CHAPTER 2

Research Ethics

During the past few decades, ethical issues have become a major concern of many groups, including businesses and corporations, the military, government agencies, and the academy. So many instances of unethical behavior have surfaced in recent years that much of society now seems concerned with ethical issues. For instance, in 2004, troubling pictures taken at Guantanamo Bay were widely disseminated. These included photographs of U.S. military men and women, with jovial gestures and smiles, around prisoners posed in various demeaning poses. These photographs received considerable public scrutiny and resulted in disciplinary action for military personnel who were identified in the photos; these also called into question the overall ethical conduct in our military institutions (McGeary et al., 2004). Similarly, reports of the Rampart police scandal in 1999 detailed a complex ring of dirty cops in Los Angeles, five of whom were criminally prosecuted for making false arrests, filing false reports, committing perjury, planting evidence, shooting suspects, stealing weapons and drugs from police evidence, and killing two people during a botched drug deal. The implications were enormous: An estimated 30,000 criminal cases were reexamined in light of the debacle (Cable News Network [CNN], 2000). In 2005, an exposé of practices within the California Youth Authority (CYA) detailed the plight of several incarcerated youth who were kept in cages during school lessons while in state custody (Warren, 2005). While CYA authorities were quick to cite staff and client safety as the reason for this practice, it nevertheless caused great public concern and ultimately led to the systematic dismantling of CYA in California (Little Hoover Commission, 2008). Such examples abound of incidents that bring public scrutiny and concern over issues of ethics. This is especially problematic in the field of criminal justice, a cornerstone of which is professional integrity and justice for all.

Universities and colleges have not been exempt from unethical behavior. In the area of research, competition for grant monies has caused some researchers to engage in unethical practices. When researchers zealously believe in their approaches to solving problems and invest many years in their work, some falsify their results to secure continued funding in hopes of finally finding the breakthrough that will justify their means. In other instances, academicians feel so pressured to publish that they cut corners in their research and publish questionable results, often before it is appropriate to do so. The accuracy of these results is often suspect, as is the methodology or statistical test employed. This issue is not just related to individual researchers, but is also systemic to large research institutions and grant-funding agencies. In the spring of 2008, a U.S. congressional committee began investigating allegations that the U.S. Office of Juvenile Justice and Delinquency Prevention (OJJDP) "violated its bidding process in order to give competitive grants to favored organizations" (Boyle, 2008b). Talk of kickbacks and special favors tainted the objective research and review process that academia has touted for decades. In another recent case, the National Council of Juvenile and Family Court Judges agreed to pay an undisclosed fine (estimated at $300,000) amid allegations that the judicial group committed fraud to obtain grant money from the U.S. Department of Justice (Boyle, 2008a). These unethical breaches of trust by researchers underscore the fragility with which the research system operates.

Ethics and ethical behavior are of particular concern to social scientists, including criminologists and criminal justice researchers, specifically, as these issues relate to research and research methods (Braswell, McCarthy, & McCarthy, 1991; Davis, 1989; Longmire, 1991). In criminological research, ethical issues are compounded because research in these areas typically involves human subjects and is often focused on the very issues of ethics and justice themselves. Thus, both the manner in which research is conducted and the findings that are released have direct consequences for people's lives. Unfortunately, criminologists are not immune to unethical practices in research.

ETHICAL ISSUES IN RESEARCH

Numerous ethical questions have been raised about research and research methods of social scientists. While examples abound, a handful of cases received considerable attention within the discipline(s) and garnered tremendous public scrutiny. These fall into three categories: (1) ethical breaches that cause physical harm to subjects, (2) breaches that cause emotional/psychological harm, and (3) breaches that undermine and redirect the course of an entire academic discipline. A review of each case illustrates not only the seriousness and nature of the unethical questions and methods employed, but also the magnitude of the ethical dilemmas and far-reaching implications that follow.

Physical Harm to Subjects

UNIVERSITY OF CALIFORNIA, IRVINE, FERTILITY SCANDAL In 1995, the University of California, Irvine, had the premiere fertility clinic in the nation. The UCI Center for Reproductive Health boasted one of the highest success rates of all such clinics in the United States. In 1995, several irregularities were discovered. The full investigation revealed a web of deceit unparalleled in recent history. Motivated by a desire to maintain impossibly high success rates, doctors at the clinic knowingly implanted embryos from highly fertile clients into other clients not biologically related to the fetuses. The result was as follows: Dozens of children born to nonbiologically related parents, and dozens of childless couples who were, in fact, biologically related to children born to other clients. This baffled university administrators and legal professionals alike, as a medical debacle of this magnitude had never been exposed before. In fact, attorneys were not even sure what, if any, crime had been committed, as an embryo is not property (thus negating theft charges), nor is it deemed a person (thus negating kidnapping charges). In the end, criminal charges for assault (against the female clients) and fraud were filed. The debacle resulted in a class action lawsuit involving 113 parties (former clients and children); this was settled for an estimated $20 million. Meanwhile, multiple complicated custody battles ensued, and none of the parties could ever be truly satisfied or made whole again. Consider the plight of a 5-year-old child, raised by one set of parents, at risk for returning "home" to biological parents he or she never knew. The plight of the center was the least complicated aspect of this debacle: The center closed in disgrace, and the doctors fled the United States. Federal charges were brought against three of the physicians, two of whom fled the country to avoid prosecution (Becerra, 2000).

TUSKEGEE SYPHILIS CASE In 1932, the United States Public Health Service (PHS) began the Tuskegee Syphilis Study. This study was initiated to document the progression of untreated syphilis in humans. The subjects, a group of 399 poor black sharecroppers from Alabama, had latent syphilis. PHS researchers told the subjects that they were being treated for "bad blood." Over the next 40 years, the subjects were followed, and their physical health deterioration was catalogued. Throughout this time, researchers deliberately denied treatment to these syphilis-infected subjects and went to great lengths to prevent subjects from receiving treatment elsewhere. As compensation, infected subjects were provided with free meals, medical examinations, and burial insurance (Jones, 1993).

The study ended abruptly in 1972, but not due to some moral epiphany by the researchers. In fact, it ended when the story was reported in the Washington Star on July 25, 1972; the story was subsequently reported across the nation. The Tuskegee Case is probably the single most egregious case of ethical violation in research, and it serves as a powerful example of "racism in medicine, ethical misconduct in human research, paternalism by physicians, and government abuse of vulnerable people" (Legacy Committee, 1996, Paragraph #5).

THE OHIO PRISON EXPERIMENTS In 1955, 50 prisoners at correctional institutions in Ohio were research subjects to test "vaccines as part of the Army's bacteriological warfare program" (Lore, 1990, p. 2B). Although the inmates "volunteered" to participate, they were provided with no services to address any potential harm caused by the vaccines or biological agents they were given. Quite the contrary, no extended follow-up of medical treatment was provided for any of the inmates involved. In fact, the doctors who performed the medical research had no contact with the subjects after the study, nor did they know where the subjects were in the following years.

Between 1956 and 1961, doctors from two prestigious institutions used prison volunteers from the same institutions in Ohio to study whether healthy humans could be inoculated against cancer (Lore, 1990); in this case, uninformed subjects were injected with live cancer cells. As in the biological warfare vaccine project, no medical services were provided to the subjects beyond that which was given to all inmates; researchers had no contact with the subjects following the study, and there are no published reports of the long-term outcomes for the participants of this study.

Psychological Harm to Subjects

THE HUMPHREYS CASE Another type of unethical behavior related to the social sciences is demonstrated by Laud Humphreys's work titled *Tearoom Trade* (1970; also discussed in Chapter 6). Humphreys examined the use of public bathrooms and the people who frequented them to engage in deviant sexual behavior. Humphreys played the role of observing participant, facilitating the deviant activities by serving as a lookout.

