ANIL AGGRAWAL'S
Internet Journal of Forensic Medicine and Toxicology
The world's first online journal devoted entirely to forensic medicine and toxicology · Published 1 January and 1 July

VOL. 2, NO. 2 · JULY – DECEMBER 2001
Downloaded from www.anilaggrawal.com · ISSN 0972-8074 (Online) · https://www.anilaggrawal.com/ij/vol_002_no_002/papers/paper004.html

Ethics In Forensic Science

O.P. Jasuja

Reader in Forensic Science, Punjabi University, Patiala, India

Contact: the corresponding author O.P. Jasuja · opjasuja@mailcity.com

CITE THIS ARTICLE

Jasuja OP. Ethics In Forensic Science. *Anil Aggrawal's Internet Journal of Forensic Medicine and Toxicology* [serial online], 2001; Vol. 2, No. 2 (July – December 2001): []. Available from: https://www.anilaggrawal.com/ij/vol_002_no_002/papers/paper004.html

ABSTRACT

Recently there has been rapid modernization, and this has brought about among all and sundry, a "will" to achieve success by any means rather than to work ethically. This is also true of law enforcement authorities, such as the police and even the forensic scientists. The police is interested in winning the case rather than arriving at the truth. Similarly a forensic scientist may want to "overinterpret" his findings in order to achieve a "better success rate". The ethics of such practices among forensic scientists is discussed in this paper.

Keywords: Ethics, Forensic Science

Just while going through one of the back issues of *Outlook* (October 23, 2000), a weekly news magazine, an article on state of science in India attracted my attention and provoked some thoughts. I would like to quote a relevant portion from that article:

"... about 450 researchers all over the country got together this April in Hyderabad and drafted the first ever code of conduct for scientists and institutions. The 15 point code says among other things, that scientists should not "cook" results, pad their publication list or 'yield to social and political pressures'..."

Though the significance of ethics in every sphere of human life has been recognized very well by all, it has its own unique place in forensic science where question of life and death or one's hard earned millions and prestige/social status is at stake. Ethics may be broadly described as self disciplined behavior in the society in context of individual's business/profession or in other words means of bread earning. For example, when we see a bill board of "No Credit" on the door of some business concern that means that dealing in credit is not their business ethic. Ethics inculcate moral in one's life and thus he/she behaves in a specific manner that behooves his profession. Therefore, ethics may be described in various ways of life as mentioned above; a set of rules or moral code,

which is required for some specific business/profession etc. With the development in every sphere of the human life , exponential advancement in science and technology, a huge number of new professions have been evolved which are new to the human kind and society and thus there is a need felt for framing rules/ code of conduct/moral code. Forensic science as a scientific stream is not a very old one and thus dilemma of code of conduct is generally exists. And framing this is not an easy task. It cannot be framed overnight but is evolved continuously keeping various factors related to the profession.

The foremost and most important factor is Police under whom generally forensic science lab is set up and forensic scientists are to work. Throughout the world, general set up of the laboratories is such that it has to function under an adversary system involving police and prosecutor who are more often interested in winning the case rather than in truth. Police being a part of the state power, every one is attracted towards it to become a part of it and surrenders to the whims of the power for comforts and facilities being enjoyed by them. I still remember a true story told by one of the foremost forensic scientist during my postgraduate study days that how, courtesy a senior police officer, he was allowed to enter a particular temple without putting off his dress while it was a tradition there that no one can pay tribute to the deity in the temple with cloths on the body. One can easily think of other privileges of which one may be very easy target. This shows the temptations for a forensic scientist in the word of Willium Curran[1] to become a servant of police and the criminal prosecutors office to the extent that truth is sacrificed.... .... Such forensic scientists improperly join in the chase for a likely suspect and resolve doubts in support of their colleagues in the police department. The problem is so grave that many a times, investigator insists forensic scientist for not conducting certain examination.

It becomes worse when the investigator doesn't submit the right type of the clue material and if the forensic scientist asks for suitable evidence material then it becomes a more difficult situation. Peterson[2] rightly states that the control exerted by the police at this evidence collection stage not only determines what evidence the scientist examines, but also limits the type of analysis that may be performed on the evidence... he further adds that ...the collection of physical evidence is the most crucial state of the entire forensic science utilization process, yet, this level is where forensic scientists have the least role to play. In other situation, whether the forensic scientist reports those relevant findings in his report which have not been asked by the investigator. In these circumstances, it must be very clear to the forensic scientist that he may be working under the police but his foremost duty is to make his best effort to search for the truth and truth only and present in the court not as a prosecutor's witness but witness for the court. Alas, it could have been the only realty! And finally when nothing can be done with regard to change the report etc, the client may not use at all that report because the report may help the other party. Is it ethical? It does not end here, it has been observed for example in case of seeking report in handwriting and signature cases, the concerned party gets access to the documents without the knowledge of the other party as well as court and get it examined from the expert and accordingly it is decided if to present or not to present the evidence in that regard. Is it ethical? On the other side, in certain cases, other party does not have access to the evidentiary. Clue material and can not get it examined from his own expert or to engage the expert to be with the lab staff performing the examination to look into more details of methodologies and procedure etc.

