

The dual deontic role of unpossessed evidence

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Abstract

I argue that there are two distinct deontic roles for unpossessed evidence. First, we sometimes have duties to gather evidence that we do not possess. And second, evidence that we fail to gather may nonetheless bear on how we now ought to act. I argue that subjectivist deontic theories perform well on the first role, but poorly on the second. I propose a way for subjectivists to capture the second role by taking two steps towards objectivism: an information-sensitive account of deontic modals on which the relevant body of evidence is the evidence that agents should have had. I propose and reject two accounts of the notion of evidence that agents should have had, then sketch a third way to make progress in understanding this notion.

1 Introduction

A growing number of epistemologists hold that there are two normative roles for unpossessed evidence. First, we sometimes have duties to gather evidence that we do not possess.¹ Gathering evidence helps us to hold informed beliefs and to act well as a result.

Second, evidence that we fail to gather may nonetheless affect normative statuses such as justification and knowledge.² Consider, for example:

(Arrogant Jones) Jones is a headstrong young physicist, eager to hear the praise of his colleagues. After Jones reads a paper, a senior colleague presents an objection. Expecting praise and unable to tolerate criticism, Jones pays no

¹See Hall and Johnson (1998). I take no stand on the more controversial question of whether these duties are epistemic (Doughtery 2012; Feldman 2002).

²See for example DeRose (2000); Gibbons (2006); Goldberg (2016, 2017, 2018); Harman (1973) and Kornblith (1983).

attention to the objection; while the criticism is devastating, it fails to make any impact on Jones' beliefs because Jones has not even heard it. (Kornblith 1983, p. 36).

One thing we can say about Jones is that Jones failed in his duty to gather evidence by tuning out his colleague's objection. But many epistemologists have also wanted to say that the colleague's objection can defeat Jones' justification for believing the conclusion of his paper, even if in fact Jones shirks his duty to gather evidence and does not hear his colleague's objection. Roughly, the idea is that Jones should have had the evidence contained in his colleague's objection, and because Jones should have had this evidence, it bears on what Jones is justified in believing even if Jones fails in his duty to gather it.

In this paper, I have three aims. The first is to convince you that unpossessed evidence plays a dual deontic role analogous to its dual epistemic role. Sometimes we ought to gather evidence. But even if we fail to gather evidence, that evidence may nonetheless bear on what we ought to do.

My second aim is to argue that subjectivist deontic theories struggle to account for the dual deontic role of unpossessed evidence. Although subjectivism has an admirably clear and powerful account of duties to gather evidence, subjectivism cannot explain the deontic relevance of ungathered evidence. My third aim is to develop a way for subjectivists to meet this challenge by taking two steps towards objectivism.

Here is the plan. Sections 2-4 motivate and defend a subjectivist account of duties to gather evidence. Section 5 argues that subjectivism nevertheless struggles to account for the deontic relevance of evidence that agents fail to gather. Sections 6-7 propose a two-part solution: an information-sensitive account of deontic modals on which what agents ought to do answers to the evidence that they should have had. Sections 8-10 work towards a positive account of the key theoretical innovation introduced by this view: the notion of evidence that agents should have had. Section 11 concludes.

2 Duties to gather evidence

Let us begin by considering duties to gather evidence. Recent discussions of duties to gather evidence have focused on the following case:

(Claire's Choice) Claire is a human resources manager, who tomorrow (Tuesday) must lay off one of the employees from her financially stressed company, and who will have a duty to carry out this task in the best manner possible. As of today (Monday) Claire knows relatively little about the two employees, Max and Mina, who are candidates for being laid off. However, she could spend time today gathering accurate information about the employees' length of service, productivity, number of dependents, and so on and if she did so, she would have enough information to make a good decision tomorrow. (Smith 2014, p.15).

Plausibly, Claire should spend a great deal of time today gathering evidence. How can we account for Claire's duties?

Many recent accounts of duties to gather evidence draw on a notion of deontic value. Duties are assigned deontic values expressing the force of our obligations to comply with them.³ For example, the duty to arrive at work on time has some small deontic value and the duty not to murder strangers has a much higher deontic value. What you should do is a function of the deontic values of the duties involved. You should not murder strangers to speed your morning commute because the duty not to wantonly murder has higher deontic value than the duty to arrive on time.

Holly Smith uses the notion of deontic value to give an objective deontological account of duties to gather evidence.

(Objective Deontological Account) An agent has an objective derivative prima facie duty to acquire information if and only if doing so would lead the agent

³Actually there is some disagreement on this score (Lazar 2017).

subsequently to produce the maximum possible amount of deontic value.
(Smith 2014, p.21).

The Objective Deontological Account explains why Claire should gather evidence today. Gathering evidence maximizes deontic value by leading Claire to comply tomorrow with her weighty duty to fire the correct employee.

Subjectivists have sought to replace the Objective Deontological Account with a more subjectivist-leaning view (Lee-Stronach 2019; Swenson 2016). In the remainder of this section, I sketch three objections that subjectivists will make to the Objective Deontological Account. My purpose in making these arguments is not to deliver a knock-down argument against objectivism. I doubt that such a thing can be done in so short a space. My aim is rather to understand the motivations for a subjectivist view, and in particular to make these motivations explicit so we can track whether our final view captures those motivations.

The first subjectivist challenge to the Objective Deontological Account is the Problem of Cost-Free Evidence Neglect. Many philosophers, particularly epistemologists and philosophers of science, have held that it is rarely or never permissible to ignore cost-free evidence (Good 1966; Hall and Johnson 1998; Maher 1990). While there may be scattered exceptions for agents who think that they will react irrationally to the evidence that they gather [removed] or agents with certain risk attitudes (Buchak 2010), in general agents should gather cost-free evidence because they expect that this evidence will put them in a position to act well.

But the Objective Deontological Account says that agents should often ignore cost-free evidence. Consider:

(Misleading Evidence for Claire) Claire is currently disposed to fire Max, and as it turns out Max deserves to be fired. But if Claire gathers evidence today, she will uncover a large amount of misleading evidence which supports the conclusion that Mina should be fired. As a result, if Claire gathers evidence, then Claire will fire Mina.

In Misleading Evidence for Claire, the Objective Deontological Account says that Claire should not gather evidence. Gathering evidence will lead Claire to produce less deontic value than she would otherwise produce, by firing the incorrect employee. The Objective Deontological Account delivers this conclusion even if the evidence is cost-free. And in fact, the Objective Deontological Account says that Claire should pay a large fee to avoid gathering evidence in this case. Because it is very important to fire the correct employee, it may well be the case that Claire should pay a thousand dollars if necessary to avoid receiving evidence.

More generally, the world is a messy place. There is often a good deal of evidence favoring false propositions as well as true propositions. As a result, although evidence gathering generally tends to improve the quality of our actions, gathering evidence often makes our actions worse. When this is the case, the Objective Deontological Account says that we should not gather evidence, even if the evidence is cost-free, and that we should be willing to pay a fee proportional to the change in action quality in order to avoid cost-free evidence.