Had Humphreys's research stopped here, it is likely that only three ethical issues would have been raised. First, he failed to identify himself as a researcher. Second, subjects were not given the opportunity to consent (or refuse) to be a subject of his research. Third, he observed, facilitated, and failed to report behavior that, in some jurisdictions, violates the law.

Humphreys went beyond the observations in public bathrooms discussed above. He copied down the license plates of individuals who participated in the deviant acts. Then, retrieved their names and addresses through a connection he had at the state department of motor vehicles. After obtaining these names and addresses, Humphreys visited the homes of these people, posing as a mental health researcher collecting data for a survey unrelated to the sex acts he observed in the public bathrooms. Humphreys asked the respondents personal questions, which he then correlated with his observations of them in public bathrooms. At no time did he seek the permission of these people for their involvement in the real purpose of his research.

The surreptitious acts—copying down license plate numbers to track the individuals he observed and then interviewing them under false pretenses—raise even more serious ethical issues than his initial transgression. While there were no specific reports of emotional or psychological harm to individual subjects, the possibility of harm was extreme, particularly given that fact that many of the subjects were married men, and their wives had no knowledge of their extramarital sexual proclivities.

THE MILGRAM CASE Stanley Milgram was interested in testing conditions under which a person will or will not follow directions that cause him or her to knowingly harm another individual. Milgram's study was motivated, in part, by actions of individuals who were victims of the Holocaust. During their imprisonment, supposedly normal individuals participated in hideous acts against fellow prisoners with the knowledge that they were hurting their fellow captives.

Milgram (1965) set up an experiment in which laboratory assistants, dressed in white coats, instructed subjects to send electrical shocks to individuals who answered questions incorrectly. Subjects sat at the controls of a machine and were told to turn up the current with subsequent incorrect answers, thereby increasing the supposed shock levels. Milgram hired actors to play the individuals receiving the shocks; they could be seen by the real subjects of the study and were instructed to act is if they were in pain as they were shocked. In some instances, the actors even clutched at their chests, complained of a heart condition, and begged the subject to stop.

In some instances, subjects refused to administer the shocks, especially when the dials of the machine indicated the electrical dose to be lethal. The laboratory assistants assured the subjects that they (the laboratory assistant) would accept responsibility for the consequences and urged the subjects to keep increasing the current. Many of the subjects were upset by the situation since they did not know that the recipients of the supposed shocks were actors and were not actually harmed.

Undermining the Course of a Particular Discipline

Of course, the physical and psychological harm done to specific research subjects is a travesty. However egregious, these harms can be quantified in terms of the number of individuals in danger of harm, or the specific individuals harmed, due to ethical breaches in research. It is difficult to compare this number with the elusive and far-reaching harm caused when an ethical breach changes the course of a discipline. If a researcher gives subjects a harmful medication, we can quantify the potential harm to some degree. This is not an easy task when the ethical breach changes the course of a discipline by leading other researchers down a false road paved with fabricated research findings. Consider the following examples.

THE MARTINSON CASE In 1974, Robert Martinson published his now infamous paper titled, "What works in rehabilitation?" In short, his answer was nothing. Martinson performed an analysis of multiple studies looking at various drug treatments and vocational and educational programs for criminal offenders. He was too quick to report his initial findings that nothing worked to rehabilitate offenders, and the media and public were just as quick to act on his faulty assertions. Following Martinson's publication, many states defunded rehabilitation programs. Their logic was sound: If no single type of rehabilitation worked to reduce recidivism, then why pay for rehabilitation at all? The result was a national move away from rehabilitation programs in state and local corrections agencies.

Within months of Martinson's publication, numerous scholars evaluated his methods and found them faulty. Several scholars (Palmer, 1975; Andrews, Zinger, Bonta, Gendreau, & Cullen, 1990) published rebuttals to his work, and Martinson himself later recanted (Lipton, Martinson, & Wilkes, 1975; Martinson, 1979). However, the damage was done; most states embarked on a 20-year journey away from rehabilitation programs.

While no single research participant was directly harmed, Martinson's premature, inaccurate report shifted funding away from rehabilitation, arguably harming thousands of inmates who could have benefited from vocational, educational, and drug treatment rehabilitation. With decreased focus on rehabilitation came increased focus on retributive forms of punishment, and the U.S. incarceration rate increased nearly five fold in 20 years. Arguably, this also impacted public safety, as felons lacking rehabilitation programs returned home from prison less prepared for successful reintegration in the community; the recidivism rate increased. The fiscal cost and human toll is unfathomable. Around the year 2000, correctional programs began to reinvest in rehabilitation programs once again, but this was after a quarter century hiatus initiated by Martinson's premature results. Martinson committed suicide in 1980 (Miller, 1989).

THE BURT CASE Cyril Burt was a famed psychologist who, in the late 1970s and early 1980s, was accused of falsifying data related to his study of twins dating back to 1943 (Broad & Wade, 1982). Burt, who was actively involved in the development of experimental psychology, devoted a considerable amount of his early research to the relationship between heredity and intelligence. Wade (1976) discovered that Burt reported the same correlations for each set of twins (Davis, 1989). In plain terms, this meant that Burt found exactly the same degree of relationship between biology and intelligence for every single pair of twins he examined over nearly 30 years of research. Statistically, this is just not possible.

A detailed examination of Burt's notes demonstrated that he had, in fact, simply invented the correlations he reported in his research. This discovery brought the results of his studies into question, especially those involving his work on twins. The only reasonable conclusion researchers could draw about the results was that the findings were falsified, and thus, were not reliable.

Arguably, Burt was so sure that his hypotheses were correct that he did not believe that he needed to follow the normal research route (Davis, 1989); yet any defense such as this of falsifying data or results is unacceptable. This type of unethical behavior is a serious violation of ethical research methods. Many researchers trusted in Burt's ethics; they accepted his results and built their own research on his findings, which make them victims of Burt's unethical behavior. The same is true of the many students who were taught erroneous knowledge, based in part on the results of Burt's work.

THE SUMMERLIN CASE The falsification of data and results is certainly not limited to the social sciences. Numerous examples can be found in other fields, especially the medical sciences.

The competition for getting research monies and positions can be fierce in the field of medical research. Further funding is often based on the results of the currently funded research. In practice, this means that research that shows promise or positive results continues to receive funding. The case of William Summerlin, a cancer researcher, points out the difficulty of needing to provide results (Davis, 1989).

Summerlin was working on the lack of rejection properties of culture-grown skin, a highly competitive area of medical research. Because of the pressure he felt to succeed, Summerlin "inked a black patch on two white laboratory mice to convince Good (his boss) that a skin graft between genetically different animals had been successful" (Davis, 1989, p. 7). One of Summerlin's assistants discovered the misrepresentation and brought it to the attention of proper authorities.

While this ethical breach was caught early, one can imagine how such a violation can impact an entire field of study. Suppose Summerlin's fraud had not been discovered and his fabricated findings were accepted by the scientific community as legitimate. Research would then focus on the skin-graft conditions Summerlin specified, possibly including human trials aimed at replicating Summerlin's success in human skin grafts. But for the fact that Summerlin's assistant reported his fraud, this erroneous line of research could have taken a ghastly human toll.

ASSESSMENT OF ETHICAL ISSUES

The Tuskegee, Ohio Prison, Humphreys, and Milgram experiments would be extremely difficult, if not impossible, to carry out today given the guidelines in place for informed consent. Briefly, the researcher must obtain informed consent to participate in research from the subjects after the researcher discloses any possible risks to the subject. Deceptions such as those employed in these examples would be viewed as inappropriate and not allowed under most circumstances.

