

Transparency guidelines for the ANU Press, Law Editorial Board

1. Purpose and Application

1.1 Purpose

Researchers in many fields, including law, have raised concerns about reproducibility. That is, a great deal of work cannot be verified or built upon because the data and methods underlying it is unavailable.

In response, several journals, including those in law, are requiring greater transparency for research based on data collection and analysis. For instance, several influential law journals issued a joint statement committing themselves to implementing author guidelines promoting greater transparency.¹

In psychology (a field that frequently interacts with the legal system), *Psychological Science*, has implemented strong transparency and openness guidelines. In 2023, the incoming editors reflected on the field's progress and their vision for *Psychological Science*:

In the early 2010s, serious concerns about statistics, transparency, and rigor triggered an unprecedented period of introspection and change in the field of psychology. *Psychological Science* was quick to respond: In a 2013 editorial titled “Business Not as Usual”, then-Editor-in-Chief Eric Eich introduced several new initiatives to raise standards, including removing word counts for methods sections and introducing “badges” to encourage preregistration and sharing of data and materials (Eich, 2014). [...]

A decade on, it is clear that things are moving in the right direction. In 2022, 69% of articles published in *Psychological Science* shared data, 55% shared materials, and 43% were associated with a preregistration (Bauer, in press). [...]

We are introducing a number of policy changes to make transparency the default at *Psychological Science* and ensure that shared research outputs are independently reusable. We have been guided by the maxim that research should be “as open as possible and as closed as necessary.” By default, we now expect all primary data, original research materials, and analysis scripts to be made publicly available in a trusted third-party repository. We understand that the scientific priority for transparency must be balanced with other ethical, legal, and practical constraints (Meyer, 2018). Data sharing, in particular, must be conducted in a responsible manner, with due care to the protection of participant identities and sensitive information (Bauer, 2021). Authors are responsible for ensuring that sharing is handled responsibly, while also maximizing transparency to the greatest possible extent, for example, by sharing anonymized data, or seeking explicit permission to reshare third-party data (Alter & Gonzalez, 2018). Transparency exceptions will be considered by the editorial team on a case-by-case basis. Minimally, a lack of transparency must be explicitly justified in the published manuscript's Research Transparency Statement (see below).²

The Law Editorial Board at the ANU Press (the “Board”) has carefully considered the issue and has concluded that books based on data collection and analysis of data should be held to the

¹ Joint Law Review Statement on Data and Code Transparency, https://www.yalelawjournal.org/files/JointLawReviewStatementonDataandCodeTransparency_icaqqmh7.pdf.

² Tom E Hardwicke and Simine Vazire, ‘Transparency Is Now the Default at Psychological Science’, https://www.psychologicalscience.org/publications/psychological_science/hardwicke-editorial.

same standard of transparency as journal articles. The following guidelines are animated by these concerns.

We have drawn on our own experiences producing empirical legal research and model language provided by the Center for Open Science for implementing the Transparency and Openness (TOP) Guidelines.³

1.2 Application and definitions

Except for the preregistration guideline (see below), these guidelines apply immediately.

The preregistration guideline will apply from July 1, 2025 and onwards.

Data: Some of the guidelines below make a distinction between quantitative and qualitative data. The Board generally takes quantitative data to mean numerical representations of information (e.g., survey responses, census data, numerical codings of judicial decisions). The Board generally takes qualitative data to mean non-numerical descriptions of the quality and character of information (e.g., interview responses, photographs).

Analysis scripts: Analysis scripts are the computational code (i.e., program code) or syntax that performs the quantitative analyses presented in the book (e.g., ‘do’ files for the STATA analysis package and ‘markdown’ files for the R programming language).

Research materials: Research materials are tools and documents used to collect data. They include surveys, stimuli (e.g., photos, videos), instructions to researchers, recruitment materials, consent forms, and so forth.

Preregistration. Preregistration involves placing a study protocol and analysis plan on a public, time-stamped repository (e.g., <https://osf.io>, <https://aspredicted.org/>). Note preregistration is simply known as ‘registration’ in medical and health research.⁴

1.3 Questions

If you have any questions about these guidelines, including about whether they apply to your proposal, please send them to the chair of the law editorial board (Jason.chin@anu.edu.au).⁵

2. Data, data citation, Analytic code/scripts, and materials transparency

2.1 Guidelines pertaining to quantitative data

The policy of the Board is to publish papers only if the data, analysis, and materials used to conduct the research are clearly and precisely documented and are maximally available to any

³ <https://osf.io/edtxm>.

