A SOCIAL, BEHAVIORAL, & EDUCATIONAL RESEARCH (SBER) CASE STUDY OF A SOCIAL ANTHROPOLOGY STUDY

AN ETHNOGRAPHIC STUDY OF THE ORGANIZATIONAL STRUCTURE OF OCCUPY BOSTON

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OVERVIEW

The social, behavioral, and educational research (SBER) case studies provide education and guidance on how to identify and mitigate risks associated with SBER. These studies may be used by both IRB administrators and investigators when reviewing and designing research studies that involved SBER components.

Case studies follow a standard format that includes: 1) a fact pattern, 2) regulatory, cultural, and ethical issues, and 3) a risk/benefit analysis and risk management options. This format was created to allow for flexibility in applying the case studies.

By identifying common themes, linking them directly to federal regulations and guidance, and outlining risk mitigation options, the case studies can be used in a variety of ways, which include: 1) as an education tool for training individuals in human subjects research, 2) as a basis for developing reviewer checklists/worksheets, and 3) as a tool in designing research projects.

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CASE STUDY

SCENARIO/FACT PATTERN:

A social anthropology graduate student proposes an ethnographic research study focused on the organizational structure and response to the legal and cultural challenges of Occupy Boston as the situation changes over time. Occupy Boston is a loosely organized group of activists of all ages who are camped out at Dewey Square in Boston.

The student investigator plans to begin his research by examining the content of online forums related to organizing and logistics. He plans to follow this with participant observation and semi-structured interviews covering: early stages of organization and current modes of operation, resource needs, handling of disputes, as well as the legal challenges they have faced and anticipate facing. The student investigator would like to conduct in-person interviews with 10 participants who are active in the group. He also plans to photograph and videotape activists’ activities, especially when police and local business owners engage with the Occupy residents. The researcher’s written proposal also mentions possibly comparing Occupy Boston with other Occupy sites across the country in the future.
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DISCUSSION

Questions/Comments for the researcher:

- How many times do you anticipate visiting the site?
- Are the activists who will be recorded/photographed/videotaped the same activists you would like to interview?
- What interview questions may be answered in advance, and what questions must be answered on-site?
- What do you know about the age range of prospective participants? Will you interview anyone under 18? How will you know if anyone is a minor?

REGULATORY, CULTURAL, & ETHICAL ISSUES:

45 CFR 46.116 General requirements for informed consent

“(d) 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 in this section, or waive the requirements to obtain informed consent provided the IRB finds and documents that:

(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.”

45 CFR 46.117 Documentation of informed consent

“(c) An IRB may waive the requirement for the investigator to obtain a signed consent form for some or all subjects if it finds either:

(1) That the only record linking the subject and the research would be the consent document and the principal risk would be potential harm resulting from a breach of confidentiality. Each subject will be asked whether the subject wants documentation linking the subject with the research, and the subject's wishes will govern; or
(2) That the research presents no more than minimal risk of harm to subjects and involves no procedures for which written consent is normally required outside of the research context.

In cases in which the documentation requirement is waived, the IRB may require the investigator to provide subjects with a written statement regarding the research.”

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Anthropology Study
V2 April 2016
45 CFR 46.101 (b) (2) Exemption

“(b) Unless otherwise required […], research activities in which the only involvement of human subjects will be in one or more of the following categories are exempt from this policy [i.e., the Basic HHS Policy for Protection of Human Research Subjects]:

(2) Research involving the use of ... interview procedures or observation of public behavior, unless:(i) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (ii) any disclosure of the human subjects’ responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects’ financial standing, employability, or reputation.”

Certificates of Confidentiality,

“Certificates of Confidentiality are issued by the National Institutes of Health (NIH) to protect identifiable research information from forced disclosure. They allow the investigator and others who have access to research records to refuse to disclose identifying information on research participants in any civil, criminal, administrative, legislative, or other proceeding, whether at the federal, state, or local level. By protecting researchers and institutions from being compelled to disclose information that would identify research subjects, Certificates of Confidentiality help achieve the research objectives and promote participation in studies by helping assure confidentiality and privacy to participants.”

Questions for the IRB:

• Is there risk to the researcher if he is observing police interaction? Does this impact the feasibility of collecting good data? Is the venue problematic (i.e., does it exacerbate this concern)?
• Should the safety of the researcher be considered? Is risk to the researcher under the IRB’s purview?
• What if the researcher is arrested? What if research data is confiscated? Is this a “scientific issue?” (Note: some IRBs take this into account, some don’t).
• Is this project journalism? Where is the line between research and journalism? Does the IRB have guidelines or policies that help guide this decision making process?
• What institutional policies may impact the review and conduct of this study?
• Is it appropriate to waive/alter elements of consent for the interviews? What about for the videos/photos?
• What creative ways could the researcher use technology for consent purposes?
• What measures will need to be taken to ensure privacy and confidentiality? What are the data safety concerns? Would a Certificate of Confidentiality or Privacy be an option?
• How does the risk/benefit analysis change if the participants in this study are already putting themselves at risk through their actions (which are not part of the research)? What additional risk does the research add?

Alternate Details:

• While reviewing the IRB application, the IRB staff member finds news reports that a homeless population, including those who are mentally ill, have been displaced from a recently closed
shelter and have taken up residence in the encampment. It is not clear whether all of them would be able to give informed consent.

• The researcher has become aware that legal trainings are being held periodically where those interested can learn about their rights and how to help others who may be arrested or detained. These trainings are not open to the media and are described as being for those who will become legal volunteers. The researcher proposes going to the training and writing about it by posing as an Occupy participant.

Other Events:

• Following initial approval of the study, the Boston Police Department (BPD) orders the site be cleared by all participants by 5 pm, two business days from now. The researcher has conducted interviews already, which have indicated that there are plans to barricade the site in order to resist entry by police. While videotaping and observing resistance activities (including more than passive resistance to the police) may be in the scope of the original application, the researcher plans to interview organizers about their specific plans and to conduct follow-up interviews of anyone who is arrested, jailed and/or prosecuted.

  - How does this impact the IRB’s review of the study?
  - What is the obligation of the researcher to inform the BPD?

RESOLUTION & DISCUSSIONS:

Risk/Benefit Analysis:

Participants in the Occupy movement are a diverse group, and it may be difficult to predict what individuals may share or in what direction group activities may turn. It is also unclear what the responses from the greater community and the legal system may be. Further, the public nature of the activities of some protesters, amounting in some cases to civil disobedience, must be taken into account in considering the extent to which the research responses (as opposed to the underlying conduct) poses risk of civil or criminal liability or damage to the reputation of the subjects.

Mitigation/Management of Risks:

If the researcher will learn about or observe illegal activities, a Certificate of Confidentiality may be useful in protecting the identities of participants who disclose information that could put them at risk.

The researcher should discuss his intentions with participants prior to observations in non-public spaces, and prior to conducting interviews.

The researcher will need to be careful not to inadvertently identify participants in published materials or research data. It will be helpful to outline a thorough description of what will be done with videotapes. If identifiable video will be released publicly, participants must explicitly consent to their release. If the researcher does not need to identify participants, consider using pseudonyms or a code in the study files, and publishing information that does not identify participants.
**REFERENCE(s)**

45 CFR 46.101
http://www.hhs.gov/ohrp/humansubjects/guidance/45cfr46.html#46.101

45 CFR 46.116
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http://www.aaanet.org/stmts/irb.htm