Scholars generally agree that the cases presented here are at the negative extreme of a continuum of ethical behavior. However, not all cases are so blatant, and many are not simple issues of right and wrong. Many times, ethical issues regarding research questions and methods are somewhat clouded by various factors, including the relative benefit to subjects, which would be negated if the subject was fully aware of the research parameters. For example, most medical research involving new medications requires subjects to be unaware as to whether they receive a new medication, the standard treatment, or a placebo. This is necessary to ensure that any result is due to the properties of the medication, not the optimism of subjects who know they are getting the "better" treatment. The results demonstrating a superior cancer treatment, for example, can then benefit countless more patients. Thus, some level of deception is often necessary in the name of science, but it can never approach the level of outright deceit discussed in the previous examples.

RESPONSES OF ORGANIZATIONS AND AGENCIES TO ETHICAL ISSUES IN RESEARCH

In part because of the problems identified with doing research, a number of professional academic organizations have produced codes of ethics designed to serve as guideposts for researchers. For example, the Academy of Criminal Justices Sciences, the American Anthropological Association, American Forklore Society, American Judicature Society, American Political Science Association, American Psychological Association, American Sociological Association (ASA), Australian and New Zealand Society of Criminology, and the British Society of Criminology each has a distinct code of ethics governing research related to criminal justice–related study. There are equally numerous federal organizations and policies that govern ethics in research related to criminal justice, most notably the Department of Health, Education, and Welfare (which drafted the Belmont Report), the *United States Code of Federal Regulations,* and the U.S. Department of Health and Human Services (which issues federal Certificates of Confidentiality). Each state also has distinct policies that govern ethics in human subjects research. For example, the Committee for the Protection of Human Subjects (2008) oversees research pertaining to public data (such as inmates) in California. Further, each research institution, college or university, also has its own ethical guidelines for research. Books could be written cataloguing the various rules governing research ethics and approaches for protecting human research subjects today.

Leedy (1993) provides an excellent summary of the code of ethics of one such organization, the American Sociological Association (ASA):

1. Researchers must maintain scientific objectivity.
2. Researchers should recognize the limitations of their competence and not attempt to engage in research beyond such competence.
3. Every person is entitled to the right of privacy and dignity of treatment.
4. All research should avoid causing personal harm to subjects used in the research.
5. Confidential information provided by a research subject must be held in strict confidentiality by the researcher.
6. Research findings should be presented honestly, without distortion.
7. The researcher must not use the prerogative of a researcher to obtain information for other than professional purposes.
8. The researcher must acknowledge all assistance, collaboration of others, or sources from which information was borrowed from others.
9. The researcher must acknowledge financial support in the research report or any personal relationship of the researcher with the sponsor that may conceivably affect the research findings.
10. The researcher must not accept any favors, grants, or other means of assistance that would violate any of the ethical principles set forth in the above paragraphs (pp. 129–130).

Consider item 1: *Scientific objectivity*. If the researcher is well versed in the scientific method (discussed in Chapter 1), this will certainly facilitate maintaining objectivity. Closely following the different components of the scientific method will not absolutely guarantee that the researcher will maintain objectivity, but doing so will definitely improve the probability for those who want to be objective.

One component of the scientific method calls for the researcher to identify his or her biases and beliefs as early in the research process as possible. Taking this step gives the researcher the opportunity to control for the influence of his or her biases and beliefs. When these personal issues are included in the body of the research, the consumers of the results have the opportunity to make informed interpretations of what has been reported.

The issue of *honest presentation of results,* item 6 in the ASA code, can best be exemplified by the Cyril Burt case discussed above. When researchers present their results in a dishonest manner, as Burt did, they misdirect others who unknowingly use these tainted results as the basis for further research. Researchers often rely on the results of previous work to guide their current endeavors and to break new scientific groundwork laid by other scholars, rather than rehash existing findings (akin to reinventing the wheel). When statistically significant but fraudulent results are reported, they can wrongly influence research that is undertaken to pursue a similar line of thought. This can have costly, long-term, and widespread ramifications for the development and future directions of programs and research. Reporting false results can influence what people in the field believe and thus what textbooks teach, compounding the problem for the future of the discipline.

Federal Agencies

As referenced above, various federal agencies have promulgated ethical policies that include guidelines for research involving human subjects in addition to those developed within academic disciplines. The issues of confidentiality, informed consent, and avoidance of harm to subjects are also found in the *Code of Federal Regulations* today (discussed below); however, a number of past studies were unconcerned with protecting subjects from harm, and some studies actually brought harm to subjects.

Consider the Ohio prison experiments discussed above. Arguably, the prisoner subjects volunteered, and informed consent was obtained. However, one must ask if individuals such as prisoners, who are controlled by the state for extended periods of time, can willingly give their consent. Perhaps these volunteers felt coerced by the prison officials; alternately, perhaps captive volunteers believed that their participation would bring favored status, such as a shortened sentence or improved conditions of confinement. Even if subtle coercion or erroneous belief in some

secondary benefit were not at issue, these subjects were injected with potentially deadly diseases. This would not be permitted under any circumstances according to ethical guidelines today. In the 1950s, however, there were no such restrictions or guidelines for involving prisoners in research. All states now have regulations for the protection prisoners, who are generally considered a vulnerable population in need of additional protection, that would prevent this type of abuse from occurring today.

In 1966, in one of the first federal efforts at ethical regulation, Surgeon General William Stewart issued the Public Health Service (1996) policy that called for institutional review of the research involving human subjects. Since that time, government policies and regulations have shifted from the level of policy to that of federal statute. Correspondingly, the requirements have become both more rigorous and complex. To make matters even more complicated, "the review requirements, which originally applied only to research funded by the Public Health Service, were extended by the National Research Act of 1974 to all research involving human subjects that is conducted at institutions that receive funds for research under the Public Health Services Act" (Gray, 1979).

The *Code of Federal Regulations* specifies ethical guidelines for human subjects in research (46 CFR 45). Part 46, "Protection of Human Subjects," was added to the *Code of Federal Regulations* by the Department of Health and Human Services under Title 45, further delineating the responsibilities of institutions and institutional review boards (IRBs). The updated policy applies to all research involving human subjects that is carried out by federal departments or agencies, their subsidiaries, or institutions subject to their regulation. Research conducted at colleges and universities that receive funds from the federal government is subject to the requirements of this policy.

According to the Department of Health and Human Services (2008), research done at colleges and universities that involves (1) normal educational practices; (2) the use of educational tests; or (3) the study of existing data, documents, and records that are publically available is exempt from standard IRB review and is subject only to an *expedited review.* In this type of review, the chair of the IRB reviews the research proposal to determine whether it fits into one of these categories; if it does, the proposal is approved. The chair of the IRB is then responsible for notifying other board members about the action taken.

Institutions engaging in research that comes under the auspices of the federal code are required to establish IRBs, which have the authority to review and approve all research proposals. The *Code of Federal Regulations* specifies the following criteria for IRB approval of research (46 CFR 45, §46.111):

1. In order to approve research covered by this policy, the IRB shall determine that all of the following requirements are satisfied:
   a. Risks to subjects are minimized: (i) by using procedures that are consistent with sound research design and that do not unnecessarily expose subjects to risk and (ii) whenever appropriate, by using procedures already being performed on the subjects for diagnostic or treatment purposes.
   b. Risks to subjects are reasonable in relation to anticipated benefits, if any, to subjects, and the importance of the knowledge that may reasonably be expected to result. In evaluating risks and benefits, the IRB should consider only those risks and benefits that may result from the research (as distinguished from risks and benefits of therapies subjects would receive even if not participating in the research). The IRB should not consider possible long-range effects of applying knowledge gained in the research (for example, the possible effects of the research on public policy) as among those research risks that fall within the purview of its responsibility.
   c. Selection of subjects is equitable. In making this assessment, the IRB should (i) take into account the purposes of the research and the setting in which the research will be conducted and (ii) be particularly cognizant of the special problems of research involving vulnerable populations, such as children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons.
   d. Informed consent will be sought from each prospective subject or the subject's legally authorized representative, in accordance with, and to the extent required by §46.116.
   e. Informed consent will be appropriately documented, in accordance with, and to the extent required by §46.117.

f. When appropriate, the research plan makes adequate provision for monitoring the data collected to ensure the safety of subjects.
g. When appropriate, there are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of data.

