AMERICAN JOURNAL OF FORENSIC PSYCHOLOGY

VOLUME 31, ISSUE 3 — 2013

PSYCHOLOGICAL RESEARCH AND VIDEO GAME REGULATION

Lorna Veraldi, J.D. and Donna M. Veraldi, Ph.D.

In 2011, the United States Supreme Court struck down a California statute restricting children's access to video games depicting violence. The California Assembly had based the law on claims that playing such games increased the likelihood that children would become more violent in real life. A majority of the Supreme Court was not persuaded that research about the effects of playing video games provided evidence of a compelling state interest in restricting their availability to children. However, one dissenting Justice argued that the Court should have deferred to professional organizations like the APA, which in 2005 adopted a resolution calling for a reduction of violent imagery in video games marketed to children. This article considers the role played by the APA in evaluating research on the relationship between video games and violent behavior and suggests ways in which the organization could better assist legislators, the courts and the public in understanding such research.

CAN FORENSIC EVALUATORS REFUSE TO RELEASE RECORDS TO EVALUEES BECAUSE THE RECORDS ARE "INFORMATION COMPILED IN REASONABLE ANTICIPATION" OF LITIGATION (AS DEFINED BY HIPAA)?

Bruce G. Borkosky, Psy.D. and Jon M. Pellett, J.D.

HIPAA regulations established a nationwide minimum right of access to healthcare records. However, many forensic mental health professionals (FMHP) decline patient-requests for copies of evaluation records. One of the justifications for this refusal is the HIPAA access-exception for "information compiled in anticipation of, or for use in, a civil, criminal, or administrative action or proceeding." These requests occur when the evaluation is performed as part of litigation, and the patient makes a personal (extralegal) request for records; it does not apply to evaluations absent of litigation, or to court/attorney records requests. FMHPs assert that the only plausible interpretation of the regulation is the "plain meaning" of the text, which permits denial of records requests for litigation-related evaluations; in contrast, the literature describes a variety of interpretations. A minority of research interprets the regulation as referring to attorney work product (not PHI), which is supported by DHHS commentary, DHHS case examples, state statutes, the intent of HIPAA, and case law. We find the minority opinion more persuasive, over the "plain meaning" reading of the text, because the majority view

*has little support, the "plain meaning" view would lead to absurd and conflicting results, and support for the minority view is strong. Although this argument may be asserted frequently, an FMHP may encounter such–case*s *infrequently, due to the number of specific circumstances required. FMHPs who deny patient access may face license and/or HIPAA complaints and those who permit access should communicate ethical and legal conflicts to the courts, referral sources, and patients.*

ASSESSING PRETRIAL JUROR ATTITUDES WHILE CONTROLLING FOR ORDER EFFECTS: AN EXAMINATION OF EFFECT SIZES FOR THE RLAQ, JBS, AND PJAQ

Len Lecci, Ph.D., Christopher Beck, Bryan Myers, Ph.D.

The predictive validity of three measures of juror bias was compared while controlling for order in a sample of 494 participants. Although scores on the Pretrial Juror Attitude Questionnaire (PJAQ) and the Revised Legal Attitude Questionnaire (RLAQ) are unaffected by the presence of other measures (no order effects), the Juror Bias Scale (JBS) reasonable doubt (RD) score and its predictive validity was impacted by the presence of other measures, though the effect of order was small. The emergent validity coefficients compare favorably to the extant literature with respect to their effect sizes, possibly due to the near 50% conviction rate for the case summary. The findings also extend earlier meta-analytic work suggesting that specific measures of pretrial bias outpredict broader measures of legal authoritarianism. The findings highlight the theoretical and empirical trade-offs in selecting between measures of pretrial bias.