Fortunately, in many countries, change have been made in this regard and now the other party has a right to get information about the findings of examination and include in the proceedings in their

favor. In the same context, many state laboratories undertake examination of evidence submitted by the law enforcement agencies only[3]. How logical and ethical this practice is? Whether the laboratories funded by public money are not denying the access of their facilities to the accused party which is to be considered not guilty till the judgment. Is it not creating bias by presenting one sided findings? Rather, the modern laboratory facilities which are very costly can not be set up by a single private expert to whom generally accused may approach for testing of material. Further adding to the trivia, in many instances, for example, the case material as viscera, stains etc are not available at all to the accused and are examined in government laboratories. Secondly, the qualification and experience of the forensic scientist which plays an important role in following ethical standards in the profession. This factor is two sided; one side of this is the competency of the expert to examine the evidence material as far as academic qualifications is concerned. Cases are there, when the forensic scientist overstepped his scientific competency in examining the sample as he might be taking advantage of his basic academic qualification but recruited in forensic science profession. Many times, therefore it is commented that forensic scientists are a mixed breed in that they represent a diverse group of scientific disciplines with variation... [4].

If he has updated his knowledge in his field of expertise by regularly attending scientific deliberations and contributing to research On the question of competency, it is of utmost importance that the scientist keeps himself fully updated as the new technologies are being introduced very rapidly and to remain stuck to old and less efficient techniques is least desirable. The best example is to limit oneself to ABO grouping only and not going further for other systems and enzyme systems etc. In these type of cases, what a forensic scientist should do? Should he resign or continue to perform ABO tests or should he go for further training and update his laboratory with adequate facilities (which is generally not possible for every scientist of junior level who actually performs the test and many other reasons as internal politics among the staff, paucity of funds, administrative incapability etc hinders due development) comes under the question of ethics. In many American courts, litigation against experts succeed for their failure to present the case of their client and it is reported that these types of the litigation are on increasing. Observation have been made that if doctors and lawyers, being professional, are liable to take care of their profession why the expert witness should be immune. One court observed that even a court appointed expert is not immune from liabilities for deviating from the accepted standards of profession[5]. If this trend catches on, then the days are not far when incompetent forensic experts will have roll their bedding or to improve themselves professionally. In cases of trying the expert, the most important thing is to establish the fault of the expert as it may be possible that expert might have given his opinion correctly but the trial counsel could not handle that scientific evidence competently and with full responsibility.

Keeping all these factors in mind, if we go for solutions then it has been observed that it is possible for the forensic scientist follow strictly the code of conduct/ethics if he is allowed to improve his competency through continuing education programme and providing all the laboratory infrastructure suiting the requirements posed by latest developments. He should be asked to undergo periodically for the proficiency testing. Secondly, a nodal body should be there to frame the code of ethics from time to time and enforce them upon all the official and private forensic scientists equally. During recruitment, some conditions regarding getting the membership of that nodal body within a stipulated time period should be imposed. In case of private practitioners, courts may direct them to get the membership of the body. The membership to this body must be regulated very strictly so that no charlatans could enter and harm the profession.

There are a large number of organizations claiming to be following very strict procedure for their membership but in fact most of them are distributing the membership just in lieu of annual fee of few dollars. They even advertise that they can quote the membership of the organization along with their name on the letterheads etc No one can stop them but only one organization may be recognized for the purpose of determining the credentials of the expert and when matter of the ethics comes up. I know, practically this is very difficult task. Just few months back there was a communication on the internet mentioning amassing of millions of dollars by such an organization in United States by distributing its membership, fellowship etc for money. The Police investigator must have full acquaintance with methods of forensic science and evidence collection procedure. This can be achieved by recruiting law enforcement personnel with qualifications in forensic science. While constituting Investigating teams, one or two members from forensic laboratory must be there who can guide and help in collect the suitable evidential material and pack them properly. At present mobile forensic science laboratories system prevails but it has many constraints and can not reach in every case which can be overcome by recruiting persons in police with forensic qualifications.

Further Reading

Peterson,J.L (1988): Teaching ethics in Forensic Science Curriculum Journal of Forensic Science Vol 33 (4) pp 1081-1085

Saks, M.J. (1989): Prevalence and impact of ethical problems in Forensic Science Journal of Forensic Science Vol 34(3) pp 772-793

Lukas, D.M (1989): The ethical responsibilities of the forensic scientist: Exploring the limits Journal of Forensic Science Vol. 34(3) pp 719-729

References

1. Curran, w.j. (1980): Ethical standards. Modern Legal Medicine, psychiatry and Forensic Science, W.J. Curran, A.L. McGarry and C.S. Petty, Eds , F.A Davis Co. Philadelphia pp. 29-48
2. Peterson, J.L. (1986): Ethical issues in the collection, examination and use of physical evidence, In Forensic Science, 2nd ed. G. Devis Ed., American Chemical Society, Washington DC pp 35-48
3. Peterson, J.L. and Murdock,J.E. (1989): Forensic Science Ethics: Developing an integrated system of support and enforcement, Journal of Forensic Science Vol 34 (3) pp 749-762
4. Frankel, M.S. (1989): Ethics and Forensic Science: Professional autonomy in the criminal justice Journal of Forensic Science vol.34 (3) pp. 763-771
5. Hansen,M. Experts Are Liable too. An article from Internet Through docExam list