2. When some or all of the subjects are likely to be vulnerable to coercion or undue influence, such as children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons, additional safeguards have been included in the study to protect the rights and welfare of these subjects.

When deemed necessary, IRBs can require that modifications be made in research proposals prior to approval, bringing them in line with these requirements.

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Exercise 2.1 Tearoom Trade

Tearoom Trade

Laud Humphreys

While the agreements resulting in "one-night-stands" occur in many settings—the bath, the street, the public toilet—and may vary greatly in the elaborateness or simplicity of the interaction preceding culmination in the sexual act, their essential feature is the expectation that sex can be had without obligation or commitment.[1]

At shortly after five o'clock on a weekday evening, four men enter a public restroom in the city park. One wears a well-tailored business suit; another wears tennis shoes, shorts, and tee-shirt; the third man is still clad in the khaki uniform of his filling station; the last, a salesman, has loosened his tie and left his sports coat in the car. What has caused these men to leave the company of the homeward-bound commuters on the freeway? What common interest brings these men, with their divergent backgrounds, to this public facility?

They have come here not for the obvious reason, but in a search for "instant sex." Many men—married and unmarried, those with heterosexual identities and those whose self-image is a homosexual one—seek such impersonal sex, shunning involvement, desiring kicks without commitment. Whatever reasons—social, physiological, or psychological—might be postulated for this search, the phenomenon of impersonal sex persists as a widespread but rarely studied form of human interaction.

There are several settings for this type of deviant activity—the balconies of movie theaters, automobiles, behind bushes—but few offer the advantages for these men that public restrooms provide. "Tearooms," as these facilities are called in the language of the homosexual subculture,[2] have several characteristics that make them attractive as locales for sexual encounters without involvement.

According to its most precise meaning in the argot, the only "true" tearoom is one that gains a reputation as a place where homosexual encounters occur. Presumably, any restroom could qualify for this distinction, but comparatively few are singled out for this function at any one time. For instance, I have researched a metropolitan area with more than ninety public toilets in its parks, only twenty of which are in regular use as locales for sexual games. Restrooms thus designated join the company of automobiles and bathhouses as places for deviant sexual activity second only to private bedrooms in popularity.[3] During certain seasons of the year—roughly, that period from April through October that midwestern homosexuals call "the hunting season"—tearooms may surpass any other locale of homoerotic enterprise in volume of activity.

Public restrooms are chosen by those who want homoerotic activity without commitment for a number of reasons. *They are accessible, easily recognized by the initiate, and provide little public visibility.* Tearooms thus offer the advantages of both public and private settings. They are available and recognizable enough to attract a large volume of potential sexual partners, providing an opportunity for rapid action with a variety of men. When added to the relative privacy of these settings, such features enhance the impersonality of the sheltered interaction.

AVAILABILITY

In the first place, tearooms are readily accessible to the male population. They may be located in any sort of public gathering place: department stores, bus stations, libraries, hotels, YMCAs, or courthouses. In keeping with the drive-in craze of American society, however, the more popular facilities are those readily accessible to the roadways. The restrooms of public parks and beaches—and, more recently, the rest stops set at programmed intervals along superhighways—are now attracting the clientele that, in a more pedestrian age, frequented great buildings of the inner cities. . . . [M]y research is focused on the activity that takes place in the restrooms of public parks, not only because (with some seasonal variation) they provide the most action but also because of other factors that make them suitable for sociological study.

It is a function of some societies to make these facilities for elimination available to the public. Perhaps the public toilet is one of the marks of "civilization," at least as perceived by European and post-European culture. I recall a letter from a sailor stationed in North Africa during World War II in which he called the people "uncivilized" because they had no public restrooms and used streets and gutters for the purpose of elimination.

For the cultural historian, American park restrooms merit study as physical traces of modern civilization. The older ones are often appended to pavilions or concealed beneath the paving of graceful colonnades. One marble-lined room in which I have done research occupies half of a Greek temple-like structure, a building of beautiful lines and proportions. A second type, built before the Great Depression, are the toilet facilities located in park administration buildings, maintenance shops, or garages. For the most part, these lack the artistic qualities of the first type. Partly because they are not accessible from the roads and partly because they are too easily approached by supervisory personnel and other interfering "straights," these restrooms enjoy homosexual popularity only during the months when other outlets are closed.

With the depression of the 1930s a new variety of public toilet appeared on the park scene. Ten of the twelve tearooms in which I made systematic observations . . . were of this category. Although the floor plans and building materials used vary from city to city, the majority of restrooms I have seen were

constructed during this period. These have been built by the Work Projects Administration and, in any one community, seem to have been stamped from the same die. In the city where most of my research took place, they are constructed of a native white stone with men's and women's facilities back-to-back under one red roof. They have heavy wooden doors, usually screened from public view by a latticework partition attached to the building's exterior. In most of these doors, there is an inset of opaque French panes.

Each of the toilet facilities in the building has two windows in the same opaque glass, situated at either side of the room. The outside of these apertures is always covered with heavy screen. Against the blank wall opposite the door, there are (from left to right) three urinals and two stalls, although smaller restrooms may provide only two urinals and one stall. Some of the facilities still have washbasins intact, situated in the corner to the left as one enters the door, but few of these are in working order. There is an occasional wastebasket. Paper towels are seldom provided, and there are no other furnishings in the rooms.

Few park restrooms date back to the 1940s, when the nation was concerned with building those other major outlets for homosexual activity, the military posts. Apparently, most public construction in the 1950s was connected with the rush to provide more athletic facilities—swimming pools, golf courses, skating rinks, and the like.

The past decade has witnessed the construction of new, functional, cement-block facilities. Most of these structures are located along the expressways, but a number are appearing in the parks and playgrounds of our cities. These relief stations may be viewed as an expression of the current interest in urban planning; some replace buildings no longer fit for use; others are located on the newly created urban playgrounds; and the bulk accompany the nation's answer to problems of mass transportation. However, one may interpret the new construction as a reflection of the course of American history, it should be a boon to the tearoom customers. Most of the newly built restrooms are isolated structures with ready access to the roads and thus meet the primary requisites of tearoom activity.

According to some older respondents, the real turning point for the tearoom trade arrived with the WPA. One man, who has been active in the homosexual subculture for more than forty years, put it this way:

> I suppose there has been such activity since the intervention of plumbing. I first started out in one of those pavilion places. But the real fun began during the depression. There were all those new buildings, easy to reach, and the automobile was really getting popular about then. . . . Suddenly, it just seemed like half of the men in town met in the tearooms.

Not all of the new buildings were easy to reach, but those that were soon found popularity for homosexual activity. Tearoom ecology, like that of society at large, is highly affected by the location of transportation routes. Whether by accident or design, most large city parks are located close to major thoroughfares and freeways. Because the activity in the tearooms reaches its peak at the close of the workday, restrooms will draw more customers if located near principal commuting routes of the metropolitan area. The two facilities that I found to attract the greatest numbers for homosexual relations were adjacent to four-lane traffic arteries. All others in which any noteworthy amount of activity was observed were located within five minutes' driving time on the expressways that circle and cross the city.

LOCATING THE ACTION

There is a great deal of difference in the volumes of homosexual activity that these accommodations shelter. In some, one might wait for months before observing a deviant act (unless solitary masturbation is considered deviant). In others, the volume approaches orgiastic dimensions. One summer afternoon, for instance, I witnessed twenty acts of fellatio in the course of an hour while waiting out a thunderstorm in a tearoom. For one who wishes to participate in (or study) such activity, the primary consideration is one of finding where the action is.

