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# Does HIV Affect All? Researchers' Duty to Warn

## Year

1999

## Description

This case focuses on how to separate what is legally required of the researcher from his/her ethical responsibility as a scientist working with human subjects.

## Body

John, a licensed psychologist, is Principal Investigator for the "Assist" Project. His project is designed to identify behavioral trends among HIV+ adults in the New York City area. Participants were recruited from HIV/AIDS support groups, HIV/AIDS advocacy and service organizations, and through publicity in local bars, clinics and media outlets. John uses several measures to identify patterns among these individuals. He looks at help-seeking behaviors, physical and emotional symptoms, nutrition and diet habits, sexual behavior and knowledge of HIV/AIDS.

John uses an individual interview format as the method for the study. Each participant is asked to sign an informed consent form, which guarantees that all information revealed during the interviews will be kept confidential. The consent form describes the study and informs participants of the risks involved, which John identifies as minimal. Each participant is paid \$50 for each interview. Participants in the study are also provided free psychological counseling and medical care. Participants are interviewed three times over a two-year period.

In accordance with the research protocol, John asks a participant during one of the initial interviews about her current sexual practices. The participant tells John that she is having unprotected sex with her boyfriend. She states that her boyfriend does not know about her HIV status and that she has no plans to reveal her condition. Later during the interview she mentions the name of her boyfriend. John notes the information and continues with the interview.

Upon going back to his office, John becomes anxious about what he was told by the participant. He ponders what he should do. John thinks about his moral responsibility from a relational perspective, assessing the ethical problem from the standpoint of his responsibility to preserve the scientific integrity of the project, the participants' confidentiality and the boyfriend's welfare.

John thinks about the following facts:

- Several states have implemented laws based on the ruling of *Tarasoff vs. Regents of the University of California* (1975). These laws require professionals to warn an individual of prospective danger, if the professional has a) a special relationship with an individual, b) the ability to predict that harm will occur, and c) the ability to identify the potential victim.
- No state thus far has attempted to apply this law in the context of a scientific investigation.
- New York State does not have a law that requires a professional to warn potential victims.
- Current New York State law prohibits a licensed psychologist from revealing a client's HIV status.
- Under Principle D: Respect for People's Rights and Dignity, The Ethics Code of the American Psychological Association states that psychologists should respect people's rights and dignity, including their right to privacy, confidentiality and autonomy. (APA, 1992)
- Under the APA Ethics Code Standard 5.05, psychologists are allowed to disclose confidential information without the consent of the individual as mandated by law or if permitted for a valid purpose, such as to protect others from harm. (APA, 1992)
- Under the APA Ethics Code Standard 1.14, psychologists have a duty to minimize harm where it is foreseeable and unavoidable. (APA, 1992)

## **Discussion Questions**

1. What is John's obligation to the integrity of his research project, to the research participant, to the research participant's sex partner, to the HIV+/AIDS community, and to society at large?
2. How should John weigh the benefits and the harms of preserving participant confidentiality vs. breaking confidentiality?
3. What should John do?
4. Which of these suggestions, if any, fulfills John's ethical duty as a responsible scientist?
  - He could break his guarantee of confidentiality and notify the research participants' boyfriend.
  - He could maintain confidentiality and continue collecting data.
  - He could make an anonymous call to the participant's boyfriend.
  - He could try to persuade the participant to tell her boyfriend.
  - He could consult with other professionals on the matter to help decide what he should do.
  - He could change his informed consent in future research to include notification that confidentiality will not be maintained if participants indicate that they have placed an identified person at risk of harm.

## Notes

Brian Schrag, ed., *Research Ethics: Cases and Commentaries, Volume 3*, Bloomington, Indiana: Association for Practical and Professional Ethics, 1999.

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## Resource Type

Case Study / Scenario

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