A second worry is the Not Just for Sinners Problem. Many philosophers think that duties to gather evidence arise for agents who are in a certain sense ideal. Namely, they always do what they ought. But the Objective Deontological Account says that such agents will have no duties to gather evidence. On an objectivist view, Claire should fire whomever most deserves to be fired, whatever the evidence available to Claire. If Claire always does what she ought, then on Tuesday Claire will fire the most deserving person whether or not Claire gathers evidence. As a result, gathering evidence will not improve the deontic value of Claire's actions on Tuesday, so Claire has no duty to gather evidence.⁴

The Objective Deontological Account can explain why sinners like us, who sometimes fail to do what we ought, have duties to gather evidence. If Claire does not always do what is right, then she should gather evidence whenever evidence-gathering will lead to

⁴Perhaps objectivists could claim that ideal agents have a duty to gather evidence so that they can act for the right reasons. Note that this will require a corresponding change to the notion of deontic value in the Objective Deontological Account.

an improvement in the quality of her actions. But on the Objective Deontological Account, duties to gather evidence are just for sinners. Agents who always do what they ought will have no duties to gather evidence.

A third worry is the Problem of Perspectival Mismatch. Questions about duties to gather evidence arise most naturally from within the perspective of an agent who takes evidence to bear on what ought to be done and wants to know whether she should gather more evidence before deciding what to do. But objectivist accounts explain duties to gather evidence by stepping outside of the agent's perspective and holding that evidence has no bearing on what ought to be done. What ought to be done is determined by the totality of relevant facts, whether or not those facts form part of the agent's current or potential evidence.

Here the subjectivist will complain that there is a mismatch between the evidentially-constrained perspective which is used to motivate questions about duties to gather evidence and the evidentially-unconstrained perspective from which the objectivist answers those questions. This type of perspectival mismatch has led many objectivists to concede that even if there is an important reading of deontic modal vocabulary that objectivism captures, deontic modals often admit a second, more subjectivist reading. Subjectivists think that this reading is often the reading at issue in discussions of duties to gather evidence. If objectivists are willing to make this concession, then I would invite them to read my account in this way.⁵

In this section, I introduced an Objective Deontological Account of duties to gather evidence. I reviewed three challenges that a subjectivist will raise to the Objective Deontological Account and other objectivist views: the Problem of Cost-Free Evidence Neglect, the Not Just for Sinners Problem, and the Problem of Perspectival Mismatch. I suggested that these challenges should be taken as representative motivations for a more subjectivist-leaning view. In Sections 3-4, I develop and motivate a traditional subjectivist account of duties to gather evidence. A key argument for this account will be that it avoids the

⁵At the risk of withdrawing a proffered olive branch, I should note that the information-sensitive account which I favor is usually offered as a way to avoid admitting two separate readings of deontic modals.

challenges raised for objectivist views.

3 A traditional subjectivist account

My aim in the next two sections is to present and motivate a traditional subjective consequentialist account of duties to gather evidence. In this section, I argue that the subjective consequentialist account performs well on cases such as Claire's Choice and overcomes the worries raised for objectivist accounts in Section 2. In the next section, I give three further motivations for the account.

One aspect of the subjective consequentialist account which I will not defend here is its consequentialism. The reason is it has recently been proposed that deontologists can make use of a deontologized version of the present account (Lee-Stronach 2019). This is a bold claim straight out of the consequentialist playbook, and I very much hope that it is true. But in order to apply the account to concrete cases, we will need to take a stand on how it is to be read. The best-known version of this account is consequentialist, and that is the version that I will develop.

The starting point for the subjective consequentialist account is the maximizing consequentialist claim that we ought to do what is best.

(Deontic-Evaluative Bridge) For all agents S , times t and actions A , S ought at t to A just in case A -ing at t has higher value than any alternative.

Nonconsequentialists can also accept the Deontic-Evaluative Bridge, so long as they hold that some value is to be honored or instantiated rather than promoted. The account becomes recognizably consequentialist when we deny this possibility.

(Promotion) The values of actions are determined by the value that they promote.

Here I have stated Promotion as a thesis about action, leaving open the possibility that the values of other objects such as paintings are not determined by the value that they

promote. And finally, the view is subjectivist: it says that value is assessed using an agent's beliefs.

(Subjectivism) The values of actions are assessed using the beliefs of the actor.

Like many subjectivists, I take these theses to support the further claim that agents should act to maximize the subjective expected value of their actions.

(Subjective Expectations) The value of an action is its subjective expected value.⁶

I will not argue for this final claim, because I suspect that much of what I have to say could be reformulated using non-expectational value functions. If this can be done, then so much the better.

All of this is quite familiar. What is the novelty of the subjective consequentialist account? The strength of the subjective consequentialist account is that the values of actions can be further unpacked by looking at the ways in which actions promote value. Consequentialist accounts of duties to gather evidence traditionally focus on the value of information (Good 1966; Howard 1966; Stigler 1961). Claire may gather various pieces of information about Max and Mina: productivity evaluations, number of dependents, salary and the like. That information has value, and this value comes in many types. Information may be intrinsically valuable. It may be instrumentally valuable as a way of forming true beliefs. And information is certainly instrumentally valuable as a guide to action.

Often the lion's share of the value of information is given by its action-guiding potential. We gather evidence so we will be able to act well. For example, Claire gathers evidence so she will know who to fire. When this is the case, we can unpack the subjective consequentialist account by modeling the value of information as its instrumental value in guiding action. This is, of course, only a model. In general, Subjective Expectations

⁶That is, $V(A) = \sum_w P(w)V(A(w))$ where P is given by the actor's credences.

expresses the most specific form of the subjective consequentialist account that is true without qualification. But in many cases such as Claire’s Choice, the value of information will be well-modeled by its action-guiding potential, and when that is the case we can say something much more specific about when and how Claire should gather evidence.

Right now, Claire is disposed to take the action A^* maximizing expected value given her current beliefs. Then Claire learns some fact ϕ , for example Max’s salary. As a consequence, Claire becomes disposed to take the action A^*_ϕ maximizing expected value according to her updated beliefs.⁷ When the value of information is dominated by its action-guiding potential, the value of learning ϕ is well-modeled by the improvement in the quality of the action that Claire is disposed to take, namely the difference in value between A^*_ϕ and A^* .⁸

The value of information alone is not terribly informative. For one thing, we want to evaluate actions and not pieces of information. At a world, we can value evidence-gathering actions at the value of the information that they produce.⁹ Objective consequentialists hold that we should maximize this quantity. Subjectivists, in turn, say that we should take evidence-gathering actions which maximize the expected value of information.¹⁰ When immediate action-guidance is all that matters, Claire should take the action which is expected to provide the most valuable information.