Occasionally, tips about the more active places may be gained from unexpected sources. Early in my research, I was approached by a man (whom I later surmised to be a park patrolman in plain clothes) while waiting at the window of a tearoom for some patrons to arrive. After finishing his business at the urinal and exchanging some remarks about the weather (it had been raining), the man came abruptly to the point: "Look, fellow, if you're looking for sex, this isn't the place. We're clamping down on this park because of trouble with the niggers. Try the john at the northeast corner of [Reagan] Park. You'll find plenty of action there." He was right. Some of my best observations were made at the spot he recommended. In most cases, however, I could only enter, wait, and watch—a method that was costly in both time and gasoline. After surveying a couple of dozen such rooms in this way, however, I became able to identify the more popular tearooms by observing certain physical evidence, the most obvious of which is the location of the facility. During the warm seasons, those restrooms that are isolated from other park facilities, such as administration buildings, shops, tennis courts, playgrounds, and picnic areas, are the more popular for deviant activity. The most active tearooms studied were all isolated from recreational areas, cut off by drives or lakes from baseball diamonds and picnic tables.

I have chosen the term "purlieu" (with its ancient meaning of land severed from a royal forest by perambulation) to describe the immediate environs best suited to the tearoom trade. Drives and walks that separate a public toilet from the rest of the park are almost certain guides to deviant sex. The ideal setting for homosexual activity is a tearoom situated on an island of grass, with roads close by on every side. The getaway car is just a few steps away; children are not apt to wander over from the playground; no one can surprise the participants by walking in from the woods or from over a hill; it is not likely that straight people will stop there at all. According to my observations, the women's side of these buildings is seldom used at all.

Active tearooms are also identifiable by the number of automobiles parked nearby. If two or more cars remain in front of a relatively isolated restroom for more than ten minutes, one may be reasonably certain that homosexual activity is in progress inside. This sign that the sexual market is in operation is an important one to the participants, who seldom enter a park restroom unless the presence of other unoccupied cars indicates that potential partners are inside. A lone arriver will usually wait in his auto until at least one other has parked nearby. That this signal is obscured when a golf course, zoo, or other facility that draws automobiles is located in close proximity may help explain the popularity of the isolated restroom.

Another means of recognizing the active tearoom requires closer inspection. Here, I refer to the condition of the windows and doors. Men who play the tearoom game must be able to know when someone is approaching. A door that squeaks or sticks is of great assistance; however, the condition of the windows is even more important. If they are of opaque glass, are nailed shut, or have no broken panes, the researcher may presume that the facility is seldom used for homosexual encounters.

In a western city, I have observed an exception to this rule. One of the popular meeting places, there was a restroom located beneath the pavement of a colonnade. There were vents but no windows. The only access to this tearoom, however, was by means of a circular, metal stairway, and clanging footfalls could be heard well before the intruder was far enough down to see into the room. Normally, popular tearooms have at least one pane broken from each window, unless the windows have been opened. Fragments of glass that remain between the window frame and an outside screen are indicative of destruction that was initiated from within the restroom rather than by outside vandals. As [one] account of a teen-age attack . . . indicates, occasional damage to the buildings comes from outside. But one of the first acts of participants after the spring opening or renovation of a facility is to break out a few carefully selected panes so that insiders can see who is approaching.

Graffiti were expected to provide some indication of restroom usage for deviant activity. On the basis of quantity alone, however, inscriptions vary most directly with the time since the latest repainting or cleansing of the walls or with the type of wall covering used. There also seems to be a relationship between the quantity of such markings and the neighborhood in which the facility is situated. Restrooms in lower class and commercial neighborhoods or close to schools tend to invite more of such writings than those in middle class or residential areas.

The *type* of graffiti found does correlate with use of the room for homosexual purposes. In the more active tearooms, I have often noticed inscriptions such as "show hard—get sucked," "will suck cocks—10/12/66—all morning," or "I have eight inches—who wants it?" One respondent says that the presence of recent markings such as these reassures him that he has come to the right place for action. Active homosexual locales are conspicuously lacking in initials, sketches of nude females, poetry, and certain of the classic four-letter words. Writings on the walls of the true tearooms are straightforward, functional messages, lacking the fantasy content of the graffiti in most men's rooms. Moreover, this research suggests that involvement in homosexual encounters may preclude the leisure time necessary for some of the more creative types of graffiti production.

Volume and Variety

The availability of facilities they can recognize attracts a great number of men who wish, for whatever reason, to engage in impersonal homoerotic activity. Simple observation is enough to guide these participants, the researcher, and perhaps, the police to active tearooms. It is much more difficult to make an accurate appraisal of the proportion of the male population who engage in such activity over a representative length of time. Even with good sampling procedures, a large staff of assistances would be needed to make the observations necessary for an adequate census of this mobile population.[4] All that may be said with some degree of certainty is that the percentage of the male population who participate in tearoom sex in the United States is somewhat less than the 16 percent of the adult white male population Kinsey found to have "at least as much of the homosexual as the heterosexual in their histories."[5]

Participants assure me that it is not uncommon in tearooms for one man to fellate as many as ten others in a day. I have personally watched a fellator take on three men in succession in a half hour of observation. One respondent, who has cooperated with the researcher in a number of taped interviews, claims to average three men each day during the busy seasons.

I have seen some wait in turn for this type of service. Leaving one such scene on a warm September Saturday, I remarked to a man who left close behind me: "Kind of crowded in there, isn't it?" "Hell, yes," he answered. "It's getting so you have to take a number and wait in line in these places!"

There are many who frequent the same facility repeatedly. Men will come to be known as regular, even daily, participants, stopping off at the same tearoom on the way to or from work. One physician in his late fifties was so punctual in his appearance at a particular restroom that I began to look forward to our daily chats. This robust, affable respondent said he had stopped at this tearoom every evening of the week (except Wednesday, his day off) for years "for a blow-job." Another respondent, a salesman whose schedule is flexible, may "make the scene" more than once a day—usually at his favorite men's room. At the time of our formal interview, this man claimed to have had four orgasms in the past twenty-four hours.

According to participants I have interviewed, those who are looking for impersonal sex in tearooms are relatively certain of finding the sort of partner they want. . . .

> You go into the tearoom. You can pick some really nice things in there. Again, it is a matter of sex real quick; and, if like this kind, fine—you've got it. You get one and he is done and before long, you've got another one.

. . . and when they want it:

> Well, I go there; and you can always find someone to suck your cock, morning, noon, or night. I know lots of guys who stop by there on their way to work—and all during the day.

It is this sort of volume and variety that keeps the tearooms viable as market places of the one-night-stand variety.

Of the bar crowd in gay (homosexual) society, only a small percentage would be found in park restrooms. But this more overt, gay bar clientele constitutes a minor part of those in any American city who follow a predominantly homosexual pattern. The so-called closet queens and other types of covert deviants make up the vast majority of those who engage in homosexual acts—and these are the persons most attracted to tearoom encounters.

Tearooms are popular, not because they serve as gathering places for homosexuals but because they attract a variety of men, a *minority* of whom are active in the homosexual subculture. When we consider the types of participants, it will be seen that a large group of them have no homosexual self-identity. For various reasons, they do not want to be seen with those who might be identified as such or to become involved with them on a "social" basis.

Privacy in Public

I have mentioned that one of the distinguishing traits of an active tearoom is its isolation from other facilities in a park. The addition of four picnic tables close to a once popular restroom all but eliminated that facility for research purposes. This portion of a tape, made as I toured the parks in search of action one April Sunday, is indicative of this ecological pattern:

> This [park] is really dead! The tremendous volume of picnickers in all of the parks. . . . It seems like every family in the city is out today. It is a beautiful day, very warm, very pleasant. And everyone is out with their children. . . . The one facility in this park, which is most active consistently, is just completely surrounded by picnickers, and this would kill any gay activity. . . .

