

injury are being avoided; whether the research is being conducted by trained professionals under controlled conditions; whether the paramount public interest favors the research at the risk of a reduction in individual privacy; and whether the paramount nature of the public interest has been explicitly recognized, or otherwise accepted, by the community in its laws, by its codes, through its political action, or in such other laborious ways as social consensus is reached and expressed in a free society.

The analogy between behavioral research in the public interest and investigative visits by welfare agents administering public assistance is pertinent. So are the words of the Deputy Commissioner of the New York City Department of Welfare:

The fact that public assistance is a statutory right means, therefore, that it is subject to conditions imposed by the Legislature. . . . It means that the Legislature may require that the applicant waive his right to privacy to permit a thorough investigation of his eligibility for public assistance. It means that the applicant must open his home to admit representatives of the Welfare Department to enter and to inquire and to observe. It does not mean, of course, that this permissible and necessary invasion of privacy may go so far as to violate the constitutional right against unreasonable search and seizure. It does not mean that the investigator may enter forcibly and without the consent of the applicant nor does it mean that the investigator may come in the dead of night, but it does mean that the applicant must submit to an investigation and, therefore, to an invasion of privacy which falls short of being unreasonable and that if he refuses to submit and refuses to permit such infringement upon his right of privacy, then he may not exercise his right to receive public assistance. The question, therefore, is wholly one of reasonableness and in this respect there may well be a difference of opinion among people of good will⁵⁵

A clear and paramount public interest in a particular behavioral research inquiry, in spite of a high cost in human privacy, can no doubt frequently be established. However, the recent emergence of behavioral science knowledge as a potential contribution to human welfare has yet to be matched with an explicitly recognized set of laws or codes or otherwise publicly expressed agreements on the value of different kinds of research. Thus, there are and will be many occasions in which conflict between the individual's claim to privacy and the larger community interest in research for the general good must be resolved—and the method of resolution must be an expression of community consensus.

This concept of consensus is not employed in any formal mechanistic way. In a sense, what is meant is that the issue of paramountcy as between private personality and a particular program of scientific research should not

55. See Sokol, *supra* note 29; see also Coser, *The Sociology of Poverty*, 13 SOCIAL PROBLEMS (Oct. 1965).