The subjective consequentialist account is not perfect, but it has several compelling features. Already we are in a position to explain what Claire should do. Claire should gather information because the expected value of gathering information is quite high. At minimal cost to herself Claire can substantially increase her chances of making an important difference in the lives of her employees. We can also explain in detail which information Claire should gather. Claire should prioritize her information-gathering activities

⁷Formally, $A^* = \operatorname{argmax}_A \mathbb{E}_P(V(A))$ and $A^*_\phi = \operatorname{argmax}_A \mathbb{E}_{P(\ast|\phi)}(V(A))$.

⁸That is, $VOI(\phi, w) = V(A^*_\phi(w)) - V(A^*(w))$ where w is the world in which Claire resides. Because I have not defended (Promotion) as a claim about the values of non-actions, it is important to make a notational distinction between the VOI and the value function V .

⁹That is, $V(A, w) = VOI(A(w), w)$ where A is an evidence-gathering action.

¹⁰That is, $V(A) = \mathbb{E}_P[VOI(A)]$.

according to the expected value and cost of information gathered. Claire should focus on information about productivity over punctuality because productivity information has higher value. And Claire should avoid time-consuming inquiries such as a half-day trip to interview Max and Mina's relatives because Claire expects that she could gather more valuable information during that time by skipping the interviews.

The subjective consequentialist account also explains the place of information-gathering in Claire's life. It explains why Claire should forgo sleep on Monday night: sleep is important, but the lives of her employees are more important. It explains why Claire should enlist friends and family to help. The consequentialist account explains why Claire should devote more resources to information-gathering if she is substantially unsure about what decision to make: information gathered is likely to have a more substantial impact on future decision quality. This account also explains why if Claire is very sure which employee deserves to be laid off, she can stop gathering information after dinner and sleep like a baby.

The subjective consequentialist account also solves the problems for objectivist accounts raised in Section 2. In a classical setting, the subjective consequentialist account solves the Problem of Cost-Free Evidence Neglect in the strongest possible way. By Good's theorem (Good 1966), rational agents for whom the value of evidence-gathering is exhausted by the value of information will never neglect cost-free evidence. Roughly, this is because they expect that evidence gathered will have a net-positive impact on decisionmaking, because even if some evidence is misleading, evidence-gathering more often changes our actions for the better than for the worse. We may want to weaken Good's theorem by incorporating new formal assumptions: for example, a possibility that agents may react irrationally to new evidence [removed] or that they hold specific risk attitudes (Buchak 2010). This may imply that in some cases, it is rational to neglect cost-free evidence. But neither assumption has been taken to generate widespread cost-free evidence neglect, and in both cases arguments have been given for why the specified form of cost-free evidence neglect is rational.

The subjective consequentialist account also solves the Not Just for Sinners Problem. What we should do before gathering evidence is determined by our current beliefs. If forced to act on Monday, Claire should fire whichever employee she currently believes it would be best to fire. Claire may be disposed to do this on Monday, but still have duties to gather evidence. That is because on Monday, Claire expects that she will be in a better position to make a value-promoting decision on Tuesday if she gathers evidence. So there is no incompatibility between the claim that Claire is already disposed to do what she ought and the claim that Claire nonetheless ought to gather evidence before acting.

Finally, the subjective consequentialist account makes progress on the Problem of Perspectival Mismatch. Claire's evidence is incorporated into her beliefs, which determine what Claire ought to do. In this way, subjectivism captures something like the evidentially-constrained perspective from which questions about rational evidence-gathering get off the ground. As we will see in Section 6, subjectivism does not perfectly capture the evidentially-constrained perspective at issue in the Problem of Perspectival Mismatch. But it certainly comes closer to capturing this perspective than objectivism does.

In this section, we have developed a subjective consequentialist account of duties to gather evidence. In full generality, that account says that agents should gather evidence when the expected value of evidence-gathering activities is positive, where expected values are interpreted in terms of the belief-relative expected amount of value that evidence-gathering promotes. In many contexts, the expected value of evidence-gathering is well-modeled by the expected value of information, allowing the account to deliver tractable verdicts in cases of interest. We have seen that the subjective consequentialist account says the right thing about many versions of Claire's Choice, and makes progress on the Problem of Cost-Free Evidence Neglect, the Not Just for Sinners Problem, and the Problem of Perspectival Mismatch. In the next section, I present three more advantages of the subjective consequentialist account before modifying that account in Sections 6-10.

4 Motivating the subjectivist account

In this section, I discuss three more advantages of the subjective consequentialist account before modifying that account in Sections 6-10.

The first point in favor of the subjective consequentialist account is that it is independently motivated and supported by a wealth of case studies. Information value theory was developed in the applied sciences in the 1960s in response to a variety of questions about how agents should gather evidence (Howard 1966). Since then, versions of the subjective consequentialist account have been widely adopted in fields such as decision analysis (Howard 1968), economics (Stigler 1961), artificial intelligence (Russell and Wefald 1991), psychology (Lieder and Griffiths 2017), and neuroscience (Lieder et al. 2018). The subjective consequentialist account has not been purpose-built to solve a moral problem. There is ample evidence of how the account sheds illuminating light on diverse questions about rational evidence gathering. Together, these applications constitute a plausibility argument for the account.

The subjective consequentialist account also makes progress on a problem about culpable ignorance. A number of authors have proposed *non-tracing cases* of culpable ignorance in which agents are culpably ignorant despite not having culpably failed to gather evidence in the past (King 2009; Smith 2011; Vargas 2005). Many authors have sought to reduce the number of non-tracing cases that we admit by showing how some of these cases in fact trace back to culpable failures to gather evidence. The consequentialist account will help us to do this in a number of well-known cases.¹¹

For example, several authors take the following case to involve non-tracing culpable ignorance:

(Driveway Disaster) Nate, tired from waking up early, backs out of his driveway. His thoughts turn to his meetings that day, and his attention is partly

¹¹There is one family of cases which I don't think my account will resolve. These are cases of culpable forgetting. For example, you might be culpably ignorant by dint of having forgotten your best friend's birthday, and that ignorance may not trace back to any culpable action on your part. I'm not sure what to say about these cases, except that consequentialism is not a panacea.

focused on a radio commercial. Due to his inattention, Nate doesn't see a child walking to school and so hits him, breaking the child's leg. (King 2009, p.578).

