondents acknowledged intentionally breaking a law or a formal ethical standard at least once "in light of client welfare or another deeper value" (p. 828). Of the 34 instances reported, 7 involved the refusal to report child abuse, 7 entailed illegally divulging confidential information, 3 involved having sex with a patient, 2 concerned unspecified dual relationships, 2 involved refusing to fulfill a legal mandate to warn about a dangerous patient, and the remainder fell into no clear category. When these situations arise, they may cause *moral distress* or "a situation where one is constrained from acting on a moral choice" (Austin,

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