

So may abuse be found in the area with which we are primarily concerned—scientific research. The one-way mirror is a common fixture in facilities designed for bio-medical and behavioral research. Personality and ability tests are as familiar to researchers in these fields as a stethoscope is to the family doctor. The computer and electronic data storage and retrieval have become crucial to the intelligent and efficient use of research data. Socio-active and psycho-active drugs are ever more tempting research tools, as are the concealed camera and the hidden microphone. When these and other scientific and technological advances are used by scientists, they are used by highly trained, well-motivated, professional people for a social purpose on which the community places a high value. But this fact by itself, obviously, does not warrant the invasion of private personality any more than it would warrant the taking of private property or the administration of live cancer cells to a non-consenting patient.³⁰

The recent advances in science have made it clear that society must now work out some reasonable rules for the protection of private personality. It is, perhaps, becoming imperative now to define how the interests of the community—whether in scientific research or law enforcement or economic growth—can be accommodated with the need for privacy. The necessity for such an accommodation poses no idle problem. The consequences of the failure to resolve it are predictable: they begin with the recoil and revulsion of the community;³¹ they conclude with arbitrary legislation.

There is no doubt as to the community reaction to the administration, even in the name of research, of live cancer cells to unwitting patients. Nor should we expect that the community will be any more tolerant of behavioral research that subjects non-consenting persons to the risk of injurious, though non-fatal, after-effects. Indeed, community sensitivity as to what is reasonable,

trances, elevators, reception rooms, conference rooms, corridors and tellers' windows with television cameras or sound monitoring and recording systems; also the FAA rule on the installation of voice recorders in the cockpits of large airplanes as proposed, 28 Fed. Reg. 13786 (1963). For the regulation as enacted, see 29 Fed. Reg. 19209 (1964).

(c) In education: see authorities cited in notes 31, 37 *infra*, for some aspects of the use of personality tests in schools; consider also the two-way communication system that enables a school principal to speak directly to a class or, at his choice, to monitor, unobserved and unannounced, the classroom proceedings.

(d) In social welfare: see Reich, *Individual Rights and Social Welfare: The Emerging Legal Issues*, 74 YALE L.J. 1245, 1254 (1965); Sokol, *Due Process in the Protection of Adults and Children* (paper presented Sept. 11, 1964, at the Northeast Regional Conference of the American Public Welfare Association).

(e) In entertainment: consider the television programs which have used hidden cameras to photograph unsuspecting subjects; see N.Y. PEN. LAW § 834 dealing with exhibitions, and particularly the prohibition of "any act . . . whereby any . . . citizen . . . is held up to contempt or ridicule."

30. See *Matter of Hyman v. Jewish Chronic Disease Hosp.*, 15 N.Y.2d 317, 206 N.E.2d 338, 258 N.Y.S.2d 397 (1965). See also, Carley, *Research and Ethics*, Wall Street Journal, June 10, 1965, p. 1, col. 1; N.Y. Times, March 20, 1965, p. 56, col. 1.

31. See Eron & Walder, *Test Burning II*, 16 AMERICAN PSYCHOLOGIST 237-44 (1961); Nettler, *Test Burning in Texas*, 14 AMERICAN PSYCHOLOGIST 682-83 (1959).