⁴ Danielle B Rice and David Moher, ‘Curtailling the Use of Preregistration: A Misused Term’ (2019) 14(6) *Perspectives on Psychological Science* 1105. <https://doi.org/10.1177/1745691619858427>

⁵ For general tips on producing and reporting reproducible legal research, see Jason M Chin, Alexander C DeHaven, Tobias Heycke, Alexander O Holcombe, David T Mellor, Justin T Pickett, Crystal N Steltenpohl, Simine Vazire & Kathryn Zeiler, ‘Improving the credibility of empirical legal research: practical suggestions for researchers, journals, and law schools’ (2021) 3(2) *Law, Technology and Humans* 107. <https://doi.org/10.5204/lthj.1875>

researcher for the purposes of reproducing the results or replicating the procedure. For greater clarity:

1. **Secondary data:** Authors reusing data available from public repositories must provide a citation or link to that public repository. They should also provide any necessary instructions for accessing that data.
2. **Original data:** Authors using original data must:
 - a. make the data available at a trusted digital repository (e.g., <https://osf.io>, <https://dataverse.harvard.edu/>) and
 - b. provide a full account of the procedures used to collect, preprocess, and clean the data.
3. **Analysis:** Authors must provide program code, scripts, codebooks, and other documentation sufficient to precisely reproduce all published results.
4. **Materials:** Authors must provide research materials and a description of the procedures necessary to conduct an independent replication of the research (e.g. questionnaires, instructions to participants). These can also be uploaded to trusted repositories.

In rare cases, despite authors' best efforts, some or all data or materials cannot be shared for legal or ethical reasons. In such cases, authors must inform the editors at the time of submission. It is understood that in some cases access will be provided under restrictions to protect confidential or proprietary information. Editors may grant exceptions to data and material access requirements provided that the authors:

1. Explain the restrictions on the dataset or materials and how they preclude public access.
2. Provide access to all data and materials for which the constraints do not apply.

Editors may also require authors to provide a public description of the steps others should follow to request access to the data or materials.

2.2 Rules pertaining to qualitative data and analysis

For qualitative data and associated analysis of that data, we strongly encourage authors to engage in as much openness and transparency as possible, such as by making interview transcripts openly available.⁶

Authors are required to make any research materials openly available, subject to the same exceptions in section 2.1 above.

3. Preregistration

Authors must declare in the manuscript if they did or did not preregister the research in a public registry (e.g., <https://osf.io>, <https://aspredicted.org/>).

⁶ Authors may note that, even for some sensitive subjects, participants have reported that they value the reuse of their data: Rebecca Campbell et al, 'Understanding Sexual Assault Survivors' Perspectives on Archiving Qualitative Data: Implications for Feminist Approaches to Open Science' (2023) 47(1) *Psychology of Women Quarterly* 51. <https://doi.org/10.1177/03616843221131546>

If authors determine that they are not able to preregister their hypotheses and methods prior to observing the data, we encourage them to engage in other bias control procedures, such as perturbing the data before analysis⁷ or analysing a hold-out dataset and applying that analysis to the entirety of the data.⁸

If an author did preregister the research, the author must confirm in the text that the study was preregistered prior to conducting the research with links to the preregistration.

If authors deviate from the preregistration, they must clearly delineate between preregistered and non-preregistered analyses.⁹

⁷ Robert MacCoun and Saul Perlmutter, 'Blind analysis: Hide results to seek the truth' (2015) 526 *Nature* 187–189. <https://doi.org/10.1038/526187a>

⁸ Jessie R Baldwin et al, 'Protecting against researcher bias in secondary data analysis: challenges and potential solutions' (2022) 37(1) *European Journal of Epidemiology* 1-10. <https://doi.org/10.1007/s10654-021-00839-0>

⁹ For guidance on deviating from preregistrations, see Daniël Lakens, 'When and How to Deviate from a Preregistration' (2024) *Collabra: Psychology*. <https://doi.org/10.31234/osf.io/ha29k>