

Access denied

In the first of two pieces on research in legally sensitive areas, **Bradley L. Garrett**, whose material on urban explorers was seized and used in a court case against project participants, argues for greater protection in law for everyone involved in 'edgy' scholarly investigations



“Such a methodological orientation embodies a troubling tangle of ethical contradictions and legal ambiguities.” – Jeff Ferrell, 1998

In 2008, I began a four-year doctoral research project with urban explorers in London. Urban explorers are groups of people interested in sneaking into, and often photographing, off-limits architecture, trespassing into abandoned buildings, infrastructure systems and under-construction skyscrapers. Given the nature of what they do, conducting research with them was always going to require a level of deep participation; passive “observers” are swiftly identified, censured and disregarded in this community. I chose to undertake ethnographic work in the tradition of the Chicago School of Sociology. What followed over the next few years was, by any imagination, an incredible series of events that concluded two weeks ago with a qualified victory for me and eight of my project participants after beating a charge of “conspiracy to commit criminal damage”, which carries with it a 10-year maximum jail sentence. Elated as we were to be out of the dock, this was a victory with sombre caveats for me as a researcher.

This case raises important concerns about how we might, and perhaps should, react when our research takes us close to, and even across lines, whether these be lines the law draws for us, the ethical lines we negotiate with our institutions or the moral lines we draw for ourselves. While the groups we study may occupy positions close to legal boundaries for a wide variety of reasons, to argue that because they operate at these boundaries we should not work with them is deeply problematic. As researchers we have a responsibility to engage with people and places that society as a whole might find perturbing. It remains up to individual researchers, and also their institutions, to be aware of how close to the edge they work, and to choose carefully and in full awareness of the consequences, whether to cross over such boundaries in the course of their research.



Ethnography (what anthropologist Clifford Geertz called “deep hanging out” – immersing oneself completely in a culture, group or social experience) has been long practised by geographers, sociologists, criminologists and anthropologists. Running parallel to my project, on the other side of the Atlantic, Alice Goffman, assistant professor of sociology at the University of Wisconsin-Madison, spent six years in an inner-city Philadelphia neighbourhood where precarious legal existences were part of everyday life on the streets. Her research, detailed in *On the Run: Fugitive Life in an American City*, often brought her close to the law and, some would argue, over the line. Her work, however, is also a testament to the value of spending long periods of time in legally murky social contexts to learn more about marginalised members of society, people who often have less voice.

While I certainly would not want to conflate ethnographies of socially marginalised

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groups with the particular kinds of politics opened out by urban exploration, the range of ethnographic work undertaken with groups involved in illicit activities over the past 150 years is vast. Researchers have worked with sewer scavengers, homeless communities, protesters, sex workers, squatters, train hoppers, dealers and dopers – and in each case have raised awareness about parts of our society that likely would have otherwise remained hidden. My research with urban explorers, while harbouring obvious demographic and motivational differences to many of these studies, laid bare the consequences of working in legally edgy environments in the present-day political climate, especially in heavily surveilled and policed cities such as London.



The goal of the urban explorers I worked with is deceptively simple – to explore the hidden city and to share their discoveries with the public. London’s disused Tube stations, obvious sites of urban heritage, were primary points of interest. From Mark Lane to Brompton Road, Aldwych to City Road and Down Street, the group was eager to “catch them all” as one of my project participants once said. The designated “scribe for the tribe”, I detailed our explorations for various academic and popular outputs. As the years progressed, and we built a public following, Transport for London took an increasingly severe stance towards our activities. In the lead-up to the publication of my 2013 monograph, *Explore Everything: Place-Hacking the City*, TfL’s lawyers sent a letter to my publishers, Verso Books, that stated, “TfL is considering all legal remedies it may have available to it to prevent the publication of illegally obtained information”. That was (and is) an incredible suggestion – that because the group had trespassed to take photos and collect stories, for academic purposes or otherwise, those materials were “illegally obtained information” that a government organisation would seek to censor.