But there is a good consequentialist argument that Nate should have checked his rear-view mirror. Checking his rear-view mirror had a non-trivial probability of conveying a crucial piece of information to Nate: that there was a child behind his car. Given the comparative costs of running over a child and checking the rear-view mirror, Nate should check his mirror so long as the probability of hitting a child was nontrivial. So Nate should have gathered evidence by checking his rear-view mirror. Is Nate nonetheless blameless for failing to check? Not likely. Inattention is rarely a good excuse and Nate has had ample opportunity to develop a habit of mirror-checking. Nate is well aware of the importance of this habit and the dangers of distracted driving. I conclude that Nate culpably failed to check his rear-view mirror. Similar treatments should work for many proposed non-tracing cases.¹²

A third advantage of the subjective consequentialist account is its generalizability. Sometimes agents are not merely uninformed but unaware: they have not even considered some actions they could take or some world-states bearing on the desirability of those actions. Unawareness is not mere lack of information. In fact, unaware agents may well have information bearing on the desirability of unconsidered actions and the probability of neglected world states. But we can ask the same normative questions about unaware agents as we have already asked about uninformed agents. When, why and how should agents take steps to increase their awareness before acting? Building on recent formal progress in our understanding of unawareness (Bradley 2017; Karni and Vierø 2013), Bayesian epistemologists have developed a value of awareness paralleling the value of information (Quiggin 2016). Our account of duties to gather evidence can and has been

¹²For example, this treatment works in all three of the cases proposed by Smith (2011) not involving culpable forgetting. Agents are required to check that a gun is unloaded before handling it with a friend due to the nontrivial probability of uncovering life-saving information. And boat pilots are obligated to check for rocks even along a well-known route for precisely the same reason. Agents are well-aware of these obligations, which are standardly taught in gun-safety and pilot-training instruction, and hence are culpable for shirking them.

extended to cover duties to expand awareness: agents should take awareness-expanding actions with positive value. This is a plausible and explanatorily powerful account, purchased nearly for free by extending the subjective consequentialist account of duties to gather evidence.

In Sections 3-4, we have seen several advantages of the subjective consequentialist account. In Section 3, we saw that the account says the right thing about many versions of Claire's Choice and makes progress on the problems raised for objectivist accounts. In this section, we have seen that the subjective consequentialist account is independently motivated and supported by an array of case studies. It handles many purported cases of non-tracing culpable ignorance. And it generalizes to a natural account of duties to expand awareness. But this account is not perfect. Let's make it better.

5 The problem of deontic tracing

I claimed in Section 1 that unpossessed evidence plays a dual deontic role. On the one hand, we have duties to gather evidence. In Sections 2-4, I argued that subjectivism delivers a plausible account of duties to gather evidence. But on the other hand, evidence that we fail to gather can sometimes bear on how we ought to act. Subjectivists will struggle to account for this second role.

To see the problem, consider Driveway Disaster. As Nate is backing out of his driveway, Nate has ample reason to check his mirror. As a result, subjectivists can say that Nate should have checked his rear-view mirror. With the right theory of blame in hand, she can argue her way from this deontic verdict to the claim that Nate's ignorance is culpable, and perhaps also to the claim that Nate's resulting action of running over the child is culpable. So far so good.

But now suppose that Nate fails to check his rear-view mirror. Should Nate stop the car, or should Nate keep on driving and run over the child? Plausibly, Nate should stop the car. If Nate continues driving, he will do something very wrong: he will run over

a child. And if Nate does this, we will remind him at great length that he should have stopped the car.

But the subjective consequentialist account says that Nate ought to keep on driving. Because Nate does not believe that there is a child behind the car, Nate should no more slam on the brakes while backing out of the driveway than he should randomly stop the car at any other moment during his commute. When the expected values of actions are calculated relative to Nate's beliefs, it would be wrong for Nate to press on the brakes because the overwhelmingly likely effect of this action would be slowing Nate's commute, damaging his tires, and embarrassing Nate in front of his neighbors. Hence subjectivism delivers the verdict that Nate would act wrongly by stopping the car, and rightly by running over the child. And that does not seem right.

In the remainder of this section, I consider the problem more slowly and give three reasons to believe that this is indeed a problem for subjectivists. Then in Sections 6-10, I say how the account could be modified to avoid this problem.

In Section 4, I argued that subjectivism says the right thing about many cases of culpable ignorance. The argument was that for subjectivists, culpable ignorance traces back to past deontic failures: evidence-gathering actions that agents should have taken, but didn't. That is, I argued that in many cases, the subjectivist can establish the following:

(Culpable Ignorance is Predated by Deontic Failure) If S is culpably ignorant of ϕ at t , then S would not have been ignorant of ϕ at t had S always complied with her duties to gather evidence.

If desired, the claim that Culpable Ignorance is Predated by Deontic Failure can be weakened to accommodate exceptions or appropriately probabilified, without significant change to the discussion in this section.

The next step for subjectivists is to argue that in many cases of culpable ignorance, at least one of the agent's deontic failures to gather evidence was culpable. For example, I argued that Nate's failure to check his mirror is culpable because Nate was aware of

the dangers of distracted driving, is an experienced driver, and could have checked his mirror at little cost to himself. Finally, subjectivists can argue for principles of *culpability transmission* (Robichaud and Wieland 2019). These explain the conditions under which a culpable *benighting* action or omission (Smith 1983) such as a failure to check the mirror generates culpability for a *benighted* state or action which results, such as running over a child. With the right principle of culpability transmission in hand, subjectivists can argue that Nate was culpable for the benighted action of running over the child.

But to argue for the deontic verdict that Nate should not have run over the child, subjectivists would need to argue for analogous principles of *deontic transmission* whereby evidence that Nate ought to have gathered, but failed to gather, impacts what Nate ought to do in the future. For example, we might hold that Nate ought to have stopped the car because Nate ought to have checked the rear-view mirror, and if Nate had checked the rear-view mirror the expectedly best action relative to Nate's beliefs would have been to stop the car. And this is precisely what a subjectivist cannot say. By Subjectivism, what Nate ought to do is determined by his present beliefs and is unaffected by the origins of those beliefs.

More generally, the Problem of Deontic Tracing is that subjectivism cannot say how evidence that agents should have gathered in the past, but failed to gather, bears on what they ought to do now. Subjectivism allows that present culpability for ignorance and for actions taken on the basis of that ignorance can trace back to past culpable failures to gather evidence. But subjectivism says that verdicts about what agents ought to do cannot trace back to past failures to gather evidence in the same way.

Why think that the Problem of Deontic Tracing is a problem? As in my discussion of the Objective Deontological Account, I do not know that I can say enough in the space of a paper to convince a committed subjectivist. But I will give three arguments designed to motivate the conclusion that the Problem of Deontic Tracing is a genuine problem to be overcome.

The first argument is the Argument from Cases. In many cases, failures of deontic

tracing look to say the wrong thing about what agents ought to do. As we have seen, in Driveway Disaster subjectivists hold that Nate ought to run over the child and ought not stop his car. And that does not seem right. For another case in which failures of deontic tracing are hard to swallow, consider:

(Bad Doctor) As Bad Doctor approaches retirement, she begins to skip medical training sessions in favor of booze-filled trips to the beach. You go to Bad Doctor complaining of chest pains, and Bad Doctor prescribes Pill A. Unbeknownst to Bad Doctor, for the past several years it has been common knowledge in the medical community that Pill A aggravates rather than alleviates chest pain. A new medicine, Pill B, is recommended instead. Bad Doctor would have known these facts if she had attended last week's training session instead of lounging on the beach.

Which pill should Bad Doctor have prescribed? Intuitively, Bad Doctor should have prescribed Pill B. But subjective consequentialism says that Bad Doctor should have prescribed Pill A. Relative to Bad Doctor's outdated beliefs, Pill A is more expectedly beneficial than Pill B. So Bad Doctor would act wrongly by prescribing Pill B.