At this stage in the development of American culture, at least, some sort of privacy is requisite for sex. Whether deviant or "normal," sexual activity demands a degree of seclusion. Even orgies, I am told, require darkness or a minimum of light. When, as is the case with fellatio, the form of sexual engagement is prohibited, privacy decreases risk and is even more valued.

This constitutes a dilemma for those who would engage in impersonal sex of this type: how to find a setting that is accessible and identifiable, that will provide the necessary volume and variety of participants, while preserving at least a minimum of privacy? The trysting place must not be too available for the undesired. It must not be identifiable by the uninitiated. The potential participant passing by should be able to perceive what is taking place inside, while those playing baseball across the way should remain ignorant of the sexual game behind tearoom walls.

Ecological factors, the tearoom purlieu, that separate these facilities from other activity in the public park, have already been discussed. The presence of walls and stalls and opaque windows also help preserve the needed privacy. But there is another aspect of the tearoom encounters that is crucial to the maintenance of privacy in public settings. I refer to the silence of the interaction.

Throughout most homosexual encounters in public restrooms, nothing is spoken. One may spend many hours in these buildings and witness dozens of sexual acts without hearing a word. Of fifty encounters on which I made extensive notes,[6] only fifteen included vocal utterances. The fifteen instances of

speech break down as follows: Two were encounters in which I sought to ease the strain of legitimizing myself as lookout by saying, "You go ahead—I'll watch." Four were whispered remarks between sexual partners, such as, "Not so hard!" or "Thanks." One was an exchange of greetings between friends. The other eight verbal exchanges were in full voice and more extensive, but they reflected an attendant circumstances that was exceptional. When a group of us were locked in a restroom and attacked by several youths, we spoke for defense and out of fear. . . . This event ruptured the reserve among us and resulted in a series of conversations among those who shared this adventure for several days afterward. Gradually, this sudden unity subsided, and the encounters drifted back into silence.

Barring such unusual events, an occasionally whispered "thanks" at the conclusion of the act constitutes the bulk of even whispered communication. At first, I presumed that speech was avoided for fear of incrimination. The excuse that intentions have been misunderstood is much weaker when those proposals are expressed in words rather than signaled by body movements. As research progressed, however, it became evident that the privacy of silent interaction accomplishes much more than mere defense against exposure to a hostile world. Even when a careful lookout is maintaining the boundaries of an encounter against intrusion, the sexual participants tend to be silent. The mechanism of silence goes beyond satisfying the demand for privacy. Like all other characteristics of the tearoom setting, it serves to guarantee anonymity, to assure the impersonality of the sexual liaison.

Tearoom sex is distinctly less personal than any other form of sexual activity, with the single exception of solitary masturbation. . . . For now, let me indicate only what I mean by "less personal" is simply that there is less emotional and physical involvement in restroom fellatio—less, even, than in the furtive action that takes place in autos and behind bushes. In those instances, at least, there is generally some verbal involvement. Often, in tearoom stalls, the only portions of the players' bodies that touch are the mouth of the insertee and the penis of the inserter; and the mouths of these partners seldom open for speech.

Only a public place, such as a park restroom, could provide the lack of personal involvement in sex that certain men desire. The setting fosters the necessary turnover in participants by its accessibility and visibility to the "right" men. In these public settings, too, there exists a sort of democracy that is endemic to impersonal sex. Men of all racial, social, educational, and physical characteristics meet in these places for sexual union. With the lack of involvement, personal preferences tend to be minimized.

If a person is going to entangle his body with another's in bed—or allow his mind to become involved with another mind—he will have certain standards of appearance, cleanliness, personality, or age that the prospective partner must meet. Age, looks, and other external variables are germane to the sexual action. As the amount of anticipated contact of body and mind in the sex act decreases, so do the standards expected of the partner. As one respondent told me:

> I got to bed with gay people, too. But if I am going to bed with a gay person, I have certain standards that I prefer them to meet. And, in the tearooms, you don't have to worry about these things—because it is just a purely one-sided affair.

Participants may develop strong attachments to the settings of their adventures in impersonal sex. I have noted more than once that these men seem to acquire stronger sentimental attachments to the buildings in which they meet for sex than to the persons with whom they engage in it. One respondent tells the following story of his roommate's devotion to a particular restroom:

> We had been discussing the relative merits of various facilities, when I asked him: "Do you remember that old tearoom across from the park garage—the one they tore down last winter?"
>
> Do I ever! That was the greatest place in the park. Do you know what my roommate did last Christmas, after they tore the place down? He took a wreath, sprayed it with black paint, and laid it on top of the snow—right where that corner stall had stood. . . . He was really broken up!

The walls and fixtures of these public facilities are provided by society at large, but much remains for the participants to provide for themselves. Silence in these settings is the product of years of interaction. It is a normative response to the demand for privacy without involvement, a rule that has been developed and taught. Except for solitary masturbation, sex necessitates joint action; and impersonal sex requires that this interaction be as unrevealing as possible. In a number of ways, the structure of tearoom encounters has been developed, refined, and communicated. The primary task of this book is to describe for the reader the social structure of impersonal sex, the mechanisms that make it possible.

How, then, does such an operation work? What rules govern it? What roles may people play in it? What sort of ritual sustains the action? What are the risks—to players and others—of such activity? What kinds of people find the tearooms inviting for sexual experience, and how do they relate this behavior to the rest of their lives? These questions remain to be answered; but, before I can reply to them, it is important for the reader to know how I found these answers. Answers become clear only when we are aware what questions were asked and how conclusions were reached.

NOTES

1. Evelyn Hooker, "Male Homosexuals and Their 'Worlds'," in Judd Marmor, ed., *Sexual Inversion* (New York: Basic Books, 1965), p. 97.
2. Like most other words in the homosexual vocabulary, the origin of *tearoom* is unknown. British slang has used "tea" to denote "urine." Another British usage is as a verb, meaning "to engage with, encounter, go in against." See John S. Farmer and W. E. Henley, *A Dictionary of Slang and Colloquial English* (London: George Rutledge & Sons, 1921).
3. It is not possible to know how many sexual acts are performed in the various types of settings. Writers on the homosexual subculture agree, in general, on the relative popularity of these locales. For general surveys of the homosexual scene, see especially Evelyn Hooker, "The Homosexual Community," in *Personality Research* (Copenhagen: Monksgaard, 1962), pp. 40–59; and Maurice Leznoff and William A. Westley, "The Homosexual Community," *Social Problems,* Vol. 3, No. 4 (April, 1965), pp. 257–263.
4. By estimating (a) the average daily frequency of sex acts in each of twenty restrooms observed and (b) the average number of automobiles suspected of having been parked by participants near restrooms in five different parks, I have concluded that approximately 5 percent of the adult male population of the metropolitan area under study are involved in these encounters in a year's time. The imprecision of the methods used in obtaining this "guesstimate" does not warrant elaboration.
5. Alfred C. Kinsey and others, *Sexual Behavior in the Human Male* (Philadelphia: Saunders, 1948), pp. 650–651. See also William Simon and John H. Gagnon, "Homosexuality: The Formulation of a Sociological Perspective," *Journal of Health and Social Behavior,* Vol. 8, No. 3 (September, 1967), p. 180: "About one half [of the male homosexuals studied] reported that sixty percent or more of their sexual partners were persons with whom they had sex only one time. Between ten and twenty percent report that they often picked up their sexual partners in public terminals, and an even larger proportion reported similar contacts in other public or semipublic locations."
6. Although I made fifty systematic observations of tearoom encounters, fifty-three acts of fellatio were observed at those times. The sexual acts sometimes occur in such rapid succession that it is impossible to report them as involving separate encounters.