Shortly after my very public arrest at Heathrow Airport in August 2012, where I was dragged off a plane in handcuffs and all of my research materials were seized, a team of British Transport Police appeared in the corridors of Royal Holloway, University of London, where I did my PhD, taking witness statements and causing the registrar to send a strongly worded email to my supervisor, advisor and head of department, indicating that, “as it is neither prosecution nor defendant, the college has no direct involvement in [the case]”. Staff were clearly cautioned about communication with me. Only a few brave colleagues dared to contravene the suggestion. This all despite the fact that my project had gone through all the necessary ethics procedures and had been annually reviewed and signed off by my PhD committee and, during my viva voce, by an internal and external examiner who found no fault in my methodology. This situation exposed the limitations we all inevitably encounter when conservative bureaucratic structures clash with idealistic expectations. In the face of legal action, the university was apparently unable to offer any protection or support to me or my project participants, or even come close to attempting to uphold the anonymity of the data I had collected, as I had assured my project participants I would. The explorers would have done what they did with or without me there. My presence obviously changed the course of events in various ways; no serious practising researcher who works with people would make any claim to pretence of objective observation, especially when they are running through tube tunnels at 2 am with their project participants wearing a ski mask. However, as a participant/observer, my thesis and the very publications I was producing were at the same time the material that earned me my doctorate and the material that ended up gaining me a central place at the head of the alleged conspiracy. In placing me



thus, the BTP gained access to personal text messages, quotes from my thesis, fragments of field notes, photographs, video footage and even chat logs from social media, all collected from me in August 2012 off my person and from my house, which they raided while I was in custody after taking my door down with a battering ram. These materials were then “extracted” over the next two years and delivered as thousands of pages of evidence in seemingly endless bundles to me and my project participants, along with material from their houses and computers. This scenario is every ethnographer’s worst nightmare. In a strange way, it felt a bit like being observed by a particularly cack-handed anthropologist operating without their subject’s permission.

For any social researcher, especially one working with groups whose activities may cross legal lines, the idea that all your communication with your project participants over many years could be open to police scrutiny, and indeed even become evidence, is a chilling one. I invested a great deal of time and money instructing my solicitors to make clear to the BTP that the material on my drives was “special procedure material”, collected under an ethical framework that also should have

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guided its “inspection”. The police ignored these representations and opened up my password-protected drives.

As an even more serious political battle has been waged over access to Boston College Belfast Project materials by police in Northern Ireland (see feature, page 40), it seems clear that as a research community we need to ask ourselves some difficult questions. These questions concern whether we will stand up to authorities who wilfully undermine our integrity as researchers in order to undertake fishing expeditions for “incriminating” data. Furthermore, we need to put more thought into how we can realistically, not idealistically, protect our research participants and ourselves from the potentially devastating consequences of these sorts of investigations. These are pressing issues that

are compounded by the neoliberal academy’s pressures to engage with the media (I did this prolifically and, I thought at the time, beneficially), which can bait those wielding the battering rams.

I feel an enormous amount of guilt over the knowledge that I exacerbated the legal problems of my project participants by unintentionally supplying the police with a (very well organised) ready-made package of evidence I naively had stored on my computer unencrypted. This was driven home in the opening statement of the prosecution barrister (Queen’s Council no less) who told the court that the investigation stemmed from “material recovered from Dr Garrett’s hard drive”, a statement that caused the blood to drain from my face in the dock, even as one of my project participants grabbed my shoulder in solidarity.

We need to think more carefully about our data collection and protection procedures in UK academia. Rapidly changing technology, covert collection tools, offsite storage methods, new police powers and increasing social unrest are challenging our ethical frameworks and the flaccid protections we offer our project participants. We might question whether these frameworks and protections are still fit for purpose. It’s time for more open and honest

discussion about ethical frameworks. And rather than establishing restrictive prescriptions counterproductive to the intellectual spirit of our work (as many of my US-based colleagues describe the Institutional Review Board process in that country), what we need are discursive ethics fit for purpose on a project-by-project basis, robust yet responsive in the face of change, especially in the heat of the moment during intense fieldwork.

A good place to start is in thinking about how we handle our data. It seems to me that password protection and encryption need to become as commonplace as referencing software, both in terms of institutional licensing purchases and training. We also might want to consider abandoning insecure software packages, as Adam Fish, lecturer in sociology and media studies at Lancaster University, has suggested. The point of course in becoming more dogmatic in our handling of data is not to create inflexible, draconian procedures that prevent work from taking place, but to provide a safer space where edgy research can happen. It is also time that researchers, hopefully supported by our unions, lobby for legislation to provide them and their research participants the same levels of protections as journalists and their “sources”, so that

valuable work on difficult topics can continue. Because even if we succeed in convincing institutions to support our work, participants may flee for fear of the consequences if we can’t protect them.

I began this piece by suggesting that ours was a qualified victory. It is precisely the “conditional” in the “conditional discharge” I was given that continues to cause me angst. The condition, as spelled out in law, is that I commit no further offence in the next three years, lest I be brought up on these charges again. While I’m delighted to be free again, I’ve also been prevented, in no uncertain terms, from doing research on any social practice that may cross legal lines for the next few years, an unfortunate by-product of an already disconcerting attempt to stifle reasonable academic research. ●

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