Judgments about cases are notoriously tricky. But we can refine our judgments using two further arguments. The next argument is the Argument from Blameworthiness. Subjectivists want to say that Nate and Bad Doctor are blameworthy for the actions taken on the basis of their ignorance. And this is non-negotiable. The child's parents can blame Nate for running over the child. And Bad Doctor's patient can blame Bad Doctor for prescribing a harmful treatment. The problem is that because the subjectivist holds that Nate and Bad Doctor have acted rightly, it becomes difficult for her to say why Nate and Bad Doctor's actions are blameworthy.

Certainly the subjectivist is in trouble if we accept that blameworthiness is unexcused wrongdoing.

(Blameworthiness as Unexcused Wrongdoing) For all agents S , times t and

actions A , S 's A -ing at t is blameworthy if and only if S ought not to have A -ed at t , and S 's A -ing at t is unexcused.

On a subjectivist view, Nate and Bad Doctor have not acted wrongly in driving into a child or prescribing the wrong medication, so it follows from Blameworthiness as Unexcused Wrongdoing that their actions were not blameworthy.

Now Blameworthiness As Excused Wrongdoing is a strong and controversial principle. If the Argument from Blameworthiness rested on Blameworthiness as Unexcused Wrongdoing, then perhaps the subjectivist could simply deny Blameworthiness as Unexcused Wrongdoing. But we can make the same argument using any number of weaker principles. For example, suppose you think the rightdoing cannot be blameworthy:

(Rightdoing is Blameless) For all agents S , time t and actions A , if S ought at t to A , then S 's A -ing at t is not blameworthy.

On a subjectivist view, it follows from Rightdoing is Blameless that Nate is not blameworthy for driving over the child, and Bad Doctor is not blameworthy for prescribing Pill A.

Now you may deny that Rightdoing is Blameless. Perhaps you think that right actions are blameworthy if they express insufficient concern for what matters. But a version of the claim that Rightdoing is Blameless may nonetheless resurface in principles of culpability transmission. For example, Philip Robichaud and Jan Wieland defend the following principle governing the transmission of blameworthiness $B1$ for a benighting act or omission into blameworthiness $B2$ for a benighted act or omission:

(Concern Constraint) $B1$ transfers to $B2$ only if the benighting act expresses a deficit of concern for the same consideration in virtue of which the unwitting act is wrong. (Robichaud and Wieland 2019, p.17).

For subjectivists, the Concern Constraint immediately implies that Nate's culpable failure to gather evidence does not generate culpability for Nate's running over the child, since on a subjectivist view it was not wrong for Nate to run over the child.

If that is still unsatisfying, note that the Argument from Blameworthiness is a special case of a more general Argument from Social Expectations.¹³ The argument is that in many tracing cases of culpable ignorance, there is a legitimate social expectation for agents to possess the evidence that they are ignorant of. For example, Bad Doctor should know that Pill A is harmful because she is a doctor. In these cases, we think that a wide variety of reactions may be warranted in response to actions taken on the basis of culpable ignorance. We can blame Bad Doctor for prescribing the wrong medication. We can demand compensation, file a lawsuit, or target her professional license and status. We can sever our working relationship with Bad Doctor and advise that others do the same.

The trouble for subjectivists is that it seems a perfectly good defense to many of these charges for Bad Doctor to claim that she has done what she ought. We do not normally blame, demand compensation from, prosecute, disbar, and sever relationships with people because they have done the right thing. The subjectivist will have to explain why not only blame, but also all of these other reactions can be appropriate in cases of rightdoing based on culpable ignorance. Perhaps there is a story to be told here, but I am not sure what that story could be.

Now at this point, objectivists will be quite satisfied with our discussion. Objectivists have long held that subjectivism results from confusing the correct observation that beliefs and evidence bear on culpability with the incorrect observation that beliefs and evidence bear on what ought to be done. And now we have seen that subjectivists say the right thing about culpable action based on ignorance, but the wrong thing about how agents ought to act when ignorant, exactly as the objectivist predicted.

One reaction to the Problem of Deontic Tracing would be to deny that it is a problem, despite the arguments made in this section, in order to avoid collapsing into objectivism. There is some attraction to this response: after all, we saw in Sections 3-4 that the subjectivist account has many good features. Another reaction to the Problem of Deontic Tracing would be to throw out the subjectivist account and return to an objectivist view along

¹³This argument is inspired by Goldberg (2016; 2017; 2018).

the lines of Section 2. In the remainder of this paper, I want to sketch a third way. The idea is to save the subjectivist account by taking two steps towards objectivism in order to block the Problem of Deontic Tracing while retaining the motivations and advantages of the subjectivist account. This project will occupy us in Sections 6-10.

6 Information-sensitivity

Objectivism and subjectivism are no longer the only games in town. On an objectivist view, what agents ought to do is determined by the totality of relevant facts. On a subjectivist view, what agents ought to do is determined by their beliefs. And on an *information-sensitive* view, what agents ought to do is determined by a relevant body of information (Kolodny and MacFarlane 2010).

Objectivism and subjectivism are special cases of the information-sensitive view. We recover objectivism by letting the relevant information be the totality of facts, and recover subjectivism by letting the relevant information be the agent's beliefs. But we can also hold that in many cases, the relevant body of information is something else, for example, the agent's total evidence.

Why might you accept an information-sensitive view? First, some familiar motivations. An information-sensitive view can reconcile some of the conflicting linguistic data cited in support of subjective and objective views by showing how these views fall out as special cases of a more general view (Charlow and Chrisman 2016). The information-sensitive view delivers a new and plausible solution to miner's puzzles that neither denies a premise nor posits a hidden ambiguity between objectivist and subjectivist readings (Kolodny and MacFarlane 2010). And an information-sensitive view gives correct explanations of many semantic puzzle-cases such as probabilistic-deontic conditionals which mix probabilistic vocabulary in the antecedent of a conditional with deontic vocabulary in the consequent (Cariani 2016).

Next, a somewhat-familiar motivation. Going information-sensitive is the right re-

sponse to the Problem of Perspectival Mismatch. The problem is that duties to gather evidence arise within the perspective of an agent who takes evidence to bear on what ought to be done. Objectivism accounts for duties to gather evidence from a mismatched perspective on which all facts, and not just the facts that are part of an agent's evidence, bear on what ought to be done. But subjectivism makes evidence only indirectly relevant to deontic claims, insofar as evidence bears on agents' beliefs. If we want to capture the perspective of an agent who takes evidence to bear on what ought to be done, the best way to do that is to say that information directly determines right action. And that is what the information-sensitive view says.

In this paper, I hope to establish a new motivation for the information-sensitive view: it solves the Problem of Deontic Tracing. Now, not just any version of the information-sensitive view will do. For example, suppose we take the relevant body of information to be the agent's total evidence at the time of action. This would involve replacing Subjectivism with:

(Actual Evidence) The values of actions are assessed using the actor's total evidence at the time of action.

Call the resulting view *actual evidence consequentialism*.