Application Exercise 2.1

Name of Student:_____

Student ID No.:_____

Course/Section No.:_____

Date:_____

1. *Tearoom Trade* (1970) is one of the most notorious studies in deviance, and it is widely read by scholars in the fields of sociology and criminology. Why do you think this article has garnered so much sustained attention in the near 40 years since Humphreys's published his work?

2. What is the most egregious ethical violation in this work? Justify your answer.

3. What are the potential social benefits of this study, if any?

4. Are the ethical breaches in this study worth the potential benefits of the findings? Justify your answer.

5. If you were charged with revising Humphreys's protocol such that it met with IRB approval, what three changes would you make?

Exercise 2.2 Informed Consent

Institutional Review Boards: Virtue Machines or Villains?

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INTRODUCTION

One hundred years from now the advances in contemporary social science will be history. The most controversial chapters in written accounts of this history, no doubt, will be those that describe ethical, methodological, and political issues surrounding the research enterprise. As controversial as these chapters may continue to be in the future, they hold a singular advantage over writing on these subjects today: they will be in the past not the present and consequently dispassionate. Issues such as ethical conduct, methodological deceptions, and the politics of research currently invoke extreme passion from social scientists. Interestingly, these passions run equally high among politicians who would see social scientific research regulated as strenuously as the Food and Drug Administration regulates new medicines.

This article examines the history of institutional review boards (IRBs), and the way present day IRBs may be impacting the nature and quality of research in the social sciences.

RESEARCH REGULATIONS

The history of regulations, statutes, and research guidelines is largely of recent origin. They have been primarily invoked by biomedical and psycho-experimental research, and only secondarily understood through the natural history of the social sciences (Olesen, 1979; Chambers, 1980). This statement is not by any means suggesting that social sciences are exempt from their share of exploitive studies. For example, Stanley Milgram's (1963) experiment on authority and following orders, and Laud Humphreys's (1970) study of public sexuality, may also exemplify social scientific indiscretions.

Milgram (1963) was interested in learning about human tendencies to obey authority figures. In order to observe this phenomenon, he told voluntary subjects that they were going to assist in teaching another volunteer a simple word association task. This explanation, however, was a deception, and the "other volunteer" was really one of Millgram's confederates. The subject/teacher was instructed by Milgram to administer an electric shock to the learner (the research confederate) whenever the learner made a mistake. The subject/teacher was told that this electric shock was intended to facilitate learning and should be increased in intensity progressively with each error. Many of the subjects obediently advanced the shock levels to potentially lethal levels.

Actually, the supposed learner felt no electricity at all. Instead, each time the subject/teacher administered a shock, a signal indicated that the learner should react as if shocked. The performance by the learner was sufficient to convince the subject/teachers that they were being electronically shocked and aroused considerable emotional anguish in these subjects.

The other example, Laud Humphreys's (1970) study of casual sexual encounters in public places, has been the focus of considerable ethical debate since its publication. Humphreys was interested in gaining an understanding not only about practicing homosexuals, but also about non-homosexuals who briefly engaged in intimate same gender sexual encounters. In addition to observing encounters in public toilets (tearooms), Humphreys developed a way to gain access to detailed information about subjects he had covertly observed.

While serving as a "watch queen" (a voyeuristic lookout), Humphreys was able both to observe the various encounters and to also catch a glimpse of participants' car licenses. Once Humphreys had license plate numbers, he could locate home addresses of the tearoom participants through the Department of Motor Vehicles. Next, he disguised himself and deceived these men into believing that he was conducting a survey in the neighborhood. The result was that Humphreys was able to collect considerable amounts of information on each of the participants he had observed engaging in public sexual encounters.

Shortly after publication of Humphreys's work in 1970, there was considerable outcry against invasions of privacy, misrepresentation of researcher identities, and deception commonly being practiced during the course of research. Many issues arising out of Humphreys's research continue to serve as fodder for ethical debate. Especially critical among these are the justifications that the subject matter was of significant importance to the scientific community, and that it could not have been investigated in any other manner but through covert strategies.

The blurring of distinctions between biomedical research and that of social scientific inquiry has resulted in official regulations being tilted toward an image of experimental research. In part, this results from the origins of official regulations. For example, it is fairly well established that the context in which federal regulations originated was significantly influenced by the Nuremberg Code (Bower and de Gasparis, 1978; Olesen, 1979). This code emerged after the infamous Nuremberg trials where Nazi scientists were held to account for their inhumane behavior during World War II. The Nuremberg Code became the foundation for

the "Declaration of Helsinki" adopted by the World Health Organization in 1964, and the "Ethical Guidelines for Clinical Investigation" adopted by the American Medical Association in 1966.

It was also in 1966 that the Surgeon General issued what may have been the first official rules concerning all Public Health Service research. This statement specified that any research financially supported by the Public Health Service was contingent upon an institutional review committee. The committee was charged with the responsibility of assuring that any research procedures would not harm human subjects and that subjects were informed of any potential risks (and benefits) from their participation. In essence, the institutional review board for research was born.

Several revisions of this general policy occurred throughout the late 1960s, and finally, in 1971 the Department of Health, Education, and Welfare (DHEW) published a booklet entitled "The Institutional Guide to DHEW Policy on Protection of Human Subjects." This booklet extended the review requirements to all DHEW grant and contract activities involving human subjects—including "non-medical" and "nonexperimental" studies. The booklet also spelled out the requirement of obtaining "informed consent" from subjects before including them in research projects.

In 1974, the National Research Act was passed by Congress, and the National Commission on Protection of Human Subjects of Biomedical and Behavioral Research was created by Title II of this law. The National Research Act directed all institutions that sponsored research to establish institutional review committees. Today, these committees are more commonly called Institutional Review Boards, or simply IRBs.

IRBs and Their Duties

Among the most important factors effected by the DHEW regulations are those regarding the establishment of locally appointed Institutional Review Boards and the requirements for obtaining written informed consent from research subjects. Both of these requirements have drawn heavy critical fire from social scientists (Meyer, 1977; Gray, 1977; Fields, 1978). Qualitative researchers, especially those involved in ethnographic research, have been particularly vocal. Their concerns often pertain to the way formal requirements for institutional review and written informed consent damages their special fieldworker/informant relationships (Wax, 1977; Cassell, 1978).

The National Commission for the Protection of Human Subjects, created by the National Research Act of 1974, has reviewed their own guidelines (DHEW, 1978) and offered revisions (*Federal Register,* 1978). These revisions are more specific about the role that the IRB should play. For example, the *Federal Register* points out that board members may be liable for legal action if they exceed their authority and interfere with the investigator's *right* to conduct research. These revised guidelines also recommend that the requirement for written informed consent could be waived for certain types of *low risk styles of research.* Unfortunately, the guidelines remained nonspecific in identifying the characteristics endemic to ethnographic research which might qualify for exceptions.

Because their research procedures are more formalized and require contacts with subjects, the more limited and predictable characteristics of quantitative methodologies are generally simpler to define. As a result, the specific exemptions or styles of research that can be expedited through IRBs largely are quantitative survey types, observation in public places, research involving educational tests (diagnostic, aptitude, or achievement), and archival research (*The Belmont Report,* 1978).

Clarifying the Role of IRBs

Initially, IRBs were charged with the responsibility of reviewing the adequacy of consent procedures for the protection of human subjects in research funded by the U.S. Department of Health, Education, and Welfare (DHEW). This mandate was soon broadened to include a review of all research conducted in an institution receiving any funds from DHEW—even when the study itself did not (Burstein, 1987; *Code of Federal Regulations, 45 CFR 46,* 1989).

