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Ethical Issues in Discovering Criminal Behavior during Interviews

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Abstract

As part of an interview, a researcher hears about some potential illegal activity that could cause public harm. Does he have an obligation to report this information to the police?

Body

After spending more than a year building rapport and confidence with members of a rural American right-wing paramilitary group, Dr. Elias Barnes is currently conducting ethnographic research, observing and interviewing its members. During the study, he has participated in several militia “war games”-style training exercises and other opportunities for observation, and has also conducted semi-structured interviews with members of the group. In keeping with the guidelines of the human subject’s research protocol approved by his institution’s IRB, Barnes has been careful not to solicit potentially incriminating information from the participants in his study, both in his interviews and in his informal interactions with members of the group. Indeed, in discussing informed consent with his participants, Barnes has explicitly indicated that he will not seek information that could be incriminating or harmful to participants’ standing in the community. This seemed particularly important, given the movement members’ inflammatory anti-government rhetoric

and resistance to governmental regulation.

In the course of an audio taped interview, however, a prominent member of the group reveals that he owns about a half-dozen “off-book” (i.e., unregistered or illegally-acquired), but commonly owned, firearms: some pistols and civilian versions of military rifles. Furthermore, he hints that he has (illegally) converted one or more of these guns to fire in a fully automatic mode.

Questions

1. Should Barnes report this illegal activity to law enforcement? Why?
2. What is the threshold of potential risk to public welfare necessary to compel Barnes to break confidentiality and report this individual? Would reporting these weapons create unacceptable risks to the researcher?
3. If these weapons were to be used for criminal activity, should Barnes be held legally accountable? Morally or ethically accountable? Are there tensions between his legal and ethical responsibilities?
4. Is there anything Barnes should have done prior to the study to anticipate and prevent this contingency?
5. Can Barnes publish this participant’s revelation? Would doing so oblige Barnes to take additional steps to protect his participant?
6. How should Barnes respond if local or federal law enforcement agencies subpoena his interview tapes and notes in the course of an investigation of this militia group? In an investigation of this participant in particular?

Contributor(s)

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