But actual evidence consequentialism is no more capable than subjectivism of solving the Problem of Deontic Tracing. Because Nate and Bad Doctor have failed to gather evidence, not only their current beliefs but also their current evidence will fail to reflect the facts they are culpably ignorant of. As a result, actual evidence consequentialism says that Nate acts rightly in running over the child and Bad Doctor acts rightly in prescribing Pill A.

Yet all is not lost. It is no part of the information-sensitive view that the relevant body of information is always the agent's total evidence. The task going forward is then to say which body of evidence bears on right action and to use the answer to this question to solve the Problem of Deontic Tracing.

7 Ideal evidence consequentialism

To see the way forward, think once more about Driveway Disaster. We would like to say that Nate ought to have stopped the car before running over the child. Why should Nate have stopped the car? Because Nate should have had evidence that there was a child behind the car, and relative to the evidence that Nate should have had, the best thing for Nate to do is to stop the car.

More generally, Sandy Goldberg has suggested that we can take the notion of evidence that agents should have had as an independent object of theorizing (Goldberg 2016, 2017, 2018). Goldberg suggests that we can get a grip on this notion by thinking about cases of legitimate social expectation. Bad Doctor should have had the evidence that Pill A is no good, because Bad Doctor is a doctor and there is a legitimate social expectation that doctors should be up to date on medical research. So too, you might think, Nate should have had evidence that there was a child behind the car because Nate is a driver, and we can expect that drivers will know what is behind their cars before backing up.

Goldberg suggests that the evidence which agents should have had bears on what they are justified in believing. Bad Doctor is not justified in believing that Pill A is effective because even though that is the conclusion which her current evidence supports, this conclusion is not supported by the evidence that Bad Doctor should have had. And so too, Nate is not justified in believing that there is no child behind his car because the evidence that Nate should have had includes the fact that there is a child behind Nate's car.

I want to suggest that what agents ought to do is also relative to the evidence that they should have had.¹⁴ This is, I hope, an intuitive suggestion: it would be strange for the evidence that agents should have had to bear on the justification of belief, but not on how agents ought to act. And we have good preliminary evidence that this suggestion will

¹⁴Goldberg adopts a strict liability thesis on which both an agent's total evidence as well as the evidence that she should have had bears on justification (Goldberg 2017). While this may be the correct thing to say about justified belief, I am not sure that we should adopt it as a view about right action. But I will not have time to argue for this point here.

help us solve the Problem of Deontic Tracing, since it correctly predicts that Nate and Bad Doctor have acted wrongly.

More formally, the suggestion is that we should replace Subjectivism with:

(Ideal Evidence) The values of actions are assessed using the evidence that the actor should have had at the time of action.

Retain the rest of the subjectivist account intact. Call the resulting view *ideal evidence consequentialism*.

Ideal evidence consequentialism maintains the advantages of the information-sensitive approach and opens up a more focused version of our previous question: what is the evidence that agents should have had? I consider two ways of answering this question in Sections 8-9.

8 The recursive strategy

Our previous analysis of Driveway Disaster suggests a natural way of analyzing the notion of evidence that agents should have had. Nate should have had the evidence that there was a child behind his car because Nate should have gathered evidence by checking his mirror, and if Nate had checked his mirror Nate would have had the evidence that there is a child behind the car. More generally, the proposal is that the evidence that agents should have had is the evidence that they should have gathered at some time in the past.

In addition to its intuitiveness, this strategy has an explanatory advantage. We have already developed an account of duties to gather evidence, save for one component of that account: an analysis of evidence that agents should have had. The proposal at hand is to recursively explain the evidence that agents should have had at some time t by invoking their duties to gather evidence at times prior to t . These duties to gather evidence will, in turn, be analyzed in terms of the evidence that agents should have had at earlier times, and hence in terms of duties to gather evidence at earlier times. But if we play our cards

right, the recursion will bottom out and we can recover a full account of evidence that agents should have had by recursively applying our existing account of duties to gather evidence, without any new theoretical work.

This is a nice proposal, but the devil is in the details. Can we make it work? I am not sure if we can. The most direct way to implement this idea is to say that agents should have had the evidence that they should have gathered at some identifiable time in the past.

(Should Have Gathered, Mark 1) For all agents S , times t and propositions ϕ , ϕ belongs to the evidence that S should have had at t just in case at some time $t' < t$, S should have gathered the evidence ϕ .

This says the right thing about Nate. Nate should have had the evidence that there was a child behind the car because Nate should have gathered evidence by checking his mirror, and if Nate had done that he would have had the evidence that there was a child behind his car.

However, this view says the wrong thing about agents who repeatedly misbehave. Consider:

(Very Bad Doctor) For the past ten years, Very Bad Doctor has become extremely lazy. Very Bad Doctor has entirely skipped every medical training in favor of frequent beach vacations. You see Very Bad Doctor for chest pain and she prescribes Pill A. As before, if Very Bad Doctor had attended all of her trainings, she would have known that Pill B is a better treatment for chest pain than Pill A.

We would like to say that Very Bad Doctor should have had evidence indicating that the treatment was a poor idea. But it need not be the case that at any time in the past, Very Bad Doctor ought to have gathered this evidence. Because Very Bad Doctor has fallen far behind on her evidence-gathering, at any given moment there may well be more

important items of evidence for her to gather first. As a result, there may be no particular moment at which Very Bad Doctor ought to have gathered evidence about treatments for chest pain.

We can fix the Very Bad Doctor problem by looking not at momentary duties to gather evidence, but rather at duties to gather evidence throughout an agent's life.

(Should Have Gathered, Mark 2) For all agents S , times t and propositions ϕ , ϕ belongs to the evidence that S should have had at t just in case ϕ would have been part of S 's evidence at t if S had always complied with her duties to gather evidence throughout her lifetime.

This says the right thing about Very Bad Doctor. If Very Bad Doctor had always complied with her duties to gather evidence, then she would have caught up on new research about chest pain.

Should we accept this account of the evidence that agents should have had? Admittedly, it is quite a nice view. The view handles cases such as Driveway Disaster and the Bad Doctor cases. The view cashes out a natural connection between evidence that agents should have had and the evidence that they should have gathered. As a result, it is almost tailor-made to avoid the Problem of Deontic Tracing. I used to accept this view myself. Here is why I changed my mind.

It is often objected that this view is circular, because it cashes out the evidence that agents should have had in terms of the evidence that they should have gathered. This in turn is cashed out in terms of the evidence that they should have had. But the account is not circular, it is recursive. The account says what evidence agents should have had at t by looking at the evidence they should have had at times prior to t . We can make the recursion explicit by discretizing agents' lives into small time-steps, for example 10^{-100} seconds, in which case the account bottoms out in a precise statement of how agents should act at any moment in their lives. And fans of continuous models can work to extend the discrete model using standard tools of continuous mathematics. So the problem with the view cannot be that it is circular.

