

# **Vivian Weil's Commentary on "Ethical Issues in Discovering Criminal Behavior during Interviews"**

Commentary On

Ethical Issues in Discovering Criminal Behavior during Interviews

Dr. Barnes confronts an extremely troubling dilemma: whether to report the violation or not. Before considering whether he can devise any route between the horns, we should look back at the route by which he reached this difficult moment.

First, we must ask whether Barnes considered in advance, as he should have, the risk of encountering such forced choices. From the outset, Barnes faces the prospect that the more success he has in winning trust and acceptance within the group he studies, the more likely that members will become less guarded in his presence and, not necessarily in a swaggering manner, reveal violations of law. After all, Barnes is not studying ordinary, law-abiding citizens. Moreover, as a researcher in sociology, he follows the conventions of his discipline in using a recording device during interviews. An upshot is the likelihood that he will record interview responses that reveal violations of law.

Accordingly, before pursuing the research it is essential to evaluate the benefit of this type of research compared with the risks. In view of the group members' alienation from society and the dangers they pose to others, gaining an "inside" understanding of one of these groups is a worthy goal. Their involvement with weapons makes it important to study these groups and also produces the risks of just such situations as the one that confounds Barnes. The cost/benefit analysis can favor proceeding with the research only if appropriate safeguards are devised to protect the members of the group under study and the researcher.

The members of such a group are owed the respect and protection due any research subjects: full information about the aims, conduct, benefits, and risks of the research and the opportunity to give fully voluntary consent to be studied and interviewed, if not to actively participate in the research. Trust is essential to scientific enterprises;

its importance to the research in question in this case is evident. The consent form is the obviously necessary and also formally required device for gaining informed, voluntary consent and trust. There should be a consent process. The effectiveness of this process depends not only on the content of the consent form but also on the discussion that Barnes should conduct as part of the process.

In that discussion the issue of violations of law should be aired, framed, of course, by the presumption against violations of law. However, anticipating that violations may occur, such risks as group members' inadvertently or intentionally revealing violations of law must be thoroughly considered. While the researcher cannot anticipate every sort of case, she should elicit discussion of the kinds of violations that could come up and their seriousness, making clear that the list is not exhaustive and the violations range in seriousness. That effort might help to put participants on their guard both about violating the law and informing the researcher about violations. It is difficult to pronounce from outside whether it is a good idea to set a standard for exposure at the outset and how to determine a threshold. To an outsider it seems that this issue is at least worth discussing with group members.

To the extent that militia group members can become participants in the research who see themselves as contributing to knowledge about society in all its complexity, they might come to understand the bind that results for the researcher if they engage in illegal activity and the researcher finds out. This last consideration suggests that the researcher investigate not only the nature of these militias but also reasonable expectations about the kind and extent of group members' participation in the research that can be achieved.

It seems that the discussion that Barnes conducted in the consent process was more limited than that suggested here. It may also be that additional ground-level understandings about how the research would proceed were needed and were not communicated in this instance. It is, in any case, worth the researcher's effort to think through what additional understanding of the research process such participants need (in advance and along the way) that are not necessarily dictated by the consent form requirement.

This case makes clear how very important the consent form is to alerting researchers to their responsibilities in setting up and carrying out research. It suggests that, far from railing against the demands of the IRB, researchers should take them as cues to consider what else they owe participants, as a matter of

respect and protection for participants and themselves, and what other communication at the outset and along the way can reduce the likelihood of such ethical dilemmas. The aim is to build trust and a sense of participating in a common undertaking to the extent possible.

Confronting Barnes's dilemma, there is no neat way between the horns, but there is at least one option worth considering. Barnes could make his dilemma a subject for the participants to consider with him, on the basis of his determination (with an eye to the future) that on this particular first occurrence, it is as ethically defensible to sort out the issues with participants as to report a violation of law, not the most serious. This would be, in effect, to hold the full discussion that should have taken place originally. This kind of "forthrightness and honesty" could increase trust and predictability; it might not. That is a risk for the researcher. But this option seems ethically preferable to either horn of the dilemma and, from the perspective of an outside commentator, no more risky.