As part of the IRB's review duties, they were to assure that subjects in research studies were advised both of their potential risks from participation, and possible benefits. This task seems to have evolved among some IRBs to become an assessment of risk to benefit ratios of proposed studies. In some cases, this is based upon the IRB's impression of the *worth* of the study. In other cases, this may be based upon the IRB's presumed greater knowledge of the subject and methodological strategies then potential subjects are likely to possess (Burnstein, 1987). Thus, in many cases, IRBs, and not subjects, predetermine whether the subject will even have the option of participating or declining participation in a study.

Today, many IRBs have further extended their purview to include evaluation of methodological strategies, not, as one might expect, as these methods pertain to human subject risks but in terms of the project's methodological adequacy. The justification for this apparently being that even where minimum risks exist, if a study is designed too poorly, it will not yield any scientific benefit.

Several problems immediately surface when one considers the original intent of IRBs and their current practices. These include the question of informed consent; the calculation of risk benefit; and what and who decides when a research design is *good* (Burstein, 1987). Further complicating issues is the fact that these actually are three overlapping questions, often weaved together as one.

Informed Consent

What proper informed consent involves according to Federal regulations, and how an IRB interprets this requirement, may differ. According to the *Code of Federal Regulations* (*45 CFR 46,* 1989), "General Requirements for Informed Consent" include the following:

> Except as provided elsewhere in this or other sub-parts, no investigator may involve a human being as a subject in research covered by these regulations unless the investigator has obtained the legally effective informed consent of the subject or the subject's legally authorized representative.

This general requirement specifies a number of recommended inclusions, such as a statement about what the study involves; a description of any reasonable and foreseeable risks or discomforts to the subject; a description of any benefits afforded to the subject; and disclosure of any possible alternative treatments, if any apply, that might be advantageous to the subject. Other suggested criteria include a statement addressing confidentiality of records identifying the subjects; explanations about any medical treatments that may be available if injury occurs in the course of the research; information about who the subject can contact in the event he or she is so injured; and a statement that the individual understands his or her participation is voluntary.

The general requirements, however, also provide for exceptions and alterations to some of these inclusions. Section C (*Code of Federal Regulations, 45 CFR 46*, 1989:10) reads:

> 6(c) An IRB may approve a consent procedure which does not include, or which alters, some or all of the elements of informed consent set forth above, or waive the requirement to obtain informed consent set forth above, or waive the requirement to obtain informed consent. . . .
>
> The policy outlines situations acceptable for waivers or alterations to usual requirements for informed consent (*Code of Federal Regulations, 45 CFR 46*, 1989:10):
>
> 1. The research involves no more than minimal risk to the subjects;
> 2. The waiver or alteration will not adversely affect the rights and welfare of the subjects;
> 3. The research could not practicably be carried out without the waiver or alteration; and
> 4. Whenever appropriate, the subjects will be provided with additional pertinent information after participation.

Thus, in many cases, researchers may entirely avoid the necessity for a signed written consent form. The decision rests largely in the hands of the IRB members and the ability of the researcher to convince these members that a waiver is warranted.

Risk/Benefit Concerns

The question of level of risk to participants is likewise vague and ambiguous. While the language of the federal regulations remains largely directed toward medical and biomedical risks to subjects, its auspice blankets the social sciences as well. In this regard, psychological risks often seem to loom large. Again, there are instances where this may be fairly clear-cut, but there are likely greater instances where this potential risk is simply unpredictable. Consider, for example, Philip Zimbardo's study of a mock prison (Zimbardo, 1972; Haney, Banks, and Zimbardo, 1973). Zimbardo hypothesized that the conditions of prison as a social setting—and not the personalities of the people involved—are the major cause of prison violence.

Zimbardo placed twenty-four male college student volunteers in a mock prison. The men had agreed to take part in this two-week-long experiment for a daily payment of $15.00. All twenty-four men had been screened to assure they were exceptionally physically and psychologically healthy. Half of these men were randomly assigned as guards, and half as prisoners.

Designated "prisoners" were arrested in their homes—without warning—by the Palo Alto police. After being fingerprinted and photographed at the police station, prisoners were taken in handcuffs to the Stanford County Prison on campus. Conversely, guards were given an orientation, where they were warned about the dangers of prison work. Guards were also admonished to keep the prison secure at all times. Zimbardo and his team of researchers now waited to see what would happen.

What happened next was entirely unforeseen by anyone. Within hours, the two groups had begun taking their *roles* very seriously. Both groups began to act much like stereotypical guards and inmates—both groups rapidly put aside all they had ever learned about appropriate behavior and human decency. Guards showed increasing hostility and even brutality toward prisoners, including forcing prisoners to engage in humiliating tasks such as cleaning toilet bowls with their bare hands.

Prisoners similarly began to act-out as inmates. Within the first five days of the experiment five prisoners had to be removed from the study because they began showing signs of "extreme emotional depression,

crying, rage and acute anxiety" (Haney, Banks, and Zimbardo, 1973, p. 81). Before the end of the first week, and with the threat of a possible jailbreak, the experiment had to be canceled.

The Zimbardo study is often discussed regarding the ethical conduct of research. Yet, even had the regulations for informed consent been in place (the study predated the 1974 appearance of the National Research Act), and followed meticulously, problems still would have surfaced. No one ever suspected the magnitude of the effect this experience would have on subjects. It would have been impossible for an IRB to accurately predict the psychological risk and subsequent psychological and emotional harm to subjects.

Although speculative at this point, it is likely that most universities simply appoint a group of faculty to their IRBs for some unspecified time frame. The underlying assumption here is that, as university faculty, they should be automatically qualified to serve in such a capacity. Unfortunately, the assumption that because a faculty member has managed to secure work in a university setting he or she is the best choice for an IRB is unacceptable if not naive. IRB members are expected to serve as gatekeepers of virtuous research. At minimum, then, each member should have experience that includes serving as the principal investigator on a study involving human subjects. Ideally, universities should strive to have IRB membership reflect a diversity of researchers. Experience from physical and social science disciplines, and we would hope, given the relationships between subjects and investigators, ethnographers also would be represented. Furthermore, membership should require ratification by other members of the university community, and not merely reflect an administrative appointment. Finally, membership should be for a specified time period, to allow attitudes and prevailing viewpoints on the board to change over time.

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Application Exercise 2.2

Name of Student:_____

Student ID No.:_____

Course/Section No.:_____

Date:_____

1. You have been hired by a leading university to create guidelines for membership on their institutional review board (IRB). The university is particularly interested in directing your attention toward several areas. Please address the following questions with this in mind:
   a. What background should IRB members be required to have?

   b. Should IRB members be appointed by the university administration or elected by the faculty? Justify your answer.

   c. Should IRB membership be set as a specific term or duration? Should members be eligible for re-election or reappointment? Justify your answer.

   d. What sorts of research, if any, should be exempt from review? Justify your answer.

2. You are a member of an IRB at a leading university. The following study has been presented for your review:

   This research will involve a study of elementary aged children whose parent is incarcerated. The sample of children will be randomly assigned to two groups. One group will be instructed in a course designed to reinforce prosocial values (including both obedience of the law and love of parents); this instrument has been pilot tested and is deemed reliable and valid with regard to increasing student identification with prosocial norms. The other group will not receive any special training. The students who received training are expected to increase their identification with prosocial values by the end of the course, and the students who did not receive special instruction are not expected to improve in this regard.

   a. What are some of the ethical problems presented by this research plan?

b. How might each of these ethical problems be avoided or eliminated?

3. You are a researcher who has currently studied marijuana growers. As part of your study, you interviewed 50 large-scale marijuana farmers. Although you conducted these interviews in numerous locations, some of them contain various pieces of identifying information, such as the names of seed suppliers, other marijuana farmers, and various midlevel dealers. Somehow, the local police department has learned about your research and asked you to turn over your tapes of the interviews.
   a. Will you refuse to release this information and risk going to jail? Explain your answer.

   b. What could you have done to better ensure the confidentiality of your findings?