The problem is rather that on this view, the evidence that agents should have had can come very far apart from the evidence that they actually have. All of us frequently shirk our duties to gather evidence, and as a result our lives go very differently than they would have if we had always gathered the evidence we should have gathered. After several years, the evidence that we should have gathered becomes patently inaccessible to us. This means that the evidence we should have gathered in the distant past will not fare well on traditional subjectivist desiderata such as accessibility, guidance-giving, and availability for deliberation. Some degree of tension with these desiderata is inevitable: after all, the aim of this account is to improve on subjectivism by taking a small step towards objectivism. But we seem rather to have taken a giant leap towards objectivism, and that leap will remove much of the initial attraction of the view.

Another worry is that it becomes hard to make sense of counterfactuals about the evidence that agents should have had in a decision-relevant way. If Nate had always gathered the evidence that he should have gathered, his life would have gone very differently and so he would not right now be driving backwards towards a child. Then it is not so clear that Nate would now have had the evidence that there is a child behind his car if Nate had always complied with his duties to gather evidence. So the account threatens to say the wrong thing about which evidence Nate should now have had.

Perhaps we can fix these worries by weakening our demands. Hilary Kornblith (1983) noticed the same phenomenon in the case of justified belief. If we say that the justification of an agent's belief today answers to the evidence that she should have gathered at all times throughout her life, then it is too easy for agents' beliefs to become unjustified on the basis of failures to gather evidence in the distant past.

Kornblith proposed that in the case of justified belief, what we really care about is not whether a belief results from responsible evidence-gathering since the beginning of an agent's life, but rather whether it results from responsible evidence-gathering since a reference time in the past. For example, we might be concerned about whether Nate's belief that there is no child behind the car is justified, taking for granted the evidence

that Nate had before going behind the wheel but holding Nate accountable for evidence that he should have gathered since. More generally, the proposal is that justification is *dual-indexed*:

(Dual-Indexed Justification) An agent is justified in his belief that p at time t as from time t' (where t' is earlier than t) just in case all of the agent's actions between t' and t which affected the process responsible for the presence of the belief that p at t were epistemically responsible. (Kornblith 1983, p.83).

Nate's belief now (at t_{now}) that there is no child behind the car is not justified as of the time $t_{initial}$ at which Nate got in the car, because between $t_{initial}$ and t_{now} Nate's belief is affected by irresponsible failures to gather evidence between $t_{initial}$ and t_{now} .

The most natural way to save (Should Have Gathered, Mark 2) is to propose that oughts are also dual-indexed. In studying cases such as Driveway Disaster, we are often uninterested in what happened before some reference time $t_{initial}$. We want to know what Nate ought to do, taking for granted the information available to Nate at $t_{initial}$ and other features of the case.

To implement this proposal in our consequentialist framework, we would need to make three changes. First, we would need to build dual-indexing into the Deontic-Evaluative Bridge:

(Dual-Indexed Deontic-Evaluative Bridge) For all agents S , times t, t' and actions A , S ought to A at t as of t' just in case A -ing at t has higher value than any alternative (at t) as of t' .

Here we have cashed out the dual-indexed ought in terms of a dual-indexed notion of value: the value of action A is not evaluated at the time of choice t . Value at t is evaluated in a dual-indexed way, as of some reference time t' . Dual-indexed value would in turn be cashed out in terms of a dual-indexed notion of the evidence that agents should have had.

(Dual-Indexed Ideal Evidence) The values of actions at t as of t' are assessed using the evidence that the actor should have had at t as of t' .

And we can assess the dual-indexed evidence that agents should have had exactly as (Should Have Gathered, Mark 2) suggests:

(Should Have Gathered, Mark 3) For all agents S , times t, t' and propositions ϕ , ϕ belongs to the evidence that S should have had (at t , as of t') just in case ϕ would have been part of S 's evidence at t if S had always complied with her duties to gather evidence in the interval $[t', t]$.

Call this the *dual-indexed view*.

The dual-indexed view is a mouthful, but the idea is simple. We cannot ask what agents should do at some time t *simpliciter*, but only what they should do at t as of some reference time t' . What they should do is to act so as to best promote value given the evidence that they would have had if they had always complied with their duties to gather evidence between t' and t . For example, Nate should have stopped the car now as of $t_{initial}$ because if he had complied with his duties to gather evidence between $t_{initial}$ and t_{now} , Nate would have gathered the evidence that there is a child behind the car and the value-maximizing action relative to this evidence is to stop the car.

The dual-indexed view makes good sense of cases, and the view is not without its plausibility. In the end, we might need to accept dual-indexing to make sense of duties to gather evidence in a way that solves the Problem of Deontic Tracing. But the dual-indexed view is quite revisionary, insofar as it asks us to abandon the single-indexed ought that informs most traditional normative theorizing. This type of revisionary move requires a strong preponderance of evidence, and I am not sure that I have enough evidence to give in favor of revision.

If we do not accept the dual-indexed view, we won't be able to explain the evidence that agents should have had by applying our account of duties to gather evidence. We need to think about the evidence that agents should have had as an object of theorizing in its own right. What else could we say about the evidence that agents should have had? I explore a second answer in the next section.

9 The social expectation view

Our aim is to find an account of the evidence that agents should have had. As it happens, there is already an account of this notion on the table, at least insofar as it bears on the justification of belief. Sandy Goldberg has proposed that we can understand the evidence that agents should have had in terms of the evidence that others are entitled to expect them to have.

Subject S should have had evidence E when having E is required for the satisfaction of the various social epistemic expectations others are entitled to have of S . (Goldberg 2018, p. 193).

What we are entitled to expect from others is, roughly put, what is necessary for the legitimacy of our reliability-conducive epistemic practices. More precisely:

(Legit_E) For any subject S , practice ϕ with standards π , and expectations E (where E includes but may not be limited to epistemic expectations E_E of the practice), if (i) S participates in ϕ , (ii) ϕ is a legitimate practice, (iii) calling into question the legitimacy of E would call into question the legitimacy of ϕ or π and (iv) an epistemic practice that satisfies E_E is reliability-conducive, then S is entitled to E (and so is entitled to E_E). (Goldberg 2018, p. 173).

Call this the *social expectation view*.

As we have seen, the social expectation view is a natural account that handles all of the cases introduced so far. We can expect Bad Doctor to know about chest pain and Nate to know about pedestrians because these are legitimate social expectations to have about doctors and drivers. At the same time, the social expectation view undergenerates in at least two types of cases.

First, consider cases of missing social practices.¹⁵ That is, consider a case in which ϕ should be a social practice, but is not, and if ϕ were a social practice then some society

¹⁵Could Goldberg address this case by pointing out that Legit_E is only a necessary condition for entitlement, and strengthening Legit_E? Perhaps. That would depend on the contents of the strengthened principle.

members would be entitled to expect E . We will meet a case of this sort in the next section. There, I will consider an argument by Kristie Dotson that we ought to have a more expansive practice ϕ of gathering and assessing evidence in response to police killings, and if we had that practice many society members would be entitled to expect us to possess evidence E that we do not possess. For example, we might be expected to understand the racialized prejudices leading to police killings and the institutional structures which prevent accurate information about the causes of police killings from being disseminated. In this case, I will interpret Dotson as making a compelling argument for the conclusion that E forms part of the evidence that we should have had, although there is quite unfortunately no extant social practice which grounds this expectation.

For a second family of cases in which the social expectation view undergenerates, consider cases where no society is around to ground an expectation of any kind. For example, consider:

(Crusoe) Robinson Crusoe comes home every day to find his hut destroyed. Each day, a fresh set of tracks leads from the hut into the forest. But each day, Crusoe rebuilds the hut without investigating the tracks. If he had followed the tracks, Crusoe would have noticed a bear camped nearby whose feet matched the tracks.

Should Crusoe have had the evidence that there was a bear nearby? Plausibly, yes. It makes little sense for Crusoe to calmly rebuild his hut without following the tracks, and if he had done that Crusoe would have seen the bear. But this fact about the evidence that Crusoe should have had is not grounded in any legitimate social expectation, since there is no one else who can expect anything out of Crusoe. Perhaps we could attempt to defend the social expectation view by holding that Crusoe has a legitimate social expectation of himself that he will gather evidence. But here the notion of a social expectation has been stretched quite thin, to the point that it will be difficult to draw a principled distinction between social and non-social expectations. Why not simply talk about the evidence that Crusoe can be legitimately expected to have, and theorize directly about this notion?

So far, we have considered and rejected two accounts of the evidence that agents should have had: a recursive account in terms of the evidence that they should have gathered, and a social expectation view in terms of the evidence that agents can be socially expected to have. What else could we say instead?

10 Resetting our aims

What, then, is the right general account of the evidence that agents should have had? I have a confession to make. I do not have such an account. But I do have a suggestion for how we might work towards one.

In seeking a fully general account of the evidence that agents should have had, we have jumped the gun a bit. We have taken a category which normative theorists are just beginning to understand and whose extension and application is still substantially unclear, then tried to give a complete account of that category. We would do better to relax our aims. Suppose we seek to understand the category of evidence that agents should have had by listing some types of evidence that agents should have and giving preliminary grounds on which this counts as evidence that agents should have had. This strategy stops short of supplying a general account of the nature and grounds of evidence that agents should have had. But it will give us a better grip on the phenomenon of evidence that agents should have had, from which a more general account can be constructed.

So far, we have met two categories of evidence that agents should have had. First, there is information that agents should have for instrumental purposes in order to act in a value-promoting way. This includes, for Crusoe, the fact that a bear is camped nearby. Second, there is information that we can be legitimately socially expected to possess. This includes, for Bad Doctor, the proper treatment for chest pains. I think we should also add a third category to this list. Sometimes agents should have evidence because that evidence is necessary to resist oppression.

In support of this view, consider Kristie Dotson's work on police killings of unarmed

black men (Dotson 2018). Dotson argues that our epistemic practices in these cases are problematic. Prevailing epistemic practices facilitate police killings; allow the perpetrators to get away with murder in a court of law as well as the court of public opinion; and silence black rage at police violence by casting it as an emotional overreaction to the available evidence.

One of Dotson's primary targets is our evidential practices. Dotson notes that in many police killings, the dialectic comes to be dominated by evidence of problematic victimhood. We focus on evidence purporting to show that the victim was behaving belligerently, illegally, or in noncompliance with police instructions; on evidence of the victim's past criminal record; or on stories purporting to demonstrate the victim's bad character. Evidence of problematic victimhood is used to suggest that police killings were justified by reasonable suspicion of danger or harm, as well as that victims may in some way have deserved their deaths.

Dotson notes that these evidential practices ignore or marginalize many pieces of relevant evidence. We ignore the broad discretion given to police to determine whether to use lethal force; how this discretion is exercised in reaction to racialized perceptions and beliefs; how police discretion results in a disproportionate number of police killings of unarmed black men; how fundamental social institutions conspire to produce evidence of problematic victimhood; and more broadly how legal and media institutions control the types of information that are likely to be available and readily disseminated. The result is that the evidence dominating mainstream discourse about police killings often appears to support the claim that officers acted justifiably.

Dotson suggests that this situation illustrates a lack of dynamism, in which agents fail to attend to multiple bodies of evidence relevant to police killings. Dotson suggests that more dynamism is necessary in order to promote the value of lessening oppression. In the present framework, a natural way to interpret Dotson's call for dynamism is as a claim about the evidence that informed citizens should have. As members of a racist society, we should have evidence about the social and institutional context in which police

violence takes place so that we can react appropriately and take steps to lessen violence and oppression.

Summing up, it is perhaps too early to aim for a general account of the evidence that agents should have had, such as the dual-indexed view or the social expectation view. The first order of business is to make extensional progress in understanding which evidence agents should have had. We have met at least three distinct categories of evidence that agents should have had: evidence needed for instrumental purposes in order to promote value; evidence we are legitimately socially expected to possess; and evidence needed to lessen oppression. Further theorizing will perhaps reveal other types of evidence that agents should have had.

11 Conclusion

In this paper, I argued that unpossessed evidence plays a dual deontic role. We sometimes have duties to gather evidence that we do not possess. And evidence can sometimes influence what we ought to do, even if we fail to gather that evidence.

Sections 2-4 argued that subjectivists have a compelling account of duties to gather evidence. This account starts from a subjective consequentialist view on which agents ought to do what is best, understood in terms of the belief-relative amount of value promoted by their actions. The value of evidence-gathering actions is then modeled using the value of information. I argued that this account performs well on cases such as Claire's Choice, makes progress on the problems posed for objectivist accounts, has plausible applications, explains away many non-tracing cases of culpable ignorance, and generalizes to an account of duties to expand awareness.

However, this account struggles to explain the second role of unpossessed evidence. Section 5 argued that subjectivism faces the Problem of Deontic Tracing: although subjectivists can explain why failures to gather evidence impact future culpability, they cannot explain why evidence we failed to gather bears on what we ought to do. In response,

Sections 6-7 proposed a two-step modification to the subjectivist account: Ideal Evidence Consequentialism. This view replaces subjectivism with an information-sensitive reading of deontic modals, and takes the relevant body of information to be the evidence that agents should have had.

Sections 8-9 considered and rejected two accounts of the evidence that agents should have had: a family of recursive accounts on which the evidence that agents should have had is evidence that they should have gathered in the past, and the social expectation view on which evidence that agents should have had is evidence that they can be legitimately socially expected to have. Section 10 argued that we can make progress in understanding the notion of evidence that agents should have had by relaxing our aims, seeking a preliminary understanding of the evidence that agents should have had without demanding a fully general account. I presented three distinct categories of evidence that agents should have had.

If this is right, then perhaps the most important implication of this discussion is that subjectivist-leaning theorists should think seriously about the notion of evidence that agents should have had. A fully general account of the evidence that agents should have had will allow subjectivists to absorb key advantages of objectivist accounts and to build bridges to current epistemological discussions of unpossessed evidence.

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